

# Natural Resources



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# Overview

Historically, Montana has relied on its natural resources as a primary source of tax revenue. This section covers the natural resource taxes levied in Montana. Generally, natural resource taxes are categorized as either severance or license taxes, or some form of *ad valorem* (property) taxes. Information provided in this section includes tax rates, filing requirements, disposition of the tax, production tax incentives, recent revenue collections, and recent legislative changes.

## Natural Resource Tax Collections - FY 2017 through FY 2020

| State Natural Resource Tax Revenue                         | FY 2017              | FY 2018              | FY 2019              | FY 2020              |
|--|----------------------|----------------------|----------------------|----------------------|
| Bentonite Production Tax                                   | \$266,623            | \$291,254            | \$261,049            | \$180,636            |
| Cement and Gypsum Tax                                      | \$136,339            | \$209,451            | \$144,057            | \$134,493            |
| Coal Gross Proceeds*                                       | \$9,229,741          | \$8,149,973          | \$9,122,686          | \$10,091,831         |
| Coal Severance Tax   | \$55,397,169         | \$56,611,750         | \$56,546,528         | \$44,042,737         |
| Metal Mines Gross Proceeds*                                | \$1,972,646          | \$1,815,147          | \$2,260,404          | \$2,634,938          |
| Metalliferous Mine Net Proceeds                            | \$8,700,599          | \$8,700,599          | \$9,551,676          | \$12,065,538         |
| Miscellaneous Mines Net Proceeds*                          | \$412,094            | \$402,372            | \$484,257            | \$564,027            |
| Oil and Natural Gas Production                             | \$51,356,982         | \$60,417,163         | \$60,050,917         | \$42,540,475         |
| Oil and Natural Gas Production (Privilege and License Tax) | \$2,405,384          | \$3,414,619          | \$3,794,479          | \$2,629,715          |
| Resource Indemnity and Ground Water Assessment Tax         | \$2,622,658          | \$2,531,336          | \$2,923,403          | \$2,269,192          |
| U.S. Mineral Royalties                                     | \$17,322,265         | \$20,139,199         | \$21,570,177         | \$18,527,036         |
| <b>Total State Collections</b>                             | <b>\$149,822,500</b> | <b>\$162,682,864</b> | <b>\$166,709,633</b> | <b>\$135,680,617</b> |

| Local Natural Resource Tax Revenue        | FY 2017             | FY 2018             | FY 2019             | FY 2020             |
|---|---------------------|---------------------|---------------------|---------------------|
| Bentonite Production Tax                  | \$942,551           | \$1,029,626         | \$922,846           | \$638,626           |
| Coal Gross Proceeds*                      | \$10,627,162        | \$9,136,947         | \$11,142,748        | \$13,201,062        |
| Coal Severance Tax                        | \$3,410,866         | \$3,485,649         | \$3,481,633         | \$2,711,761         |
| Metal Mines Gross Proceeds*               | \$8,731,816         | \$8,725,640         | \$10,786,936        | \$12,606,228        |
| Metalliferous Mine License Tax            | \$3,817,183         | \$4,684,938         | \$5,143,210         | \$6,496,828         |
| Miscellaneous Mine Net Proceeds*          | \$1,261,220         | \$1,261,109         | \$1,443,651         | \$1,606,191         |
| Oil and Natural Gas Production            | \$46,619,101        | \$55,301,615        | \$55,010,644        | \$39,263,577        |
| Oil and Natural Gas Resource Account      | \$387,751           | \$0                 | \$0                 | \$177,640           |
| U.S. Mineral Royalties                    | \$5,774,088         | \$6,713,066         | \$7,190,059         | \$6,175,679         |
| <b>Total Local Government Collections</b> | <b>\$81,571,736</b> | <b>\$90,338,590</b> | <b>\$95,121,728</b> | <b>\$82,877,592</b> |

## Natural Resource Tax Collections - FY 2017 through FY 2020

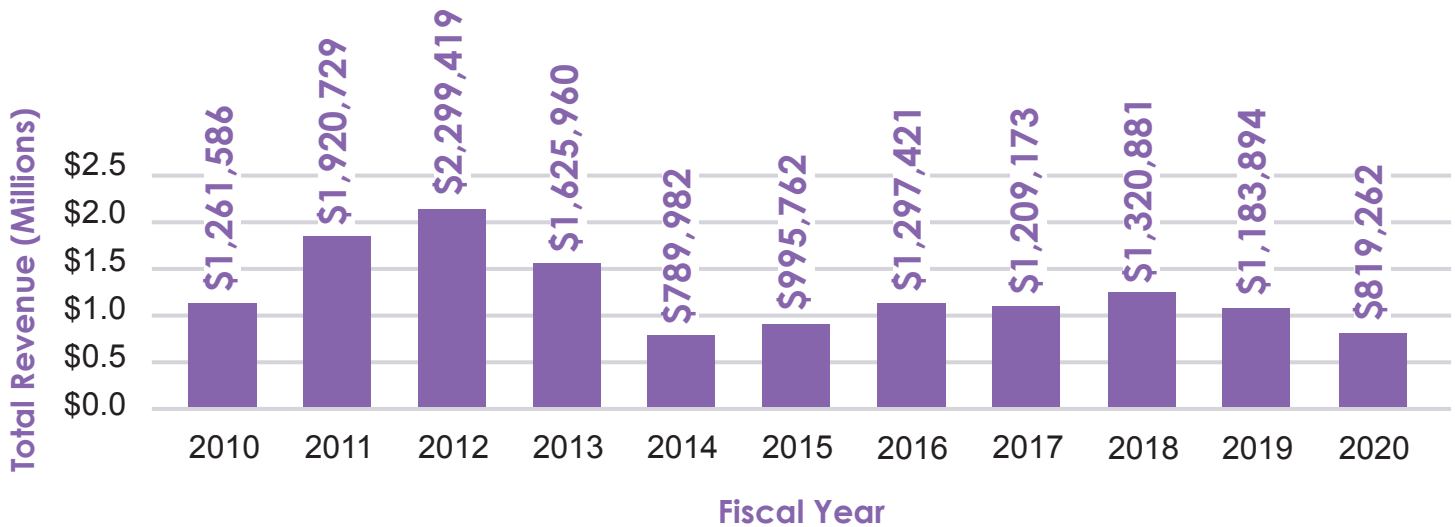
| <b>Subtotals by Tax</b>                            | <b>FY 2017</b>       | <b>FY 2018</b>       | <b>FY 2019</b>       | <b>FY 2020</b>       |
|--|----------------------|----------------------|----------------------|----------------------|
| Bentonite Production Tax                           | \$1,209,173          | \$1,320,881          | \$1,183,894          | \$819,262            |
| Cement and Gypsum Tax                              | \$136,339            | \$209,451            | \$144,057            | \$134,493            |
| Coal Gross Proceeds*                               | \$19,856,903         | \$17,286,920         | \$20,265,434         | \$23,292,893         |
| Coal Severance Tax                                 | \$58,808,035         | \$60,097,399         | \$60,028,161         | \$46,754,498         |
| Metal Mines Gross Proceeds*                        | \$10,704,462         | \$10,540,788         | \$13,047,340         | \$15,241,166         |
| Metalliferous Mine License Tax                     | \$12,517,782         | \$13,385,537         | \$14,694,886         | \$18,562,366         |
| Miscellaneous Mines Net Proceeds*                  | \$1,673,314          | \$1,663,481          | \$1,927,908          | \$2,170,218          |
| Oil and Natural Gas Production (Total)             | \$100,769,218        | \$119,133,397        | \$118,856,040        | \$84,611,407         |
| Resource Indemnity and Ground Water Assessment Tax | \$2,622,658          | \$2,531,336          | \$2,923,403          | \$2,269,192          |
| U.S. Mineral Royalties                             | \$23,096,354         | \$26,852,265         | \$28,760,237         | \$24,702,715         |
| <b>Total Collections</b>                           | <b>\$231,394,237</b> | <b>\$253,021,454</b> | <b>\$261,831,360</b> | <b>\$218,558,210</b> |

*\*Amounts may not match with the property summary data in the Property Tax section.*

# Bentonite Production Tax

Statute: Title 15, Chapter 39, MCA

## Bentonite Production Tax



## Tax Rate and History

Prior to Tax Year 2005, bentonite was subject to the mines net proceeds tax like other miscellaneous minerals. Starting in Tax Year 2005, bentonite is taxed at rates prescribed in 15-39-101, MCA. For tax years starting after December 31, 2009 the rates are adjusted annually for inflation.

| Production Level       | 2019 Tax (\$/Ton) | 2020 Tax (\$/Ton) |
|------------------------|-------------------|-------------------|
| 0-20,000 Tons          | \$0.00            | \$0.00            |
| 20,001-100,000 Tons    | \$1.80            | \$1.82            |
| 100,001-250,000 Tons   | \$1.73            | \$1.75            |
| 250,001-500,000 Tons   | \$1.61            | \$1.63            |
| 500,001-1,000,000 Tons | \$1.44            | \$1.46            |
| Over 1 Million Tons    | \$1.15            | \$1.17            |
| Royalty Revenue        | 15%               | 15%               |

## Filing and Payment of Tax

Producers must report production and pay taxes for semiannual periods ending June 30 and December 31. The report and tax are due within 45 days of the end of each semiannual period.

## Distribution

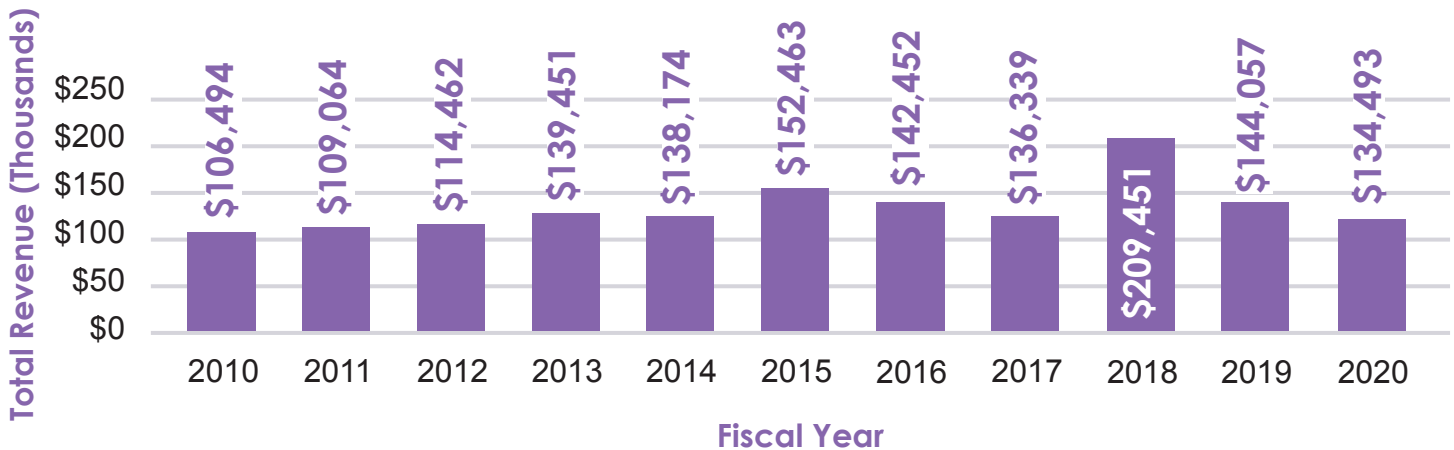
The tax revenue is distributed among state and local entities according to a statutory formula (15-39-110, MCA). For county level distribution data, see the Shared Revenue chapter of this report.

| <b>Fund</b>               | <b>FY 2016</b> | <b>FY 2017</b> | <b>FY 2018</b> | <b>FY 2019</b> | <b>FY 2020</b> |
|---------------------------|----------------|----------------|----------------|----------------|----------------|
| Counties with Production  | \$1,011,340    | \$942,551      | \$1,029,626    | \$922,846      | \$638,626      |
| General Fund              | \$269,215      | \$250,903      | \$274,083      | \$245,658      | \$169,986      |
| Montana University System | \$16,866       | \$15,719       | \$17,171       | \$15,391       | \$10,650       |

# Cement and Gypsum Tax

Statute: Title 15, Chapter 59, MCA

## Cement and Gypsum Tax



## Tax Rate

Producers and importers of cement and cement products must pay a license tax of \$0.22 per ton. Producers and importers of gypsum and gypsum products are required to pay \$0.05 per ton. Before July 1, 1997, individuals retailing cement and gypsum products in Montana paid a license tax of \$0.22 and \$0.05, respectively, for every ton that had not been paid under any other law. The tax on retailers was repealed during the 1997 Legislative Session.

| Product | Tax Per Ton |
|---------|-------------|
| Cement  | \$0.22      |
| Gypsum  | \$0.05      |

## Filing and Payment of Tax

Producers, manufacturers and importers shall file quarterly statements showing the number of tons of cement or gypsum produced, manufactured, or imported into the state. These statements, along with the tax due, must be submitted within 30 days following the end of each calendar quarter.

