



MARCH 18, 1991

CONCURRED IN.

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 SENATE BILL NO. 86  
 2 INTRODUCED BY ek  
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE TAXATION  
 6 OF OIL AND NATURAL GAS BY DELETING OBSOLETE REFERENCES TO  
 7 INTERIM PRODUCTION; AMENDING SECTIONS 15-23-601, 15-23-602,  
 8 15-23-603, 15-23-607, 15-23-613, 15-23-621, 15-36-101,  
 9 20-9-141, 20-9-331, 20-9-333, AND 20-10-144, MCA; AND  
 10 PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
 11

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

13 **Section 1.** Section 15-23-601, MCA, is amended to read:  
 14 "15-23-601. Definitions. As used in this part, the  
 15 following definitions apply:

16 (1) "Excise tax" means the windfall profit tax on  
 17 domestic crude oil imposed by Title I of the federal Crude  
 18 Oil Windfall Profit Tax Act of 1980, as enacted or as  
 19 amended.

20 ~~{2}--"interim--production"--means--the--production--of~~  
 21 ~~natural--gas--petroleum--or--other--crude--or--mineral--oil--from~~  
 22 ~~any--well--that:~~

23 ~~{a)--has--not--produced--natural--gas--petroleum--or--other~~  
 24 ~~crude--or--mineral--oil--during--the--5--years--immediately~~  
 25 ~~preceding--the--first--month--of--interim--production--and~~

1 ~~{b)--began--interim--production--after--June--30--1985--and~~  
 2 ~~before--April--1--1987.~~

3 ~~{3}{2}~~ The term "new production" means the production  
 4 of natural gas, petroleum, or other crude or mineral oil  
 5 from any well:

6 (a) that has not produced natural gas, petroleum, or  
 7 other crude or mineral oil during the 5 years immediately  
 8 preceding the first month of qualified new production; and

9 (b) on which the notification required in 15-36-121(2)  
 10 was given.

11 ~~{4}{3}~~ The terms "operator" and "producer" mean any  
 12 person who engages in the business of drilling for,  
 13 extracting, or producing any natural gas, petroleum, or  
 14 other crude or mineral oil.

15 ~~{5}{4}~~ The term "well" includes each single well or  
 16 group of wells, including dry wells, in one field or  
 17 production unit and under the control of one operator or  
 18 producer."

19 **Section 2.** Section 15-23-602, MCA, is amended to read:

20 "15-23-602. Statement of sales proceeds on interim  
 21 production and new production. (1) As provided in subsection  
 22 (2), each operator or producer of ~~interim--production--or~~ new  
 23 production of natural gas, petroleum, or other crude or  
 24 mineral oil shall make out and deliver to the department of  
 25 revenue a statement of the gross sales proceeds of interim

1 ~~production-or~~ new production of natural gas, petroleum, or  
 2 other crude or mineral oil from each well owned or worked by  
 3 the person. The gross sales proceeds must be determined by  
 4 multiplying the units of production sold from the well times  
 5 the royalty unit value of that production at the well. The  
 6 statement must be in the form prescribed by the department  
 7 and must be verified by the oath of the operator or producer  
 8 or the manager, superintendent, agent, president, or  
 9 vice-president of the corporation, association, or  
 10 partnership. The statement must show the following:

11 (a) the name and address of the operator, together with  
 12 a list in duplicate of the names and addresses of any  
 13 persons owning or claiming any royalty interest in the  
 14 production from the well or the proceeds derived from the  
 15 sale of the production, and the amount paid or yielded as  
 16 royalty to each of those persons during the period covered  
 17 by the statement;

18 (b) the description and location of the well;

19 (c) the number of cubic feet of natural gas, barrels of  
 20 petroleum or other crude or mineral oil sold from the well  
 21 during the period covered by the statement; and

22 (d) the gross sales proceeds in dollars and cents or,  
 23 in the case of sales between parties not acting at arm's  
 24 length, the greater of the gross sales proceeds from or the  
 25 fair market value of the products sold.