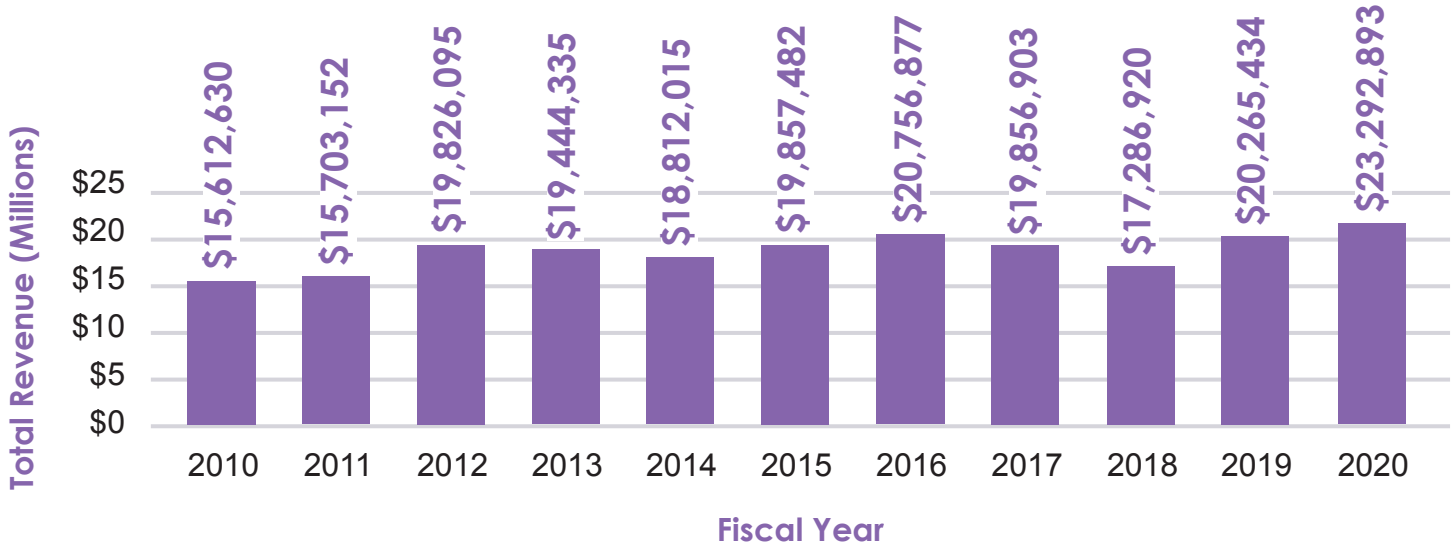
## Distribution

All proceeds from cement and gypsum taxes are deposited in the state general fund.

# Coal Gross Proceeds

Statute: Chapter 15, Section 23, Part 7, MCA

## Coal Gross Proceeds



## Tax Rate

State and local governments do not levy or assess any mills against the reported gross proceeds of coal. Instead, a flat tax of 5 percent is levied against the value of the reported gross proceeds for most coal mines. Underground mines currently in operation pay a lower tax rate of 2.5 percent of value on production through 2030. Any new underground mine receives this lower rate for the lifetime of the mine. In addition, counties have the option to abate up to 50 percent of the local share liability for new or expanding coal mines, but the state tax liability would still remain at 5 percent. No counties currently offer this abatement.

## Filing and Payment of Tax

On or before March 31 of every year, each person or firm engaged in mining coal must file a statement of gross yield for every mine operated in the preceding year. The producer must pay 50 percent of the taxes due on or before November 30. The remaining 50 percent is due on or before May 31 of the following year.



## Coal Gross Proceeds Tax

### Distribution

The revenue is proportionally distributed to the appropriate taxing jurisdictions in which production occurred based on the total number of mills levied in Fiscal Year 1990. For county level distribution data, see the Shared Revenue section of this report.

| <b>Fiscal Year</b>     | <b>FY 2017</b> | <b>FY 2018</b> | <b>FY 2019</b> | <b>FY 2020</b> |
|------------------------|----------------|----------------|----------------|----------------|
| <b>Production Year</b> | <b>PY 2015</b> | <b>PY 2016</b> | <b>PY 2017</b> | <b>PY 2018</b> |
| Tons Produced          | 36,175,492     | 28,189,054     | 32,088,144     | 34,411,339     |
| Gross Value            | \$590,921,464  | \$515,265,149  | \$609,331,465  | \$716,236,591  |
| Taxable Proceeds       | \$447,944,028  | \$395,216,036  | \$475,688,495  | \$568,413,454  |
| Tax                    | \$19,856,903   | \$17,286,920   | \$20,265,434   | \$23,292,893   |
| Local Share            | \$10,627,162   | \$9,136,947    | \$11,142,748   | \$13,201,062   |
| University Share       | \$1,085,852    | \$958,820      | \$1,073,257    | \$1,187,274    |
| State Share            | \$8,143,889    | \$7,191,153    | \$8,049,429    | \$8,904,556    |

# Coal Gross Proceeds History

## Select Legislative History of Coal Gross Proceeds Tax

1975

Required that each coal mine report gross yield and value of production to the department. The department provides that information to the counties which levy the property tax. Underground mines were taxed at 33⅓ percent of full and true value and strip mines were taxed at 45 percent of full and true value.

1983

Provided that when the department assigns the value of the coal for severance tax, that computed value is to be used for the purposes of property tax.

1989

Replaced the property tax previously implemented on the gross proceeds of coal with a flat 5 percent tax against the value of the reported gross proceeds. Also required that it be distributed in the relative proportions required by the levies for state and county purposes in the same manner as property taxes were distributed in Fiscal Year 1990 in the taxing jurisdiction.

1993

Gave the department the responsibility of computing gross proceeds and transmitting it to the treasurer for levying the gross proceeds tax.

2011

Taxed new underground mines at 2.5 percent tax rate for mines beginning after December 31, 2011 for the first 10 years of production. Allowed counties to choose to abate up to 50 percent of coal gross proceeds tax for new or expanding underground coal mines that are taxed at the regular 5 percent rate.

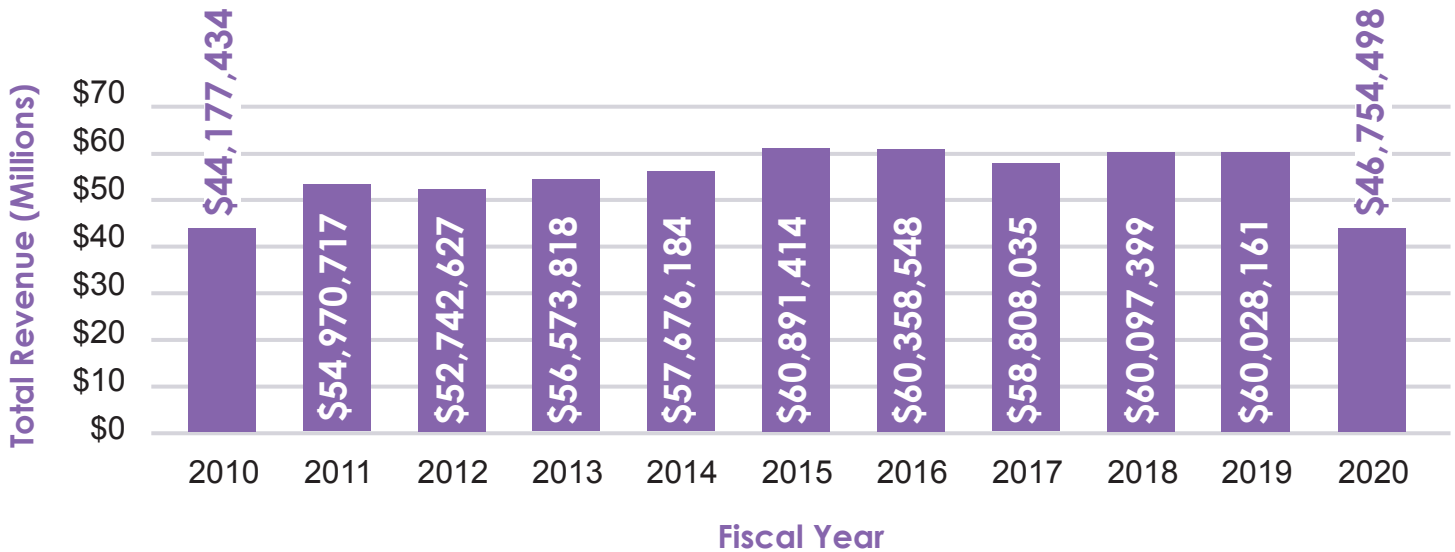
2019

Extended the existing tax rate of 2.5 percent for underground mines an additional 10 years, sunseting December 31, 2030. Allowed any coal mine to potentially receive the local county abatement (previously only available to underground coal mines).

# Coal Severance Tax

Statute: Title 15, Chapter 35, MCA;  
Article IX, Section 5, Montana Constitution

## Coal Severance Tax



## Tax Rate

Surface mined coal is taxed at 15 percent of value if rated as having 7,000 British Thermal Units (BTU) or more per pound and is taxed at 10 percent of value if rated as having less than 7,000 BTU per pound. Coal mined underground is taxed at 4 percent if rated as having 7,000 BTU per pound or over and is taxed at 3 percent if rated as having less than 7,000 BTU per pound.

Coal mined using auger technology is taxed at 5 percent of value if rated as having 7,000 BTU per pound and is taxed at 3.75 percent of value if rated as having under 7,000 BTU per pound.

| Heating Quality (BTU/lb) | Surface Mining | Auger Mining | Underground Mine |
|--------------------------|----------------|--------------|------------------|
| Less than 7,000 BTU      | 10%            | 3.75%        | 3%               |
| More than 7,000 BTU      | 15%            | 5%           | 4%               |

## Filing and Payment of Tax

Coal mine operators must file quarterly statements containing information sufficient to calculate the tax due. Tax payments are due at the time of filing (within 30 days following the close of each calendar quarter).

## Distribution

There are many steps to the distribution of revenue generated from the coal severance tax. First, 50 percent of total severance tax revenue is deposited in the Coal Trust Fund as described in Article IX, Section 5, of the Montana Constitution. This revenue must remain untouched unless appropriated by a three-fourths majority of both chambers of the Legislature.

There are currently six sub-trusts that make up the Coal Trust Fund. These sub-trusts are: the Coal Tax Bond Fund, the Treasure State Endowment Fund, the Treasure State Endowment Regional Water Fund, the Big Sky Economic Development Fund, the School Facilities Fund, and the Permanent Fund.

All severance tax trust revenue is first deposited in the Coal Tax Bond Fund. However, only a small portion is retained in the fund. This fund maintains a balance sufficient to meet interest payments of outstanding Coal Severance Tax Bonds. These bonds are used to provide low-interest loans for renewable resource projects. The fund balance in excess of these interest obligations is then deposited to the School Facilities Fund (75 percent) and the Big Sky Economic Development Trust Fund (25 percent). Interest revenue from the School Facilities Fund is used for school facility projects authorized by the Legislature. The interest revenue from the Big Sky Economic Development Trust Fund is statutorily appropriated to the Department of Commerce for grants and loans to local governments for economic development purposes.

The Treasure State Endowment Fund, Treasure State Endowment Regional Water Fund, and Permanent Fund do not currently receive deposits from coal severance tax. These funds continue to hold their principal and generate interest income. Interest generated from the Treasure State Endowment Trust Fund is appropriated each legislative session and used to fund grants for local infrastructure projects. Interest generated from the Treasure State Endowment Regional Water Fund is used for regional water development. The Treasure State Endowment Regional Water Fund will terminate in 2031 and the account holdings will be transferred to the Permanent Fund. The Permanent Fund is the original and default trust account. Interest generated by the Permanent Fund is deposited in the general fund. The table below shows the balance of each of these trust funds at the end of Fiscal Year 2020.

## Coal Trust Fund Balances

| Trust                               | FY 2020 Estimated Ending Balance |
|-------------------------------------|----------------------------------|
| Treasure State Endowment Trust      | \$309,031,526                    |
| Treasure State Regional Water Trust | \$107,081,457                    |
| Big Sky Economic Development Trust  | \$130,004,895                    |
| Coal Permanent Trust                | \$599,714,029                    |
| School Facilities Trust             | \$63,183,233                     |
| <b>Total</b>                        | <b>\$1,145,831,907</b>           |

Even though the interest from the Permanent Trust Fund is deposited in the general fund there are statutory appropriations directing how some of this interest revenue is spent. These statutory appropriations will expire at the end of Fiscal Year 2027. The table on the next page details these appropriations.

## General Fund Coal Interest Earnings Statutory Appropriations

FY 2019 - FY 2020

|   |           |
|---|-----------|
| Cooperative Development Center            | \$65,000  |
| Growth Through Agriculture                | \$900,000 |
| Food and Agricultural Development Program | \$600,000 |

### Department of Commerce

|                                    |           |
|------------------------------------|-----------|
| Small Business Development Center  | \$325,000 |
| Small Business Innovative Research | \$50,000  |
| Certified Development Corporations | \$625,000 |
| MT Manufacturing Center at MSU     | \$500,000 |
| Export Trade Enhancement           | \$300,000 |

The 50 percent of revenue that is not constitutionally allocated to the trust fund is deposited according to 15-35-108, MCA. The following table shows how this revenue was distributed for the last four fiscal years in proportion to the total severance tax revenue.

### Distribution of Coal Severance Tax

| Fund                                 | FY 2016      | FY 2017      | FY 2018      | FY 2019      | FY 2020      |
|--------------------------------------|--------------|--------------|--------------|--------------|--------------|
| Coal Trust Fund (50%)                | \$30,179,274 | \$29,404,017 | \$30,048,699 | \$30,014,081 | \$23,377,249 |
| Long Range Building (12%)            | \$7,243,026  | \$7,056,964  | \$7,211,688  | \$7,203,379  | \$5,610,540  |
| Shared Account (5.46%) <sup>1</sup>  | \$3,295,577  | \$3,210,919  | \$2,921      | \$0          | \$0          |
| Library Services (0.90%)             | \$0          | \$0          | \$510,373    | \$528,221    | \$420,772    |
| Conservation Districts (3.77%)       | \$0          | \$0          | \$2,335,708  | \$2,299,132  | \$1,762,699  |
| Growth Through Agriculture (0.79%)   | \$0          | \$0          | \$432,316    | \$450,185    | \$369,324    |
| Park Acquisition Trust (1.27%)       | \$766,554    | \$746,862    | \$763,237    | \$762,358    | \$593,782    |
| Renewable Res. Debt Service (0.95%)  | \$573,406    | \$558,676    | \$570,925    | \$570,268    | \$444,168    |
| Cultural and Aesthetic Proj. (0.63%) | \$380,259    | \$370,491    | \$378,614    | \$378,177    | \$294,553    |
| Coal Board (5.8%) <sup>2</sup>       | \$3,434,905  | \$3,410,866  | \$3,485,649  | \$3,481,633  | \$2,711,761  |
| Coal and Uranium Program (\$250K)    | \$250,000    | \$250,000    | \$250,000    | \$250,000    | \$250,000    |
| General Fund (Remainder)             | \$14,235,548 | \$13,799,239 | \$14,107,269 | \$14,090,728 | \$10,919,650 |

<sup>1</sup> For 2018 onward the shared account is split into its three interests with explicitly allocated funds.

<sup>2</sup> Decreases to 2.9% beginning July 1, 2023.

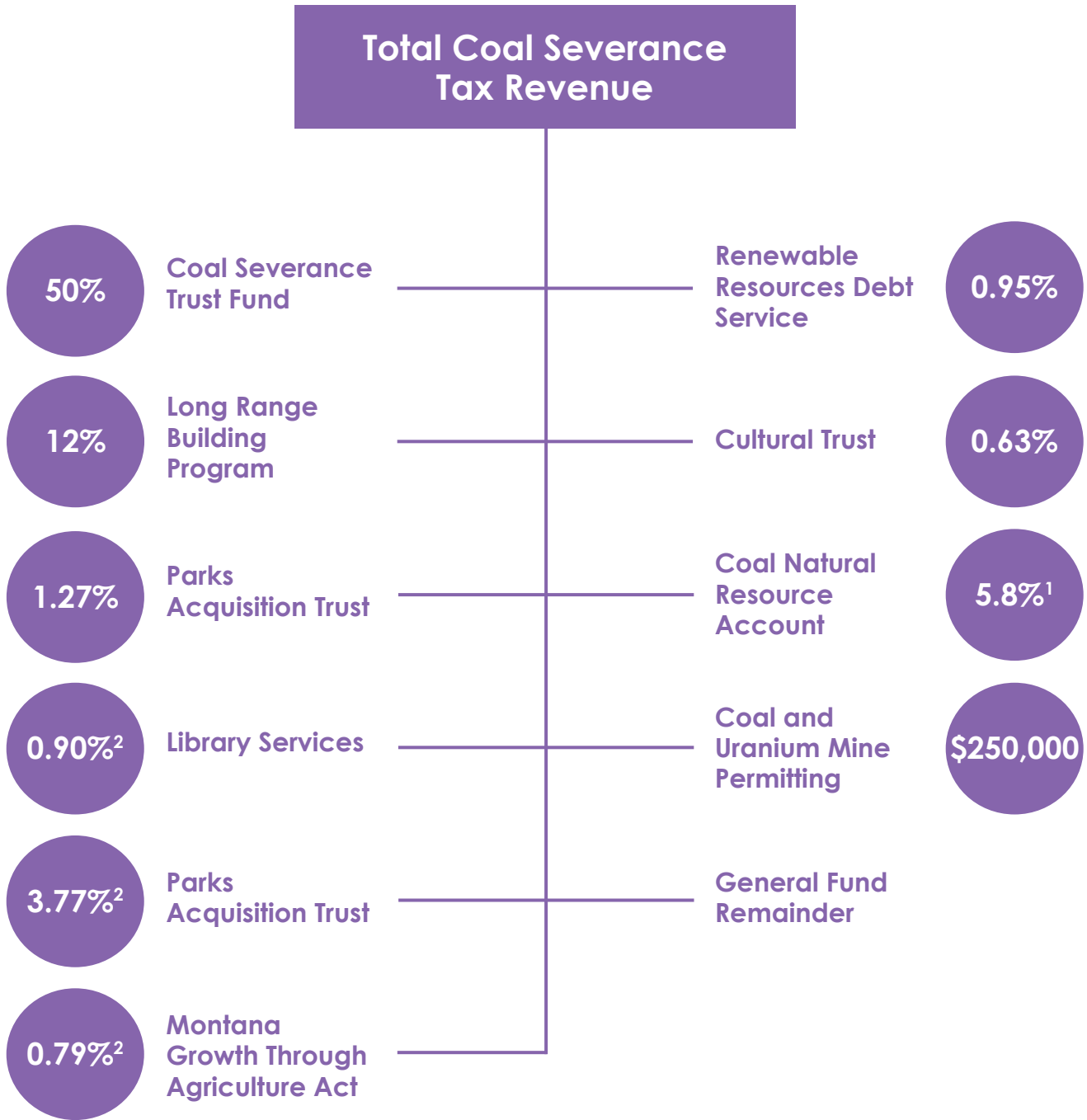
Prior to 2017, a shared account received 5.46 percent of coal severance tax revenue to provide for library services, conservation districts, and programs created under the Montana Growth Through Agriculture Act. House Bill 648, enacted in 2017, split this shared account into its three interests and explicitly allocates a percentage of the coal severance tax to each account. This split was designed to change over time, though the sum of the three allocations remains at 5.46 percent.

## Distribution of Coal Severance Tax - Shared Account Breakdown by Fiscal Year

| <b>Fund Name</b>                 | <b>FY 2018</b> | <b>FY 2019</b> | <b>FY 2020</b> | <b>FY 2021+</b> |
|----------------------------------|----------------|----------------|----------------|-----------------|
| Library Services                 | 0.85%          | 0.88%          | 0.90%          | 0.93%           |
| Conservation Districts           | 3.89%          | 3.83%          | 3.77%          | 3.71%           |
| Growth Through Agriculture       | 0.72%          | 0.75%          | 0.79%          | 0.82%           |
| Percentage of Coal Severance Tax | 5.46%          | 5.46%          | 5.46%          | 5.46%           |

# Coal Severance Tax Revenue Distribution

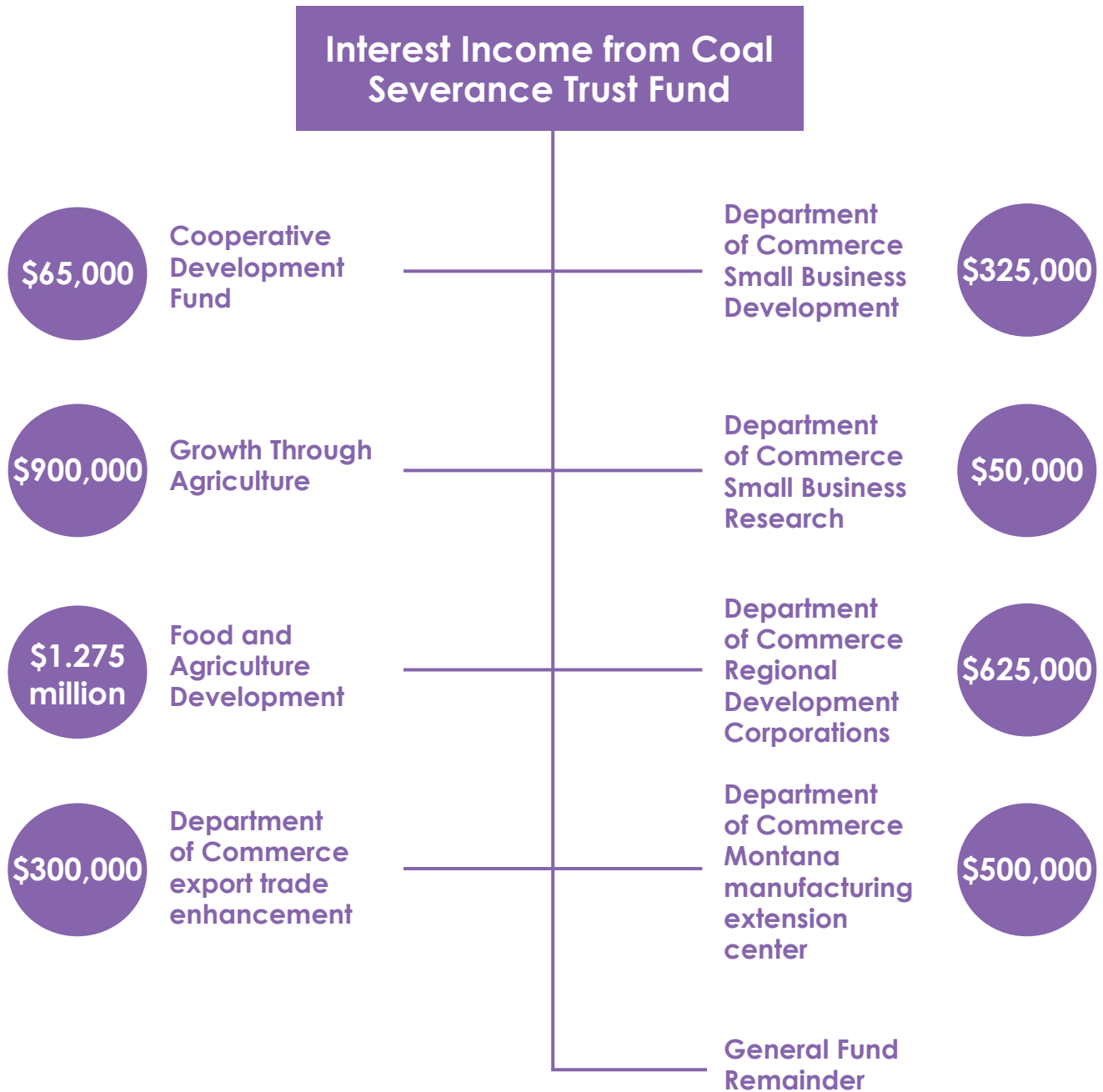
The following three flow charts illustrate the distribution of the coal severance tax revenue.



<sup>1</sup> Decreases to 2.9% beginning July 1, 2023.

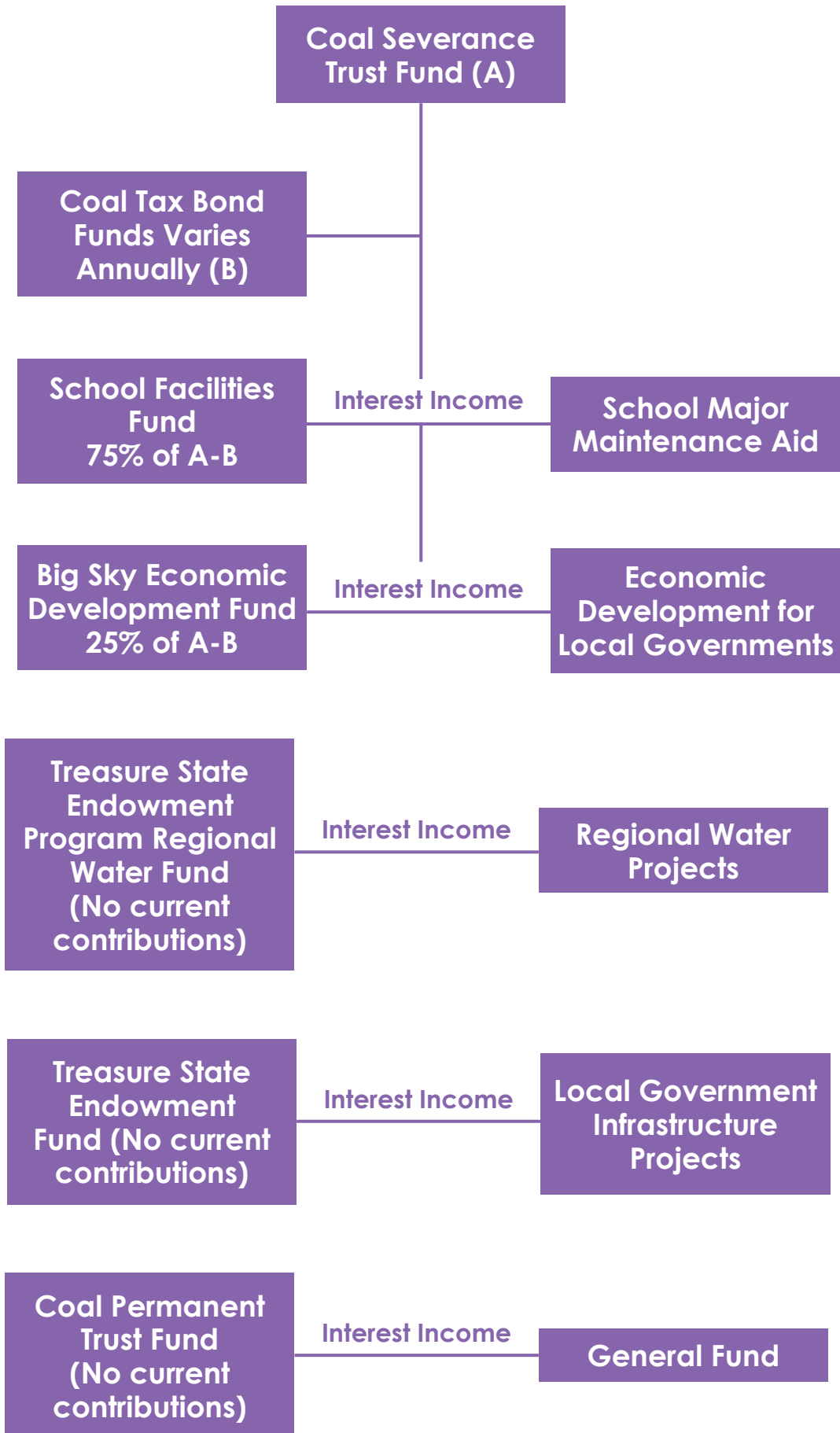
<sup>2</sup> FY 2020 percentages. See the Shared Account Table for a breakdown of later fiscal years.