1 (2) Each operator having ~~interim--production--or~~ new  
 2 production as defined in 15-23-601 shall, on or before the  
 3 last day of the months of October, January, April, and July,  
 4 make out and deliver to the department of revenue a  
 5 statement of the gross sales proceeds of the ~~interim~~  
 6 ~~production-or~~ new production from each well owned or worked  
 7 by the person during the preceding calendar quarter. The  
 8 statement must be in the form prescribed by the department  
 9 and verified as provided in subsection (1). The statement  
 10 must show the information required in subsections (1)(a)  
 11 through (1)(d)."

12 **Section 3.** Section 15-23-603, MCA, is amended to read:

13 **"15-23-603. Net proceeds -- how computed.** (1) As  
 14 provided in subsection (2), the department of revenue shall  
 15 calculate and compute from the returns the gross sales  
 16 proceeds of the product yielded from the well for the year  
 17 covered by the statement and shall calculate the net  
 18 proceeds of the well yielded to the producer, which net  
 19 proceeds are determined by subtracting from the gross sales  
 20 proceeds of the well all royalty paid in cash by the  
 21 operator or producer and the gross value of all royalty  
 22 apportioned in kind by the operator or producer determined  
 23 by using as the value of a barrel of oil or a cubic foot of  
 24 gas the average selling price for the calendar year of a  
 25 barrel of oil or a cubic foot of gas from the well out of

1 which the royalty was paid.

2 (2) For ~~interim--production--or~~ new production, net  
3 proceeds are the equivalent of the gross sales proceeds,  
4 without deduction for excise taxes, of the product yielded  
5 from the well for the quarter covered by the statement,  
6 except that in computing the total number of barrels of  
7 petroleum and other mineral or crude oil or cubic feet of  
8 natural gas produced, there must be deducted so much of the  
9 product as is used in the operation of the well from which  
10 the petroleum or other mineral or crude oil or natural gas  
11 is produced for pumping the petroleum or other mineral or  
12 crude oil or natural gas from the well to a tank or  
13 pipeline.

14 (3) In the statement of sales proceeds required under  
15 15-23-602 for lease or unitized areas from which ~~interim--or~~  
16 new production and other production have been sold, the  
17 number of barrels of ~~interim--and~~ new production of oil or  
18 cubic feet of ~~interim--or~~ new production of gas must be  
19 segregated from and stated separately from the number of  
20 barrels of other production of oil or cubic feet of other  
21 production of gas.

22 (4) In calculating the deduction for money expended for  
23 necessary chemical supplies needed and used in a tertiary  
24 recovery project approved by the department of revenue, as  
25 provided in 15-36-101, the department shall require that the

1 necessary chemical supplies, which include but are not  
2 limited to carbon dioxide supplies, be amortized over a  
3 10-year period beginning with the year in which the money  
4 was expended."

5 **Section 4.** Section 15-23-607, MCA, is amended to read:  
6 "15-23-607. County assessors to compute taxes. (1)  
7 Immediately after the board of county commissioners has  
8 fixed tax levies on the second Monday in August, the county  
9 assessor shall, subject to the provisions of 15-23-612,  
10 compute the taxes on net proceeds, as provided in subsection  
11 (2) of this section, and royalty assessments and shall  
12 deliver the book to the county treasurer on or before  
13 September 15. The county treasurer shall proceed to give  
14 full notice of the assessments to the operator and shall  
15 collect the taxes as provided by law.

16 (2) For ~~interim--production--or~~ new production, as  
17 defined in 15-23-601, the county assessor may not levy or  
18 assess any mills against the value of the ~~interim-production~~  
19 or new production, but shall instead levy a tax as follows:

20 (a) for ~~interim--production--or~~ new production of  
21 petroleum or other mineral or crude oil, 7% of net proceeds,  
22 as described in 15-23-603(2); or

23 (b) for ~~interim-production-or~~ new production of natural  
24 gas, 12% of net proceeds, as described in 15-23-603(2).

25 (3) The amount of tax levied in subsections (2)(a) and

1 (2)(b), divided by the appropriate tax rate and multiplied  
2 by 60%, must be treated as taxable value for county bonding  
3 purposes.

4 (4) The taxable value of net proceeds for the purpose  
5 of computing guaranteed tax base aid for schools is the  
6 amount of tax received by a district in the previous year  
7 divided by the number of mills levied by the district in the  
8 previous year, multiplied by 1,000. This amount must be  
9 added to the district, county, and statewide taxable value  
10 when computing guaranteed tax base aid under 20-9-368.