# Coal Severance Trust Fund Interest Income (Terminates June 30, 2027)





# Coal Severance Trust Fund Distribution



The following shows a select legislative history of the coal severance tax rate and implementation.

**1921**

Coal Mines License Tax of 5 cents per ton imposed on coal mined in Montana.

**1939**

The first 50,000 tons of a mine's annual production exempted from the Coal Mines License Tax.

**1967**

Limited Coal Mines License Tax to strip mines only.

Allowed the licensee a credit against the license tax of one-half of the reasonable value of reclamation work performed on strip-mined lands.

**1971**

Limited the credit for on-site reclamation work to a maximum of 1 cent per ton.

Reduced the amount of coal exemption from taxation annually to 5,000 tons.

Revised license tax rate according to BTU content per pound of coal.

- 4¢/ton for 6,000 BTU or less
- 6¢/ton for 6,001 to 7,500 BTU
- 8¢/ton for 7,501-9,000 BTU
- 10¢/ton for 9,001+ BTU

**1973**

Removed the credit for on-site reclamation work.

Increased the tax rate based on BTU of coal.

- 12¢/ton for 7,000 BTU or less
- 22¢/ton for 7,001 to 8,000 BTU
- 34¢/ton for 8,001 to 9,000 BTU
- 40¢/ton for 9,001 BTU+

**1975**

Imposed a graduated severance tax on coal, applicable to any producer who produces 5,000 or more tons/quarter.

- For surface coal, ranging from 12¢/ton or 20% of value to 40¢/ton or 30% of value
- For underground coal, 5¢/ton or 3% of value to 12¢/ton or 4% of value

Removed coal from application of the law on net proceeds of mines and made coal subject to gross proceeds under the property tax system.

Voters of Montana approved a constitutional amendment requiring a permanent trust fund for a portion of the coal severance tax proceeds ( $\frac{1}{4}$  the revenue until 1980, then  $\frac{1}{2}$ ).

**1977**

Revised the exemption from the coal severance tax to the first 20,000 tons of production each year.

**1983**

Increased the exemption from the coal severance tax to 50,000 tons a year, but required a person who produced more than 50,000 tons a year to pay severance tax on all production over 20,000 tons.

**1985**

The New Coal Production Incentive Act of 1985 allowed a tax credit of 33 $\frac{1}{3}$ % of the severance tax.

## 1987

Reduced the coal severance tax to a maximum of 25% in FY 1990 and 20% beginning in FY 1992. If production and sale exceeded 32.2 million tons statewide during 1998, the rate would be further reduced to a maximum of 25% for FY 1989 and 1990, 20% for FY 1991, and 15% after June 30, 1991.

## 1989

Reduced the coal severance tax rate beginning in FY 1992 to 10% of value for under 7,000 BTU/lb. and 15% of value for 7,000 BTU and over.

Allowed a production tax credit on severance tax of 40% of incremental production for FY 1989 and 1990 and 25% of production for FY 1991.

## 1993

Defined extended depth auger mining and imposed a reduced severance tax rate of 7.5% of value.

## 1995

Exempted up to 2 million tons of coal produced as feedstock for coal enhancement facilities in a calendar year.

## 2001

Reduced the coal severance tax rate by  $\frac{1}{3}$  for coal produced for in-state electrical generating facilities sold at a rate set by the Public Service Commission.

## 2005

Eliminated the coal severance tax rate incentive for in-state electrical generating facilities.

## 2009

Reduced the coal severance tax rate on coal recovered from a strip mine by auger mining to 3.75% of value for under 7,000 BTU/lb. and 5% of value for 7,000 BTU/lb. and over.

# Coal Tax Comparison by State

The coal comparison table comes from two sources. Effective tax rates come from a comparison of coal fiscal policies by Headwaters Economics in 2017. The production, price, and data on reserves are from the U.S. Energy Information Administration.

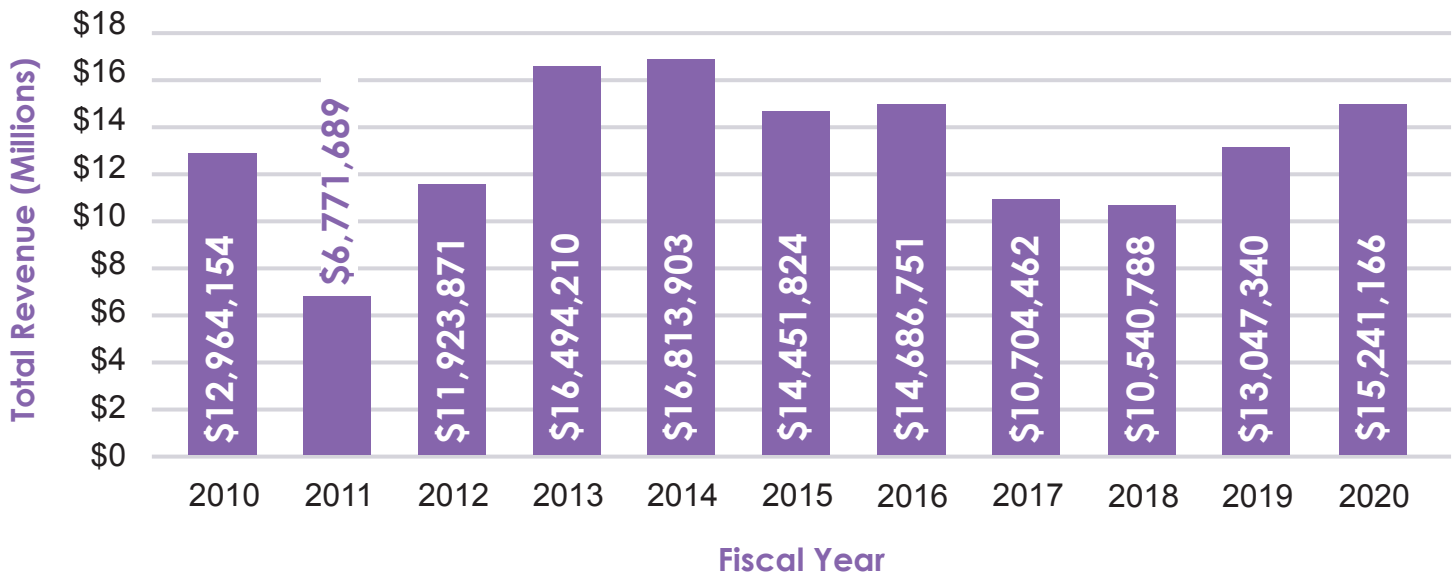
## Regional Coal Tax Comparison 2019

| Factors                        | Montana | Wyoming | North Dakota | Colorado | Utah    | Units              |
|--------------------------------|---------|---------|--------------|----------|---------|--------------------|
| Effective Tax Rates            | 11.10%  | 9.50%   | 2.20%        | 1.30%    | 0.90%   | % Gross Revenue    |
| Average Sales Price Per Ton    | \$21.66 | \$12.63 | \$18.93      | \$44.21  | \$37.95 | USD                |
| Production                     | 34.47   | 276.91  | 27.00        | 12.87    | 14.40   | Million Short Tons |
| Currently Recoverable Reserves | 778     | 5,189   | 928          | 237      | 180     | Million Short Tons |
| Estimated Recoverable Reserves | 74,368  | 34,974  | 6,521        | 9,438    | 2,473   | Million Short Tons |

# Metal Mines Gross Proceeds Tax

Statute: Title 15, Chapter 23, Part 8, MCA

## Metal Mines Gross Proceeds



## Tax Rate

The value of severed gold, silver, copper, lead, or other metals from any mine located in Montana is considered Class 2 property and is assessed local and state mills. The taxable value of metal mines is equal to 3 percent of merchantable value.

Merchantable value is the annual gross proceeds from the sale of metals, less certain deductions. Allowed deductions include the costs of transporting mineral product from mine to processor, basic treatment and refinery charges, quantity deductions, price deductions, interest, and penalty metal, impurity, and moisture deductions as specified by contract.

For example, Best Metal Company has \$11 million in gross proceeds from gold and silver. It has a total of \$1 million in allowable deductions: \$250,000 in treatment and refining and \$750,000 in transportation costs from the mine to the processor. Its merchantable value, or gross proceeds minus allowable deductions, is \$10 million. With 3 percent taxable as defined by law, it has a taxable value of \$300,000. The state and the county where the mine is located assess 500 mills on the taxable value, resulting in \$150,000 tax due to the state and county.

## Filing and Payment of Tax

Metal mines tax reports must be filed by March 31 of each year showing the total gross proceeds of metal mined during the preceding calendar year. By July 1, the department calculates the merchantable value by subtracting allowable deductions and records the value in the property tax records. The mine producer pays half of the property tax levied and assessed by November 30 and the other half by May 31 of the following year.

## Distribution

The taxable value of metal mines gross proceeds is allocated to the local jurisdictions where the mine mouth is located.

## Metal Mines Assessed and Taxable Value of Production

| Production Year | Fiscal Year | Assessed Value  | Taxable Value for Local Mills | Taxable Value for State Mills |
|-----------------|-------------|-----------------|-------------------------------|-------------------------------|
| 2009            | 2011        | \$843,431,234   | \$19,812,142                  | \$23,205,010                  |
| 2010            | 2012        | \$1,117,009,632 | \$28,972,961                  | \$31,295,298                  |
| 2011            | 2013        | \$1,037,736,476 | \$29,970,925                  | \$31,132,094                  |
| 2012            | 2014        | \$1,043,487,747 | \$31,304,631                  | \$31,304,632                  |
| 2013            | 2015        | \$851,842,256   | \$25,555,274                  | \$25,555,268                  |
| 2014            | 2016        | \$883,888,082   | \$26,516,643                  | \$26,516,642                  |
| 2015            | 2017        | \$648,475,233   | \$19,454,258                  | \$19,454,257                  |
| 2016            | 2018        | \$596,330,812   | \$17,889,922                  | \$17,889,924                  |
| 2017            | 2019        | \$742,469,971   | \$22,274,100                  | \$22,274,100                  |
| 2018            | 2020        | \$865,966,541   | \$25,978,994                  | \$25,978,994                  |