11 (5) The operator or producer is liable for the payment  
12 of the taxes that, except as provided in 15-16-121, are  
13 payable by and must be collected from the operators in the  
14 same manner and under the same penalties as provided for the  
15 collection of taxes upon net proceeds of mines. However, the  
16 operator may at his option withhold from the proceeds of  
17 royalty interest, either in kind or in money, an estimated  
18 amount of the tax to be paid by him upon the royalty or  
19 royalty interest. After the withholding, any deviation  
20 between the estimated tax and the actual tax may be  
21 accounted for by adjusting subsequent withholdings from the  
22 proceeds of royalty interests."

23 **Section 5.** Section 15-23-613, MCA, is amended to read:

24 "15-23-613. Disposition of ~~interim-production--and~~ new  
25 production taxes. The county treasurer shall credit all

1 taxes on ~~interim-production-and~~ new production, as provided  
2 for in 15-23-607, in the relative proportions required by  
3 the levies for state, county, school district, and municipal  
4 purposes in the same manner as property taxes were  
5 distributed in the year preceding the budget year."

6 **Section 6.** Section 15-23-621, MCA, is amended to read:

7 "15-23-621. Allocation of new production. (1) If a  
8 lease has production that does not qualify for new or  
9 ~~interim~~ production and a producing well is completed on the  
10 lease after December 31, 1986, the allocation of the new  
11 production must be based on the average daily production per  
12 well. The average daily production per well must be  
13 determined by dividing the total production for the quarter  
14 by the number of well production days for the quarter.

15 (2) The number of well production days for the quarter  
16 is the sum of the number of completed wells on the first day  
17 of the quarter times the number of days in the quarter plus  
18 the number of days from the date of completion of any wells  
19 during the quarter to the end of the quarter. New production  
20 for the quarter must then be calculated by multiplying the  
21 average daily production per well times the number of wells  
22 completed after December 31, 1986, times the number of  
23 production days attributed to those wells for the quarter.  
24 The value of the production must be based on the average  
25 price received for the production for the quarter.

1 (3) Average daily production, well production days, and  
2 average price must be calculated each quarter."

3 **Section 7.** Section 15-36-101, MCA, is amended to read:

4 "15-36-101. Definitions and rate of tax -- state  
5 severance tax -- local government severance tax --  
6 assessment of nonworking interest owner -- exemption. (1)  
7 Every person engaging in or carrying on the business of  
8 producing petroleum, other mineral or crude oil, or natural  
9 gas within this state or engaging in or carrying on the  
10 business of owning, controlling, managing, leasing, or  
11 operating within this state any well or wells from which any  
12 merchantable or marketable petroleum, other mineral or crude  
13 oil, or natural gas is extracted or produced shall, except  
14 as provided in 15-36-121, each year when engaged in or  
15 carrying on the business in this state pay to the department  
16 of revenue a state severance tax for the exclusive use and  
17 benefit of the state of Montana plus a local government  
18 severance tax in lieu of a tax on net proceeds for the  
19 exclusive use and benefit of local government. Except as  
20 provided in subsection (3), the state severance tax and the  
21 local government severance tax are as follows:

22 (a) except as provided in subsections (1)(b), (1)(c),  
23 and (1)(d), a 5% state severance tax on the total gross  
24 taxable value of all the petroleum and other mineral or  
25 crude oil produced by the person, plus the local government

1 severance tax of 8.4% on the gross taxable value of all the  
2 petroleum and other mineral or crude oil produced by the  
3 person other than ~~interim-production--and~~ new production,  
4 from each lease or unit; but in determining the amount of  
5 the state severance tax and local government severance tax,  
6 there must be excluded from consideration all petroleum or  
7 other crude or mineral oil produced and used by the person  
8 during the year in connection with his operations in  
9 prospecting for, developing, and producing the petroleum or  
10 crude or mineral oil;

11 (b) a 2.65% state severance tax on the total gross  
12 taxable value of all natural gas produced by the person,  
13 plus the local government severance tax of 15.25% on the  
14 total gross taxable value of all natural gas produced by the  
15 person other than ~~interim-production-or~~ new production, from  
16 each lease or unit; but in determining the amount of the  
17 state severance tax and the local government severance tax,  
18 there must be excluded from consideration all gas produced  
19 and used by the person during the year in connection with  
20 his operations in prospecting for, developing, and producing  
21 the gas or petroleum or crude or mineral oil; and there must  
22 also be excluded from consideration all gas, including  
23 carbon dioxide gas, recycled or reinjected into the ground;

24 (c) a 2.5% state severance tax on the total gross  
25 taxable value of the incremental petroleum and other mineral

1 or crude oil produced by the person, plus the local  
 2 government severance tax of 5% on the total gross taxable  
 3 value of the incremental petroleum and other mineral or  
 4 crude oil produced by the person other than ~~interim~~  
 5 ~~production-and~~ new production, from each lease or unit in a  
 6 tertiary recovery project after July 1, 1985. For purposes  
 7 of this section, a tertiary recovery project must meet the  
 8 following requirements:

9 (i) the project must be approved as a tertiary recovery  
 10 project by the department of revenue. The approval may be  
 11 extended only after notice and hearing in accordance with  
 12 Title 2, chapter 4.

13 (ii) the property to be affected by the project must be  
 14 adequately delineated according to the specifications  
 15 required by the department; and

16 (iii) the project must involve the application of one or  
 17 more tertiary recovery methods that can reasonably be  
 18 expected to result in an increase, determined by the  
 19 department to be significant in light of all the facts and  
 20 circumstances, in the amount of crude oil which may  
 21 potentially be recovered. For purposes of this section,  
 22 tertiary recovery methods include but are not limited to:

- 23 (A) miscible fluid displacement;
- 24 (B) steam drive injection;
- 25 (C) micellar/emulsion flooding;

- 1 (D) in situ combustion;
- 2 (E) polymer augmented water flooding;
- 3 (F) cyclic steam injection;
- 4 (G) alkaline or caustic flooding;
- 5 (H) carbon dioxide water flooding;
- 6 (I) immiscible carbon dioxide displacement; or
- 7 (J) any other method approved by the department as a  
 8 tertiary recovery method.

9 (d) a 5% local government severance tax on the total  
 10 gross taxable value of all petroleum and other mineral or  
 11 crude oil produced by the person other than ~~interim-and~~ new  
 12 production produced by a stripper well, as defined in  
 13 15-36-121.

14 (2) For purposes of this section, the term "incremental  
 15 petroleum and other mineral or crude oil" means the amount  
 16 of oil, as determined by the department of revenue, to be in  
 17 excess of what would have been produced by primary and  
 18 secondary methods. The determination arrived at by the  
 19 department must be made only after notice and hearing and  
 20 shall specify through the life of a tertiary project,  
 21 calendar year by calendar year, the combined amount of  
 22 primary and secondary production that must be used to  
 23 establish the incremental production from each lease or unit  
 24 in a tertiary recovery project.

25 (3) (a) A local government severance tax is imposed on



1 the gross value paid in cash or apportioned in kind to a  
 2 nonworking interest owner by the operator or producer of  
 3 extracted marketable petroleum, other mineral or crude oil,  
 4 or natural gas subject to local government severance taxes  
 5 imposed under this chapter. The local government severance  
 6 tax on nonworking interest owners is computed at the  
 7 following rates:

8 (i) 12.5% on the gross value paid in cash or  
 9 apportioned in kind to a nonworking interest owner by the  
 10 operator or producer of extracted marketable petroleum and  
 11 other mineral or crude oil;

12 (ii) 15.25% on the gross value paid in cash or  
 13 apportioned in kind to a nonworking interest owner by the  
 14 operator or producer of extracted or marketable natural gas.

15 (b) The amounts paid or apportioned in kind to  
 16 nonworking interest owners are exempt from the local  
 17 government severance taxes imposed under 15-36-121(2) and  
 18 under subsections (1)(a) through (1)(d) of this section.