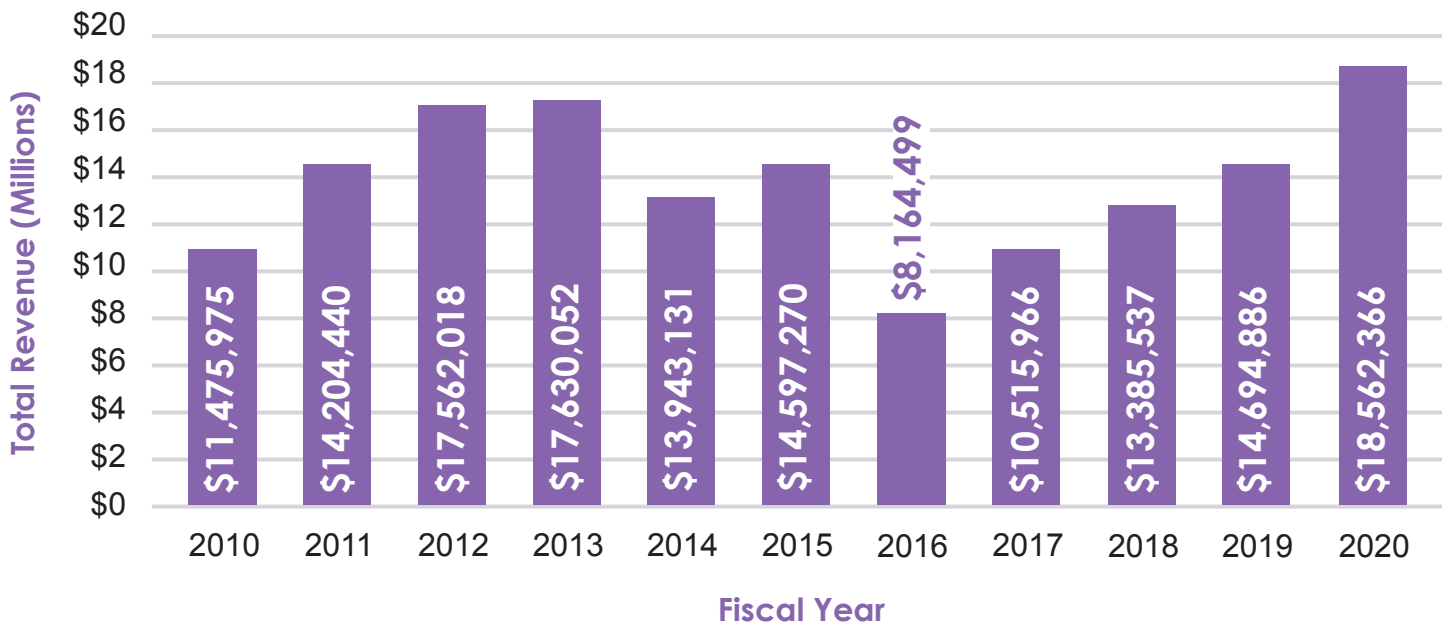
## Gross Proceeds Property Taxes Assessed

| Fiscal Year | State Share | Local Share  | Total Property Tax |
|-------------|-------------|--------------|--------------------|
| 2011        | \$1,096,356 | \$5,675,333  | \$6,771,689        |
| 2012        | \$2,106,806 | \$9,817,065  | \$11,923,871       |
| 2013        | \$3,162,135 | \$13,332,075 | \$16,494,210       |
| 2014        | \$3,178,007 | \$13,635,896 | \$16,813,903       |
| 2015        | \$2,593,448 | \$11,858,376 | \$14,451,824       |
| 2016        | \$2,690,657 | \$11,996,094 | \$14,686,751       |
| 2017        | \$1,972,646 | \$8,731,816  | \$10,704,462       |
| 2018        | \$1,815,147 | \$8,725,640  | \$10,540,788       |
| 2019        | \$2,260,404 | \$10,786,936 | \$13,047,340       |
| 2020        | \$2,634,938 | \$12,606,228 | \$15,241,166       |

# Metalliferous Mines License Tax

Statute: Title 15, Chapter 37, Part 1, MCA

## Metalliferous Mines License Tax



## Tax Rate

Mining operations in which metal or gems are extracted are subject to the metalliferous mines license tax, which is based on the gross value of the product. The first \$250,000 of gross value is exempt from taxation. Concentrate shipped to a smelter or mill for reduction work is taxed at 1.81 percent of gross value. Gold, silver, or any platinum-group metal that is dore, bullion, or matte shipped to a refinery is taxed at 1.6 percent of gross value. Shipping and refining costs are deducted from revenue to determine gross value.

|                    | Tax Rate | Exemptions      |
|--------------------|----------|-----------------|
| Dore/Bullion/Matte | 1.60%    | First \$250,000 |
| Concentrates       | 1.81%    | First \$250,000 |

## Gross Value

The value to which the tax rate is applied is the amount of payment the mining company receives from the metal trader, smelter, roaster, or refinery. This is determined by multiplying the quantity of metal received by the metal trader, smelter, roaster or refinery by the quoted price for the metal, and then subtracting basic treatment and refinery charges, quantity deductions, price deductions, interest, penalty metal, and impurity and moisture deductions as specified by contract between the mining company and the receiving metal trader, smelter, roaster or refinery. Deductions are also allowed for the cost of transportation from the mine or mill to the smelter, roaster or refinery.

## Filing and Payment of Tax

Reports and payment of metal mines tax are due twice a year, on or before March 31 and August 15.

## Distribution

Metalliferous mines license tax revenue is distributed to various entities in accordance with 15-37-117, MCA. For county level distribution data, see the Shared Revenue chapter of this report.

| <b>Fund</b>                       | <b>FY 2016</b> | <b>FY 2017</b> | <b>FY 2018</b> | <b>FY 2019</b> | <b>FY 2020</b> |
|-----------------------------------|----------------|----------------|----------------|----------------|----------------|
| General Fund (57% or 47%)         | \$4,221,465    | \$4,838,691    | \$6,291,202    | \$6,906,596    | \$8,724,312    |
| Hard Rock Mining (2.5%)           | \$204,112      | \$258,346      | \$334,638      | \$367,372      | \$464,059      |
| Hard Rock Debt Service (8.5%)     | \$693,982      | \$878,376      | \$1,137,771    | \$1,249,065    | \$1,577,801    |
| Natural Resources Operations (7%) | \$571,515      | \$723,369      | \$936,988      | \$1,028,642    | \$1,299,366    |
| County Governments (35%)*         | \$2,473,424    | \$3,817,183    | \$4,684,938    | \$5,143,210    | \$6,496,828    |

*\*Effective July 1, 2027, the county distribution changes to 25 percent.*



# Metalliferous Mines License Tax History

## Select Legislative History of Metalliferous Mines License Tax

1925

Enacted the metalliferous mines license tax at the following rates:

- \$1 + 0.25 percent of gross value between \$100,000 and \$250,000
- \$1 + 0.5 percent of gross value between \$250,001 and \$400,000
- \$1 + 0.75 percent of gross value between \$400,001 and \$500,000
- \$1 + 1 percent of gross value over \$500,000

1958

Increased the tax rate on gross value exceeding \$500,000 to \$1 + 1.25 percent.

1969

Increased the tax rate to:

- 0.15 percent on the first \$100,000 of gross value
- 0.575 percent on \$100,001-\$250,000 of gross value
- 0.86 percent on \$250,001-\$400,000
- 1.15 percent on \$400,001-\$500,000 of gross value
- 1.438 percent on \$500,000 + of gross value

1983

Revised tax rates as follows:

- 0 percent on first \$250,000 of gross value
- 0.5 percent on \$250,001-\$500,000 of gross value
- 1 percent on \$500,001-\$1,000,000 of gross value
- 1.5 percent on \$1,000,000 + of gross value

1989

Revised tax rates for concentrate shipped to a smelter or mill for reduction work to the following:

- 0 percent on first \$250,000 of gross value
- 1.81 percent on gross value over \$250,000

Revised tax rates for gold, silver, or any platinum-group metal that is dore, bullion, or matte shipped to the following:

- 0 percent on first \$250,000 of gross value
- 1.6 percent on gross value over \$250,000

2003

Added other forms of processed concentrate that are processed in a treatment facility owned or operated by the taxpayer and are sold or shipped to a refinery for final processing to the gold, silver, and platinum-group metal tax rates.

2009

No more than \$250,000 in gross value in a calendar year can be exempt from metalliferous mines license tax.

2015

The distribution of tax revenues to the general fund was reduced from 57 percent to 47 percent and the revenue was distributed to impacted counties beginning with Fiscal Year 2016.

# Micaceous Mines License Tax

Statute: Title 15, Chapter 37, Part 2, MCA

## Tax Rate

Micaceous minerals are those that are generally classified as complex silicates, and include such minerals as vermiculite, perlite, kernite, and maconite. There have been no micaceous mines license tax collections since Fiscal Year 1990 because there has been no production. All proceeds from the micaceous mines license tax are deposited in the state general fund (15-37-200, MCA).

There is a tax of \$0.05 per ton of concentrates mined, extracted or produced.

## Filing and Payment of Tax

Operators of micaceous mineral mines must file quarterly statements showing the number of tons of micaceous minerals mined. Quarterly returns, along with the accompanying tax payment, are due within 30 days following the end of each calendar quarter.

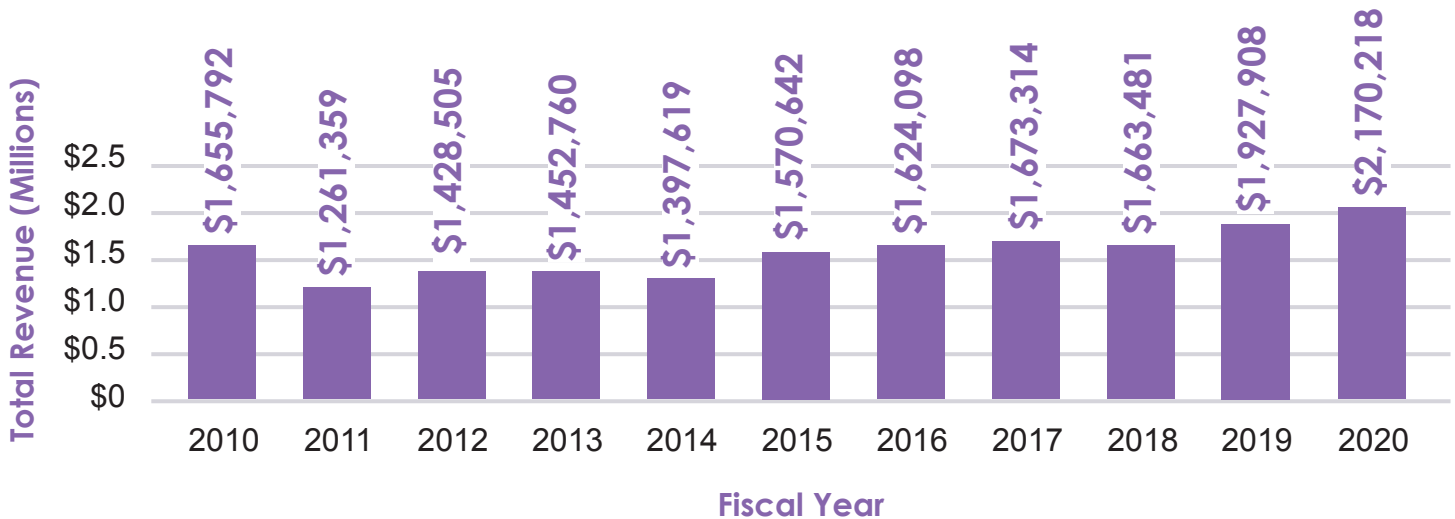
## Distribution

All proceeds from micaceous mines license tax are deposited in the state general fund.

# Miscellaneous Mines Net Proceeds Tax

Statute: Title 15, Chapter 23, Part 5, MCA

## Miscellaneous Mines Net Proceeds Tax



## Tax Rate

Severed products of mines except bentonite, coal and metal are considered Class 1 property and are levied statewide and local mills. The market value of the severed products is the annual net proceeds of mines and mining claims. However, for several mining products extracted the net proceeds are a statutory price multiplied by tonnage and are not based on actual net proceeds. The table below shows the statutory prices of these products for recent production years.

## Miscellaneous Production Tax Rates

| Mining Product     | PY 2016/FY 2018 (\$/Ton) | PY 2017/FY 2019 (\$/Ton) | PY 2018/FY 2020 (\$/Ton) | PY 2019/FY 2021 (\$/Ton) |
|--------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Talc               | \$7.34                   | \$7.49                   | \$7.64                   | \$7.74                   |
| Vermiculite        | \$43.03                  | \$43.89                  | \$44.76                  | \$45.32                  |
| Limestone          | \$0.53                   | \$0.54                   | \$0.55                   | \$0.56                   |
| Industrial Garnets | \$29.02                  | \$29.60                  | \$30.17                  | \$30.55                  |
| Garnet Byproducts  | 30% of Gross Rev.        | 30% of Gross Rev.        | 30% of Gross Rev.        | 30% of Gross Rev.        |

For all other Class 1 mined products the value is the gross value less certain allowable deductions that account for the cost of the mining.

Sand and gravel are exempt from mines net proceeds taxation. Producers of industrial garnets, travertine, and building stone are exempt from mines net proceeds tax on the first 1,000 tons of production.

## Filing and Payment of Tax

Miscellaneous mines tax reports are due by March 31 of each year. The report includes total gross proceeds of minerals mined during the preceding calendar year and information on costs associated with the mining operation sufficient to allow calculation of the net proceeds from the operation. By July 1 the department calculates the net value by subtracting allowable deductions and records the value in property tax records. The mine producer pays half of the property tax levied and assessed by November 30 and the other half by May 31 of the following year.

## Distribution

The taxable value of miscellaneous mines net proceeds is allocated to the local jurisdictions where the mine is located. The mills of these local jurisdictions and statewide mills are levied against the taxable value.