19 (4) Nothing in this part may be construed as requiring  
 20 laborers or employees hired or employed by any person to  
 21 drill any oil or natural gas well or to work in or about any  
 22 oil or natural gas well or prospect or explore for or do any  
 23 work for the purpose of developing any petroleum, other  
 24 mineral or crude oil, or natural gas to pay the severance  
 25 tax, nor may work done or the drilling of a well or wells

1 for the purpose of prospecting or exploring for petroleum,  
 2 other mineral or crude oil, or natural gas or for the  
 3 purpose of developing them be considered to be the engaging  
 4 in or carrying on of the business. If, in the doing of any  
 5 work, in the drilling of any oil or natural gas well, or in  
 6 prospecting, exploring, or development work, any  
 7 merchantable or marketable petroleum, other mineral or crude  
 8 oil, or natural gas in excess of the quantity required by  
 9 the person for carrying on the operation is produced  
 10 sufficient in quantity to justify the marketing of the  
 11 petroleum, other mineral or crude oil, or natural gas, the  
 12 work, drilling, prospecting, exploring, or development work  
 13 is considered to be the engaging in and carrying on of the  
 14 business of producing petroleum, other mineral or crude oil,  
 15 or natural gas within this state within the meaning of this  
 16 section.

17 (5) Every person required to pay the state or local  
 18 government severance tax under this section shall pay the  
 19 tax in full for his own account and for the account of each  
 20 of the other owner or owners of the gross proceeds in value  
 21 or in kind of all the marketable petroleum or other mineral  
 22 or crude oil or natural gas extracted and produced,  
 23 including owner or owners of working interest, royalty  
 24 interest, overriding royalty interest, carried working  
 25 interest, net proceeds interest, production payments, and

1 all other interest or interests owned or carved out of the  
 2 total gross proceeds in value or in kind of the extracted  
 3 marketable petroleum or other mineral or crude oil or  
 4 natural gas, except that any of the interests that are owned  
 5 by the federal, state, county, or municipal governments are  
 6 exempt from taxation under this chapter. Unless otherwise  
 7 provided in a contract or lease, the pro rata share of any  
 8 royalty owner or owners will be deducted from any  
 9 settlements under the lease or leases or division of  
 10 proceeds orders or other contracts.

11 (6) For purposes of this section, the following  
 12 definitions apply:

13 (a) "Gross taxable value" means the gross value of the  
 14 product as determined in 15-36-103 less the gross value paid  
 15 in cash or apportioned in kind to a nonworking interest  
 16 owner by the operator or producer of extracted marketable  
 17 petroleum, other mineral or crude oil, or natural gas.

18 (b) "Nonworking interest owner" means any interest  
 19 owner who does not share in the development and operation  
 20 costs of the lease or unit."

21 **Section 8.** Section 20-9-141, MCA, is amended to read:

22 **"20-9-141. Computation of general fund net levy**  
 23 **requirement by county superintendent.** (1) The county  
 24 superintendent shall compute the levy requirement for each  
 25 district's general fund on the basis of the following

1 procedure:

2 (a) Determine the funding required for the district's  
 3 final general fund budget less the amount established by the  
 4 schedules in 20-9-316 through 20-9-321 by totaling:

5 (i) the district's nonisolated school foundation  
 6 program requirement to be met by a district levy as provided  
 7 in 20-9-303; and

8 (ii) any additional general fund budget amount adopted  
 9 by the trustees of the district under the provisions of  
 10 20-9-353, including any additional levies authorized by the  
 11 electors of the district.

12 (b) Determine the money available for the reduction of  
 13 the property tax on the district for the general fund by  
 14 totaling:

15 (i) anticipated federal money received under the  
 16 provisions of Title I of Public Law 81-874 or other  
 17 anticipated federal money received in lieu of that federal  
 18 act;

19 (ii) anticipated tuition payments for out-of-district  
 20 pupils under the provisions of 20-5-303, 20-5-307, 20-5-312,  
 21 and 20-5-313;

22 (iii) general fund cash reappropriated, as established  
 23 under the provisions of 20-9-104;

24 (iv) anticipated or reappropriated state impact aid  
 25 received under the provisions of 20-9-304;

1 (v) anticipated or reappropriated revenue from property  
2 taxes and fees imposed under 23-2-517, 23-2-803,  
3 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

4 (vi) anticipated net proceeds taxes for interim  
5 production-and new production, as defined in 15-23-601;

6 (vii) anticipated revenue from local government  
7 severance taxes as provided in 15-36-112;

8 (viii) anticipated revenue from coal gross proceeds  
9 under 15-23-703;

10 (ix) anticipated interest to be earned or reappropriated  
11 interest earned by the investment of general fund cash in  
12 accordance with the provisions of 20-9-213(4);

13 (x) anticipated revenue from corporation license taxes  
14 collected from financial institutions under the provisions  
15 of 15-31-702; and

16 (xi) any other revenue anticipated by the trustees to be  
17 received during the ensuing school fiscal year which may be  
18 used to finance the general fund.