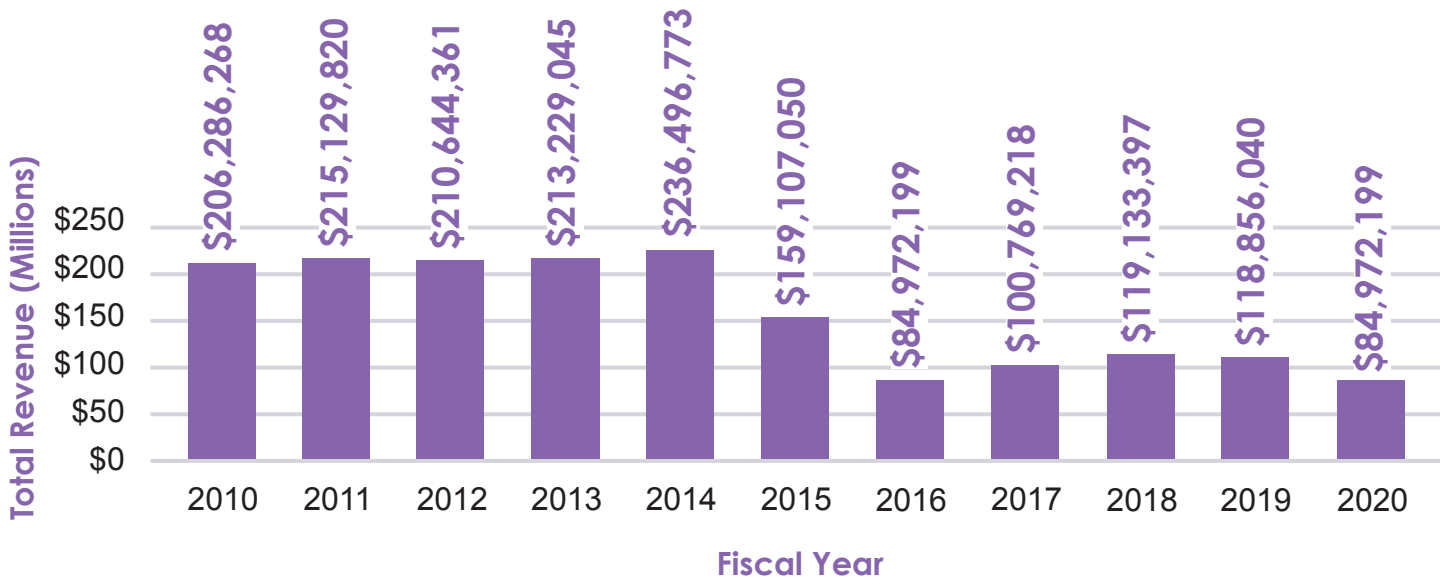
## Net Proceeds Property Taxes Assessed

| Production Year | Fiscal Year | Net Proceeds | State Share | Local Share | Total Tax   |
|-----------------|-------------|--------------|-------------|-------------|-------------|
| 2009            | 2011        | \$3,251,182  | \$321,519   | \$939,840   | \$1,261,359 |
| 2010            | 2012        | \$3,930,006  | \$392,736   | \$1,035,769 | \$1,428,505 |
| 2011            | 2013        | \$4,188,542  | \$423,043   | \$1,029,717 | \$1,452,760 |
| 2012            | 2014        | \$3,271,953  | \$330,467   | \$1,067,152 | \$1,397,619 |
| 2013            | 2015        | \$3,790,730  | \$382,864   | \$1,187,778 | \$1,570,642 |
| 2014            | 2016        | \$3,737,426  | \$377,480   | \$1,246,618 | \$1,624,098 |
| 2015            | 2017        | \$3,969,848  | \$412,094   | \$1,261,220 | \$1,673,314 |
| 2016            | 2018        | \$3,983,884  | \$402,372   | \$1,261,109 | \$1,663,481 |
| 2017            | 2019        | \$4,794,622  | \$484,257   | \$1,443,651 | \$1,927,908 |
| 2018            | 2020        | \$5,584,426  | \$564,027   | \$1,606,191 | \$2,170,218 |

# Oil and Natural Gas Tax

Statute: Title 15, Chapter 36; 20-9-310, MCA

## Oil and Natural Gas Production Tax



## Tax Rates

The regular production tax rates for the working interest of oil production is 9.3 percent for wells drilled on or after January 1, 1999 and 12.8 percent for wells drilled before that time. However, there are several preferential tax rates to incentivize production. New wells receive a preferential tax rate of 0.8 percent. This tax holiday lasts for 12 months for vertical wells and 18 months for horizontal wells.

There are several lower tax rates designed to incentivize reinvestment in currently existing wells. Incremental production (additional production above an established production curve for a given well) from secondary recovery projects is taxed at 8.8 percent if the index price of West Texas Intermediate (WTI) oil is below \$54 per barrel. Incremental production from tertiary recovery projects is taxed at 6.1 percent regardless of WTI price. Recompleted horizontal wells are taxed at 5.8 percent for 18 months regardless of the price of oil.

Low-producing wells may be classified as stripper or super-stripper wells and qualify for preferential tax rates. Wells producing less than an average of 15 barrels per day in the prior calendar year are classified as stripper wells. If the average price for WTI crude oil is below \$30 per barrel, these wells are taxed at 5.8 percent for the first 10 barrels a day and the standard 9.3 percent for any production beyond that. If the price of oil is above \$30 a barrel, there is no reduced rate for stripper well production. If a well produces less than an average of three barrels a day in the prior calendar year, then it qualifies as a super-stripper well. Production from super-stripper wells are taxed at a rate of 6.3 percent, and if the average price received for the oil is below \$54 per barrel the rate is further reduced to 0.8 percent.

Natural gas producers receive the same holiday for new wells that oil producers receive. Regular production is taxed at a rate of 9.3 percent if the well was drilled after January 1, 1999, or 15.1 percent if drilled before that date.

Natural gas wells averaging less than 60,000 cubic feet (60 MCF) per day in the prior year can qualify as stripper wells and qualify for a reduced tax rate of 11.3 percent if the well was drilled before 1999.

All taxable royalty owners of oil and natural gas production are taxed at a rate of 15.1 percent of the gross value of production. All government royalties and royalties received by an Indian tribe from on-reservation oil production pursuant to a lease entered under the Indian Mineral Leasing Act of 1938, are exempt from taxation.

Total gross value is computed as the product of the total number of barrels (bbl) or thousand cubic feet (MCF) produced each quarter and the average wellhead value per barrel or thousand cubic feet. Producers may deduct the costs of any production that is used in the operation of the well.

All tax rates include the privilege and license tax and the tax levied for the Oil and Gas Natural Resource Distribution Account. The sum of these two additional taxes is always equal to 0.3 percent of total gross oil and natural gas value (15-36-304(7), MCA).

The following table illustrates how the varying tax rates apply in different scenarios.

## Oil and Natural Gas Production Tax Rates

| <b>Oil-Working Interest</b>  | <b>Statutory Rate</b> | <b>Total Rate</b> |
|--|-----------------------|-------------------|
| Pre-1999 Wells (Regular Production)  | 12.8%                 | 13.1%             |
| Post-1999 Wells (Regular Production)   | 9.3%                  | 9.6%              |
| Incremental Production from Secondary Recovery <sup>†‡</sup>                       | 8.8%                  | 9.1%              |
| Incremental Production from Tertiary Recovery                                      | 6.1%                  | 6.4%              |
| Horizontally Recompleted Wells - First 18 Months                                   | 5.8%                  | 6.1%              |
| Horizontally Completed Wells - First 18 Months                                     | 0.8%                  | 1.1%              |
| Stripper Wells - First 10 Barrels per Day - Oil under \$30 Per Barrel <sup>‡</sup> | 5.8%                  | 6.1%              |
| Super Stripper Wells - Oil under \$54 Per Barrel <sup>~</sup>                      | 0.8%                  | 1.1%              |
| Super Stripper Wells - Oil \$54 per Barrel or Higher                               | 6.3%                  | 6.6%              |
| Vertically Completed Wells - First 12 Months                                       | 0.8%                  | 1.1%              |

| <b>Natural Gas - Working Interest</b>             | <b>Statutory Rate</b> | <b>Total Rate</b> |
|---|-----------------------|-------------------|
| Pre-1999 Wells (Regular Production)               | 15.1%                 | 15.4%             |
| Post-1999 (Regular Production)                    | 9.3%                  | 9.6%              |
| Horizontally Completed Wells                      | 9.3%                  | 9.6%              |
| Pre-1999 Wells Producing Less Than 60 MCF per Day | 11.3%                 | 11.4%             |
| Vertically Completed Wells - First 12 Months      | 0.8%                  | 1.1%              |
| Horizontally Completed Wells - First 12 Months    | 0.8%                  | 1.1%              |

### Royalty Interests 15.1%

<sup>†</sup> These rates apply if the price is under \$54 per barrel.

<sup>‡</sup> Oil price is the price for West Texas Intermediate Crude Oil.

<sup>~</sup> Oil price is the average price received by the individual producer.

Stripper wells produce 3 to 15 barrels per day.

Super-stripper wells produce less than 3 barrels per day.

All rates include 0.3% to fund the operations of the Board of Oil and Gas Conservation Division and the Oil and Natural Gas Resource Distribution Account.

The following table shows summary information gathered from the tax returns of producers:

## Montana Oil and Gas Production Statistics

| <b>Oil</b>                  | <b>FY 2016</b>      | <b>FY 2017</b>      | <b>FY 2018</b>       | <b>FY 2019</b>       | <b>FY 2020</b>      |
|-----------------------------|---------------------|---------------------|----------------------|----------------------|---------------------|
| Total Gross Value           | \$861,657,306       | \$889,400,612       | \$1,038,507,633      | \$1,216,466,565      | \$867,119,104       |
| Volume (barrels)            | 25,116,621          | 21,253,705          | 19,384,205           | 22,860,019           | 20,781,922          |
| Taxable Royalty Value       | \$116,715,105       | \$120,097,317       | \$137,571,557        | \$171,226,963        | \$123,114,484       |
| Tax on Royalty Owners       | \$17,577,295        | \$18,123,343        | \$20,773,306         | \$25,855,273         | \$18,590,288        |
| Working Interest Value      | \$720,795,751       | \$744,190,817       | \$870,192,043        | \$1,009,738,455      | \$720,130,124       |
| Tax on the Working Interest | \$61,591,918        | \$72,435,995        | \$84,666,329         | \$83,074,271         | \$56,768,381        |
| Effective Tax Rate          | 9.19%               | 10.18%              | 10.15%               | 8.95%                | 8.69%               |
| <b>Total Tax*</b>           | <b>\$79,169,214</b> | <b>\$90,559,339</b> | <b>\$105,439,635</b> | <b>\$108,929,543</b> | <b>\$75,358,669</b> |
| <b>Gas</b>                  | <b>FY 2016</b>      | <b>FY 2017</b>      | <b>FY 2018</b>       | <b>FY 2019</b>       | <b>FY 2020</b>      |
| Total Gross Value           | \$57,601,774        | \$83,116,028        | \$81,188,867         | \$79,039,876         | \$39,595,901        |
| Volume (MCF)                | 37,299,901          | 42,014,267          | 38,071,657           | 38,209,549           | 35,549,434          |
| Taxable Royalty Value       | \$7,160,384         | \$10,819,723        | \$10,938,857         | \$10,932,908         | \$5,582,203         |
| Tax on Royalty Owners       | \$1,078,354         | \$1,632,901         | \$1,651,769          | \$1,650,870          | \$842,913           |
| Working Interest Value      | \$48,123,382        | \$69,611,994        | \$67,764,878         | \$65,750,774         | \$32,843,998        |
| Tax on the Working Interest | \$4,479,234         | \$6,765,428         | \$6,405,936          | \$5,878,147          | \$2,985,446         |
| Effective Tax Rate          | 9.65%               | 10.10%              | 9.92%                | 9.53%                | 9.67%               |
| <b>Total Tax*</b>           | <b>\$5,557,587</b>  | <b>\$8,398,329</b>  | <b>\$8,057,705</b>   | <b>\$7,529,017</b>   | <b>\$3,828,359</b>  |

*\*Total Tax revenue does not match data in the state accounting database due to accrual reversals and amended returns. Previous years' numbers are taken from previous biennial reports.*



## Filing and Payment of Tax

Oil and natural gas producers are required to file quarterly statements containing information sufficient to calculate the tax due. Tax payments are due within 60 days following the close of each calendar quarter.

## Distribution

The first distribution made is to the Board of Oil and Gas Conservation (BOGC) to fund its operations, up to a maximum of 0.3 percent of taxable oil and gas tax revenue. If the Board does not use the full 0.3 percent, the remainder (up to 0.08 percent of the taxable revenue) goes to the Oil and Natural Gas Resource Distribution Account for distribution to cities in counties with impacts from oil and gas production. So, if the BOGC uses less than 0.22 percent (0.3 percent minus 0.08 percent) of the total revenue, any further remainder is held as reserves for the Board or for the legislative transfer related to impacts of oil and gas production (15-36-331(2), MCA).

The remaining tax revenue is then distributed between the state and county governments. The specific allocation is dependent on which county the production occurred in and is set in statute. The percentage share between state and county is frozen at the relative millage rates when the Legislature changed oil and gas taxes from an *ad valorem* property tax into a flat rate tax.

The state portion is distributed as follows:

- 2.16 percent to the Natural Resource Projects State Special Revenue Account
- 2.02 percent to the Natural Resource Operations State Special Revenue Account
- 2.95 percent to the Orphan Share Account
- 2.65 percent to the University System
- The remainder (90.22 percent) to the general fund

The county share of the revenue is distributed between elementary retirement funds, high school retirement funds, countywide transportation funds, school districts, community colleges, and county governments. The specific allocation between these entities is dependent on the county of production and the schedule in 15-36-332, MCA. For county-level oil and gas tax distributions see the Oil and Gas Tax section of the Shared Revenue chapter of this report.

The advent of hydraulic fracturing and the subsequent boom of oil in eastern Montana created a large amount of tax revenue for some school districts where oil was drilled, but left others with significant expenditures from workers (and their children) who lived and went to school in adjacent areas. There were several legislative fixes to solve this disparity. A history is available in past biennial reports. The current system for redistributing funds is to allow school districts to receive up to 130% of their maximum allowable budget in oil tax money, with any excess deposited into the State Guarantee Account, which generates interest for statewide school equalization.

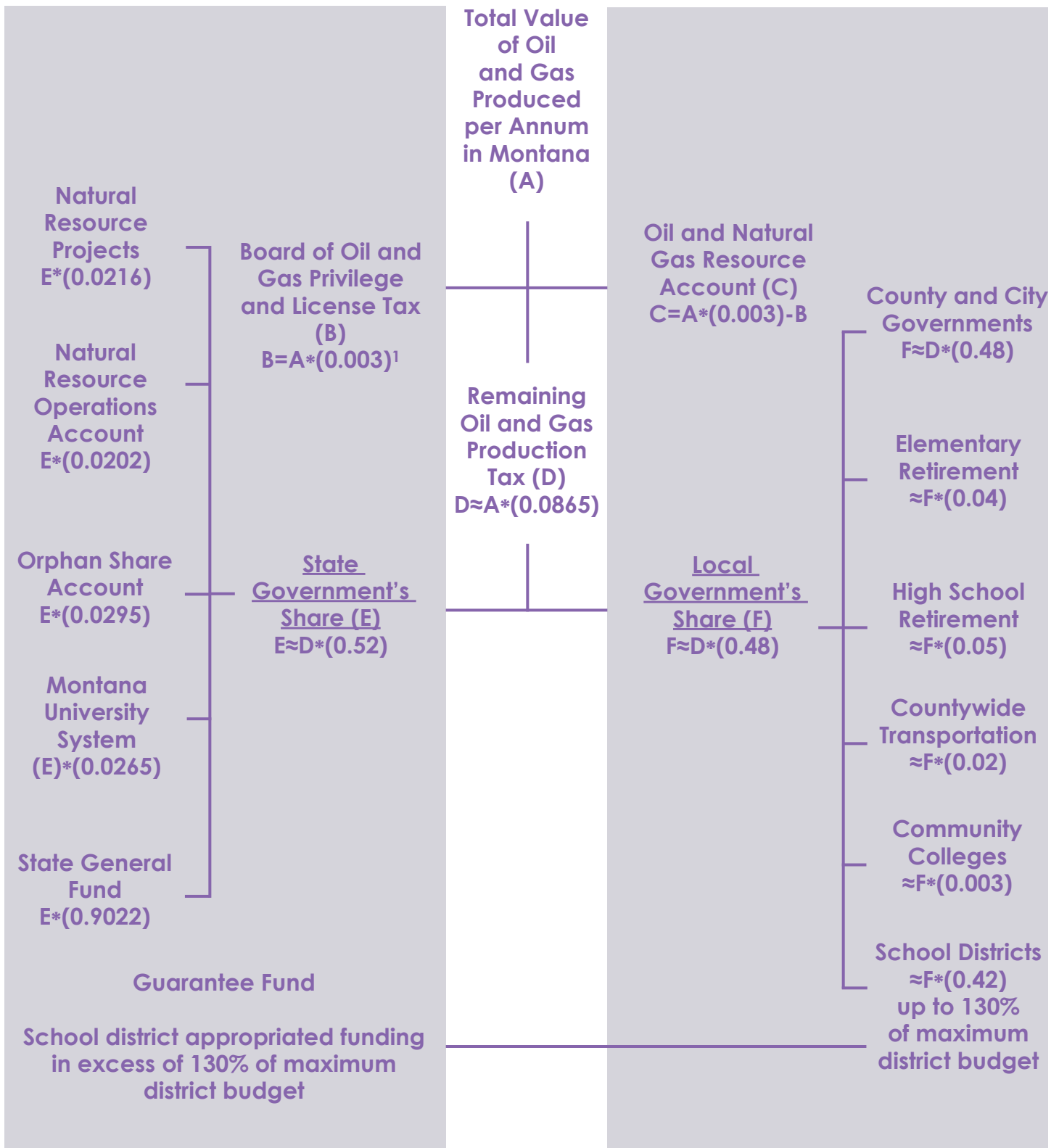
The following table and charts illustrate the distribution of oil and gas revenue for Fiscal Years 2016 to 2020:

## Distribution of Oil and Gas Tax

| <b>Fund</b>                                   | <b>FY 2016</b> | <b>FY 2017</b> | <b>FY 2018</b> | <b>FY 2019</b> | <b>FY 2020</b> |
|---|----------------|----------------|----------------|----------------|----------------|
| Total Revenue                                 | \$84,972,199   | \$100,769,218  | \$119,133,397  | \$118,856,040  | \$84,611,407   |
| BOGC  | \$812,294      | \$2,405,384    | \$3,414,619    | \$3,794,479    | \$2,629,715    |
| Oil and Gas<br>Natural Res.<br>Acc.           | \$1,534,356    | \$387,751      | \$0            | \$0            | \$177,640      |
| Remainder                                     | \$82,625,549   | \$97,976,082   | \$115,718,778  | \$115,061,561  | \$81,804,052   |
| “County”<br>Revenue                           | \$39,294,942   | \$46,619,101   | \$55,301,615   | \$55,010,644   | \$39,263,577   |
| Counties and<br>Schools                       | \$37,900,038   | \$45,535,458   | \$53,618,550   | \$52,811,479   | \$38,026,449   |
| Guarantee<br>Fund                             | \$0            | \$0            | \$1,683,066    | \$2,199,165    | \$1,237,128    |
| State School<br>Oil and Gas<br>Distrib.       | \$1,394,905    | \$1,083,642    | \$0            | \$0            | \$0            |
| State Revenue                                 | \$43,330,607   | \$51,356,982   | \$60,417,163   | \$60,050,917   | \$42,540,475   |
| Natural<br>Resources<br>Projects<br>(2.16%)   | \$938,011      | \$1,109,311    | \$1,305,013    | \$1,297,102    | \$918,874      |
| Natural<br>Resources<br>Operations<br>(2.02%) | \$877,214      | \$1,037,411    | \$1,220,424    | \$1,213,026    | \$859,318      |
| Orphan Share<br>Fund (2.95%)                  | \$1,281,080    | \$1,515,030    | \$1,782,308    | \$1,771,504    | \$1,254,944    |
| Montana<br>University<br>System<br>(2.65%)    | \$1,150,801    | \$1,360,960    | \$1,601,053    | \$1,591,347    | \$1,127,323    |
| General Fund<br>(remainder)                   | \$39,083,500   | \$46,334,270   | \$54,508,364   | \$54,177,937   | \$38,380,017   |

## State

## Counties



<sup>1</sup> This rate varies up to 0.3% based on necessary funding. Any remainder between this rate and 0.3% is sent to the Oil and Natural Gas Resource Distribution Account.

All calculations with  $\approx$  are approximate and represent averages across different counties with different spending schedules, or, in the case of (D), an average of taxes owed across different tax schedules. For accurate county-level tax shares by category, consult 15-36-331, MCA, and 15-36-332, MCA.

# Oil and Natural Gas State Tax Comparison

Individual states have different exemptions, deductions, and tax bases for their natural resources. These differences make it very difficult to compare tax structures between states and differences in other taxes, such as sales and property tax, can skew the overall tax burden in each state. The following table provides a brief description of oil and gas taxes in other states.

## Oil and Natural Gas Tax Rates (Updated 2020)\*

| State      | Type of Tax                       | Description of Tax Rates   |
|------------|-----------------------------------|--|
| California | Oil and Gas Production Assessment | Rate determined annually by Department of Conservation   |
| Colorado   | Severance Tax                     | 2 to 5 percent based on gross income for oil, gas, carbon dioxide, and coal bed methane  |
|            | Oil and Gas Conservation Levy     | 4 percent of gross proceeds on production exceeding 15,000 tons per day for oil shale  |
| Idaho      | Oil and Gas Production Tax        | Maximum 1.7 mills per \$1 of market value at wellhead, not to exceed 0.2 mills per \$1 of the market value of the well             |
|            | Severance Tax                     | 2.5 percent of gross income at site of production  |
| Kansas     | Severance Tax                     | 8 percent of gross value of oil and gas, less property tax credit of 3.67 percent  |
|            | Oil and Gas Conservation Tax      | 91 mills per barrel of crude oil or petroleum marketed or used each month<br>12.9 mills per MCF of gas sold or marketed each month |
| Montana    | Oil or Gas Conservation Tax       | 0.3 percent on the market value of each barrel of crude petroleum oil or MCF of natural gas produced and sold                      |
|            | Oil or Natural Gas Production Tax | Varies from 0.5 percent to 14.8 percent of market value according to the well and type of production                               |
| Nebraska   | Oil and Gas Severance Tax         | 3 percent of value of nonstripper oil and natural gas  |
|            | Oil and Gas Conservation Tax      | 2 percent of value of stripper oil. Maximum of 15 mills per \$1 of value at wellhead   |
| Nevada     | Oil and Gas Conservation Fee      | Up to \$0.20 per 50 MCF of natural gas or barrel of oil  |

## Oil and Natural Gas Tax Rates (Updated 2020)\*

| State        | Type of Tax                   | Description of Tax Rates   |
|--------------|-------------------------------|--|
| North Dakota | Oil Gross Production Tax      | 5 percent of gross value at the well   |
|              | Gas Gross Production Tax      | \$0.0705 per MCF of gas produced. The rate is subject to a gas rate adjustment each fiscal year                                      |
|              | Oil Extraction Tax            | 5 percent of gross value at the well. Exceptions exist for certain production volumes and incentives for enhanced recovery projects  |
| Ohio         | Resource Severance Tax        | \$0.10 per barrel of oil   |
|              |                               | \$0.025 per MCF of natural gas   |
| Oregon       | Oil and Gas Production Tax    | 6 percent of gross value at well   |
| South Dakota | Energy Minerals Severance Tax | 4.5 percent of taxable value of all energy minerals  |
|              | Conservation Tax              | 2.4 mills of taxable value of all energy minerals  |
| Utah         | Oil and Gas Severance Tax     | 3 percent of value if the value is \$13 or less per barrel of oil and 5 percent if the value is greater than \$13 per barrel of oil. |
|              |                               | 3 percent of value if the value is \$1.50 or less per MCF and 5 percent if the value is greater than \$1.50 per MCF                  |
|              |                               | 4 percent of taxable value of natural gas liquids  |
|              | Oil and Gas Conservation Fee  | 0.002 percent of market value at the wellhead  |
| Wyoming      | Severance Taxes               | 6 percent on crude oil, lower rates between 1.5 to 4 percent for new oil wells or secondary and tertiary production                  |
|              | Oil and Gas Conversion Charge | 0.05 percent of gross value at well  |

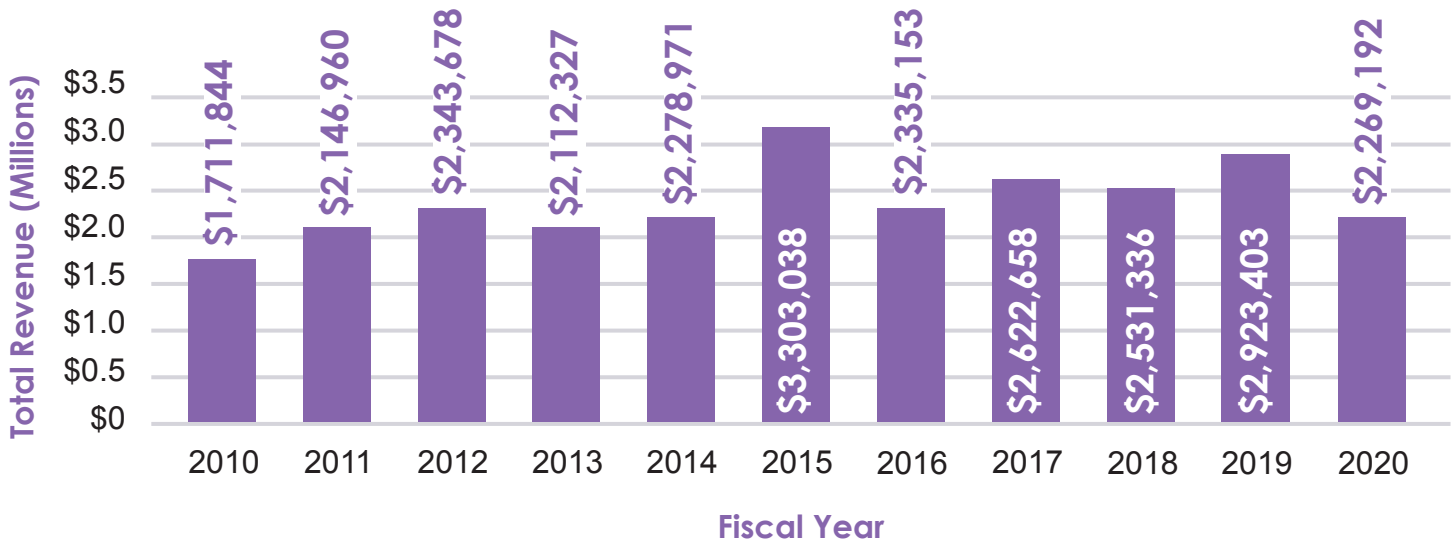
*MCF stands for 1,000 cubic feet*

*\*Source: National Conference of State Legislatures*

# Resource Indemnity and Ground Water Assessment Tax

Statute: Title 15, Chapter 38, Part 1, MCA

## Resource Indemnity and Ground Water Assessment Tax



## Tax Rate

The Resource Indemnity and Ground Water Assessment Tax (RIGWAT) was created to indemnify the citizens of Montana for the loss of long-term value resulting from the depletion of natural resource bases and for environmental damage caused by mineral development.

| Mineral | Tax Rate | Exemption     | Mineral     | Tax Rate | Exemption     |
|---------|----------|---------------|-------------|----------|---------------|
| Other*  | 0.5%     | First \$5,000 | Vermiculite | 2.0%     | First \$1,250 |
| Talc    | 4.0%     | First \$625   | Limestone   | 10.0%    | First \$250   |
| Coal    | 0.4%     | First \$6,250 | Garnets     | 1.0%     | First \$2,500 |

\*Excludes oil, gas, and mines taxed under 15-37-104, MCA.