19 (c) Subtract the money available to reduce the property  
20 tax required to finance the general fund that has been  
21 determined in subsection (1)(b) from the total requirement  
22 determined in subsection (1)(a).

23 (2) The net general fund levy requirement determined in  
24 subsection (1)(c) must be reported to the county  
25 commissioners on the second Monday of August by the county

1 superintendent as the general fund levy requirement for the  
2 district, and a levy must be made by the county  
3 commissioners in accordance with 20-9-142."

4 **Section 9.** Section 20-9-331, MCA, is amended to read:

5 "20-9-331. Basic county tax and other revenues for  
6 county equalization of the elementary district foundation  
7 program. (1) The county commissioners of each county shall  
8 levy an annual basic tax of 33 mills on the dollar of the  
9 taxable value of all taxable property within the county,  
10 except for property subject to a tax or fee under 23-2-517,  
11 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for  
12 the purposes of local and state foundation program support.  
13 The revenue collected from this levy must be apportioned to  
14 the support of the foundation programs of the elementary  
15 school districts in the county and to the state special  
16 revenue fund, state equalization aid account, in the  
17 following manner:

18 (a) In order to determine the amount of revenue raised  
19 by this levy which is retained by the county, the sum of the  
20 estimated revenue identified in subsection (2) must be  
21 subtracted from the total of the foundation programs of all  
22 elementary districts of the county.

23 (b) If the basic levy prescribed by this section  
24 produces more revenue than is required to finance the  
25 difference determined in subsection (1)(a), the county

1 treasurer shall remit the surplus funds to the state  
 2 treasurer for deposit to the state special revenue fund,  
 3 state equalization aid account, immediately upon occurrence  
 4 of a surplus balance and each subsequent month thereafter,  
 5 with any final remittance due no later than June 20 of the  
 6 fiscal year for which the levy has been set.

7 (c) If revenue from the basic levy prescribed by this  
 8 section when combined with the other revenue from subsection  
 9 (2) is insufficient to fully fund the percentage determined  
 10 in 20-9-347(1)(b) and the county is eligible for an  
 11 apportionment of state equalization aid under the provisions  
 12 of 20-9-347(1)(c), the county superintendent shall notify  
 13 the superintendent of public instruction of the deficiency.  
 14 The superintendent of public instruction shall increase the  
 15 state equalization aid payments to the districts in the  
 16 affected county to offset the deficiency. A payment may not  
 17 be made under this subsection (c) that allows a district to  
 18 receive foundation program funding in excess of the  
 19 foundation program amount of the district.

20 (2) The revenue realized from the county's portion of  
 21 the levy prescribed by this section and the revenue from the  
 22 following sources must be used for the equalization of the  
 23 elementary district foundation programs of the county as  
 24 prescribed in 20-9-334, and a separate accounting must be  
 25 kept of the revenue by the county treasurer in accordance

1 with 20-9-212(1):

2 (a) the portion of the federal Taylor Grazing Act funds  
 3 distributed to a county and designated for the common school  
 4 fund under the provisions of 17-3-222;

5 (b) the portion of the federal flood control act funds  
 6 distributed to a county and designated for expenditure for  
 7 the benefit of the county common schools under the  
 8 provisions of 17-3-232;

9 (c) all money paid into the county treasury as a result  
 10 of fines for violations of law, except money paid to a  
 11 justice's court, and the use of which is not otherwise  
 12 specified by law;

13 (d) any money remaining at the end of the immediately  
 14 preceding school fiscal year in the county treasurer's  
 15 accounts for the various sources of revenue established or  
 16 referred to in this section;

17 (e) any federal or state money distributed to the  
 18 county as payment in lieu of property taxation, including  
 19 federal forest reserve funds allocated under the provisions  
 20 of 17-3-213;

21 (f) gross proceeds taxes from coal under 15-23-703;

22 (g) net proceeds taxes for ~~interim-production--and~~ new  
 23 production, as defined in 15-23-601, and local government  
 24 severance taxes on any other production occurring after  
 25 December 31, 1988; and

1        anticipated revenue from property taxes and fees  
2 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
3 61-3-537, and 67-3-204."