## Exemptions

- Metal production subject to the metal mines license tax is exempt from RIGWAT.
- The 2003 Montana Legislature changed the distribution of oil and gas tax revenue to include the Orphan Share Account, and made oil and gas production subject to the oil and gas severance tax exempt from RIGWAT.
- Royalties received by an Indian tribe, by the U.S. government as trustee for individual Indians, by the U.S. government, by the state of Montana, or by a county or municipality are exempt from RIGWAT.

## Filing and Payment of Tax

All extractors and producers of minerals must file an annual statement showing the gross yield of product for each mineral mined. Metal producers must file on or before March 31. All other producers must file on or before the 60th day following the end of the calendar year. The tax is due at the time of the statement filing.

## Distribution

RIGWAT tax collections are deposited to several special funds and accounts. The order and amount of proceeds deposited are as follows:

- An amount certified by the Department of Environmental Quality is deposited to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) debt service fund.
- \$366,000 to be deposited in the ground water assessment account.
- \$150,000 to be deposited in the water storage state special revenue account each biennium in even fiscal years.

The remaining revenue is then split:

- 25 percent to the hazardous waste/CERCLA special revenue account.
- 25 percent to the environmental quality protection fund.
- 50 percent of to the natural resources projects fund.

The following chart shows a select history of the Resource Indemnity and Ground Water Assessment Tax.

| <b>Fund</b>                               | <b>FY 2016</b> | <b>FY 2017</b> | <b>FY 2018</b> | <b>FY 2019</b> | <b>FY 2020</b> |
|---|----------------|----------------|----------------|----------------|----------------|
| Total Revenue                             | \$2,335,153    | \$2,622,658    | \$2,531,336    | \$2,923,403    | \$2,269,192    |
| CERCLA Debt Service                       | \$270,425      | \$148,025      | \$143,825      | \$144,525      | \$145,025      |
| Groundwater Assessment                    | \$366,000      | \$366,000      | \$366,000      | \$366,000      | \$366,000      |
| Water Storage                             | \$150,000      | \$0            | \$150,000      | \$0            | \$150,000      |
| Remainder                                 | \$1,548,728    | \$2,108,633    | \$1,871,511    | \$2,412,878    | \$1,608,167    |
| Hazardous Waste/<br>CERCLA<br>(25%)       | \$387,182      | \$527,158      | \$467,878      | \$603,219      | \$402,042      |
| Environmental Quality Protection<br>(25%) | \$387,182      | \$527,158      | \$467,878      | \$603,219      | \$402,042      |
| Natural Resources Projects (50%)          | \$774,364      | \$1,054,316    | \$935,756      | \$1,206,439    | \$804,083      |

# Resource Indemnity and Ground Water Assessment Tax History

The following figure shows a select legislative history of the Resource Indemnity and Ground Water Assessment Tax.

1973

Enacted the Resource Indemnity Trust Act with a tax on mineral production of \$25 + 0.5% of the gross value in excess of \$5,000.

1977

Provided that the royalty owners share may be deducted from the gross proceeds calculation for the Resource Indemnity Trust Tax.

1989

Provided a special tax rate for talc production of \$25 + 4% of gross value.

1991

Provided a special tax rate for coal production of \$25 + 0.4% of gross value.  
Provided a special tax rate for vermiculite production of \$25 + 2% of gross value.

1993

Provided a special tax rate for quicklime production from limestone of \$25 + 10% of gross value.

1995

Changed the tax on talc to \$25 + 4% of gross value in excess of \$625.  
Changed the tax on coal to \$25 + 0.4% of gross value in excess of \$6,250.  
Changed the tax on vermiculite to \$25 + 2% of gross value in excess of \$1,250.  
Changed the tax on quicklime from limestone to \$25 + 10% of value in excess of \$250.  
Provided a special tax rate for garnets of \$25 + 1% of gross value in excess of \$2,500.

2009

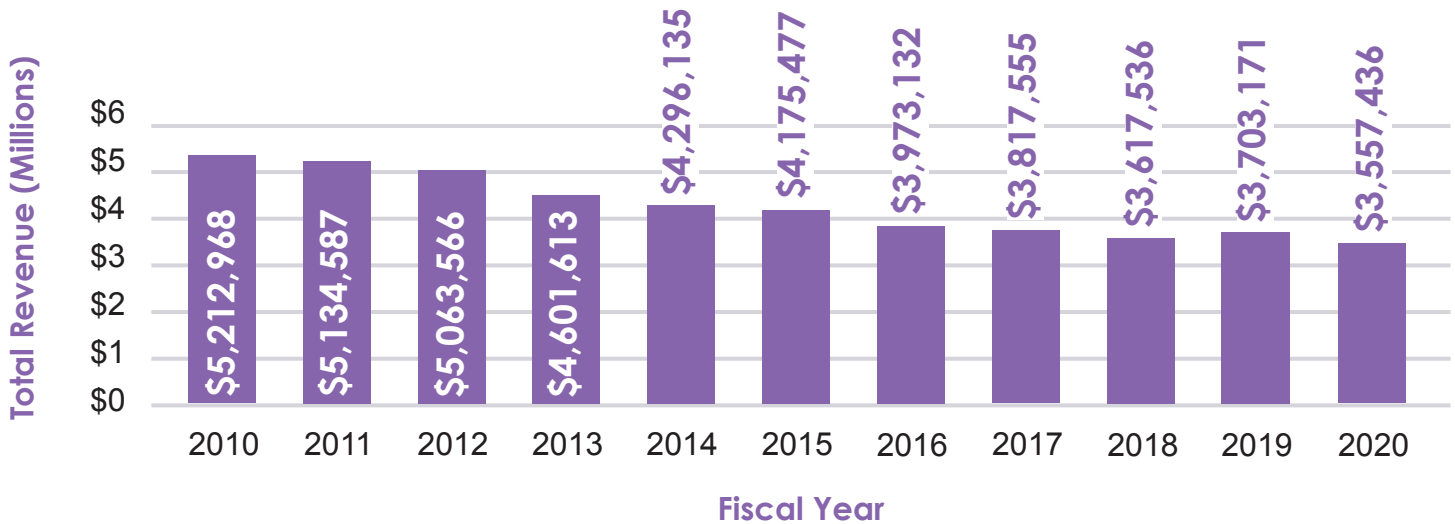
Exempted counties, cities, towns, and people who paid the opencut mining fee from RIGWAT.



# Resource Indemnity Fund Interest

Statute: Title 15, Chapter 38, Part 2, MCA

## Resource Indemnity Trust Fund Interest



## Distribution of Interest Income

In Fiscal Year 2002 the Resource Indemnity Trust Fund reached \$100 million. Net earnings, excluding unrealized gains and losses, and all receipts may be appropriated and expended by the Legislature, so long as the balance of the trust is never less than \$100 million. This is not a tax, but has its own section due to the scope of its distribution process.

Interest from the resource indemnity trust is allocated in a two-stage process. First, several programs receive fixed allocations, and then the remaining funds are divided between four programs on a percentage basis. The distributions were revised starting Fiscal Year 2016, increasing the amount going to the Oil and Gas Damage Mitigation Account and decreasing the amount going to the Natural Resource Projects Account. When there is insufficient interest income, money is allocated in relative proportions. This is the case in all fiscal years displayed on the next page.

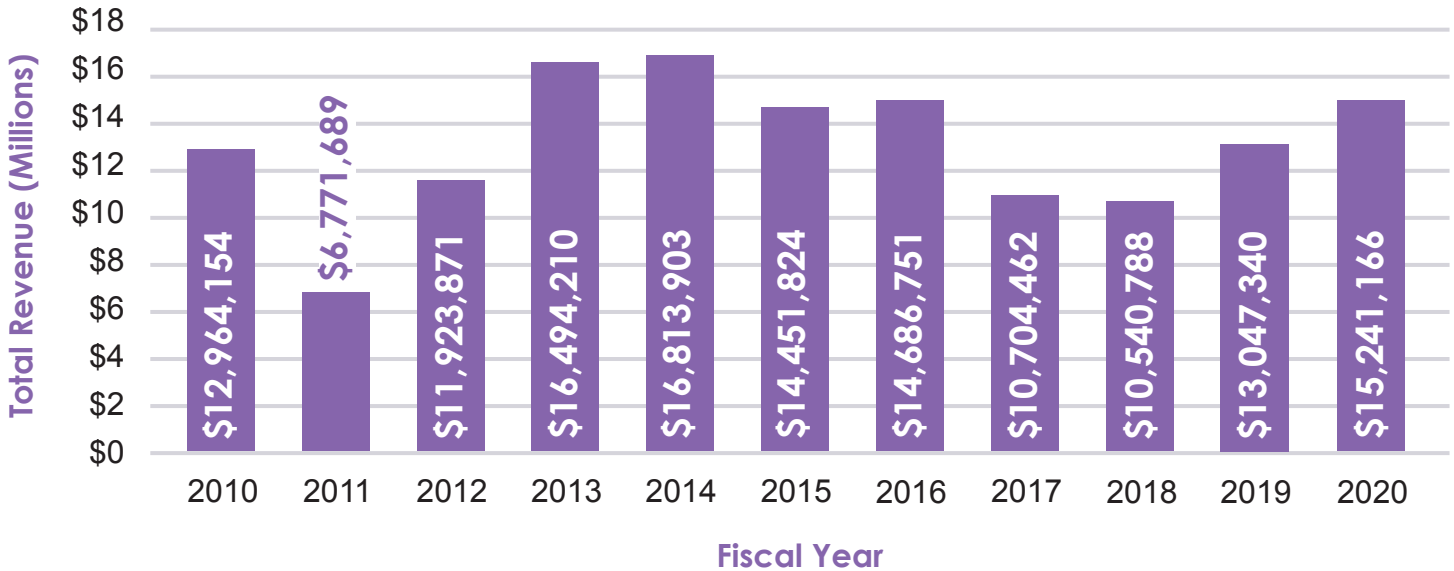
## Resource Indemnity Fund Interest Distribution

| Fund                                  | FY 2016     | FY 2017     | FY 2018     | FY 2019     | FY 2020     |
|---------------------------------------|-------------|-------------|-------------|-------------|-------------|
| <b>Annual Distributions</b>           |             |             |             |             |             |
| Natural Resources Projects            | \$2,415,617 | \$3,054,044 | \$2,386,503 | \$2,962,537 | \$2,176,299 |
| Groundwater Assessment                | \$226,464   | \$286,317   | \$223,735   | \$277,738   | \$204,028   |
| Native Fish Species Enhancement       | \$377,440   | \$477,194   | \$372,891   | \$462,896   | \$340,047   |
| <b>Biennial Distribution</b>          |             |             |             |             |             |
| Oil and Gas Damage Mitigation         | \$490,672   | \$0         | \$131,005   | \$0         | \$378,000   |
| Water Storage                         | \$377,440   | \$0         | \$372,891   | \$0         | \$340,047   |
| Environmental Contingency RIT         | \$85,499    | \$0         | \$130,512   | \$0         | \$119,016   |
| <b>Remainder</b>                      |             |             |             |             |             |
| Natural Resources Operations (65%)    | \$0         | \$0         | \$0         | \$0         | \$0         |
| Hazardous Waste - CERCLA (26%)        | \$0         | \$0         | \$0         | \$0         | \$0         |
| Environmental Quality Protection (9%) | \$0         | \$0         | \$0         | \$0         | \$0         |

# U.S. Mineral Royalties

Statute: 30 USC, Section 191  
17-3-240, MCA

## U.S. Mineral Royalties



The federal government generates royalties from leasing mineral rights on federal lands in the state. They share 49 percent of royalty revenue with the state, which decreased from 50 percent in October of 2007.

The Department of Revenue provides auditing and compliance services for the federal government of producers extracting minerals from federal lands within the state. The federal government reimburses the department for these services.

## Distribution

The state general fund receives 75 percent of the revenue and the remaining 25 percent is allocated to counties with mining on federal land. The county share is distributed to county governments in proportion to the amount collected in each of the counties. For county level distribution amounts, see the U.S. Mineral Royalties section of the Shared Revenue chapter.

| Fund                    | FY 2016      | FY 2017      | FY 2018      | FY 2019      | FY 2020      |
|-------------------------|--------------|--------------|--------------|--------------|--------------|
| General Fund (75%)      | \$16,758,963 | \$17,322,265 | \$20,139,199 | \$21,570,177 | \$18,527,036 |
| Impacted Counties (25%) | \$5,586,321  | \$5,774,088  | \$6,713,066  | \$7,190,059  | \$6,175,679  |