4        **Section 10.** Section 20-9-333, MCA, is amended to read:

5        "20-9-333. Basic special levy and other revenues for  
6 county equalization of high school district foundation  
7 program. (1) The county commissioners of each county shall  
8 levy an annual basic special tax for high schools of 22  
9 mills on the dollar of the taxable value of all taxable  
10 property within the county, except for property subject to a  
11 tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
12 61-3-537, and 67-3-204, for the purposes of local and state  
13 foundation program support. The revenue collected from this  
14 levy must be apportioned to the support of the foundation  
15 programs of high school districts in the county and to the  
16 state special revenue fund, state equalization aid account,  
17 in the following manner:

18        a) In order to determine the amount of revenue raised  
19 by this levy which is retained by the county, the sum of the  
20 estimated revenue identified in subsection (2) must be  
21 subtracted from the sum of the county's high school tuition  
22 obligation and the total of the foundation programs of all  
23 high school districts of the county.

24        b) If the basic levy prescribed by this section  
25 produces more revenue than is required to finance the

1 difference determined in subsection (1)(a), the county  
2 treasurer shall remit the surplus funds to the state  
3 treasurer for deposit to the state special revenue fund,  
4 state equalization aid account, immediately upon occurrence  
5 of a surplus balance and each subsequent month thereafter,  
6 with any final remittance due no later than June 20 of the  
7 fiscal year for which the levy has been set.

8        (c) If revenue from the basic levy prescribed by this  
9 section when combined with the other revenue from subsection  
10 (2) is insufficient to fully fund the percentage determined  
11 in 20-9-347(1)(b) and the county is eligible for an  
12 apportionment of state equalization aid under the provisions  
13 of 20-9-347(1)(c), the county superintendent shall notify  
14 the superintendent of public instruction of the deficiency.  
15 The superintendent of public instruction shall increase the  
16 state equalization aid payments to the districts in the  
17 affected county to offset the deficiency. A payment may not  
18 be made under this subsection (c) that allows a district to  
19 receive foundation program funding in excess of the  
20 foundation program amount of the district.

21        (2) The revenue realized from the county's portion of  
22 the levy prescribed in this section and the revenue from the  
23 following sources must be used for the equalization of the  
24 high school district foundation programs of the county as  
25 prescribed in 20-9-334, and a separate accounting must be

1 kept of the revenue by the county treasurer in accordance  
2 with 20-9-212(1):

3 (a) any money remaining at the end of the immediately  
4 preceding school fiscal year in the county treasurer's  
5 accounts for the various sources of revenue established in  
6 this section;

7 (b) any federal or state money distributed to the  
8 county as payment in lieu of property taxation, including  
9 federal forest reserve funds allocated under the provisions  
10 of 17-3-213;

11 (c) gross proceeds taxes from coal under 15-23-703;

12 (d) net proceeds taxes for ~~interim-production-and~~ new  
13 production, as defined in 15-23-601, and local government  
14 severance taxes on any other production occurring after  
15 December 31, 1988; and

16 (e) anticipated revenue from property taxes and fees  
17 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
18 61-3-537, and 67-3-204."

19 **Section 11.** Section 20-10-144, MCA, is amended to read:

20 "20-10-144. Computation of revenues and net tax levy  
21 requirements for the transportation fund budget. Before the  
22 fourth Monday of July and in accordance with 20-9-123, the  
23 county superintendent shall compute the revenue available to  
24 finance the transportation fund budget of each district. The  
25 county superintendent shall compute the revenue for each

1 district on the following basis:

2 (1) The "schedule amount" of the preliminary budget  
3 expenditures that is derived from the rate schedules in  
4 20-10-141 and 20-10-142 must be determined by adding the  
5 following amounts:

6 (a) the sum of the maximum reimbursable expenditures  
7 for all approved school bus routes maintained by the  
8 district (to determine the maximum reimbursable expenditure,  
9 multiply the applicable rate per bus mile by the total  
10 number of miles to be traveled during the ensuing school  
11 fiscal year on each bus route approved by the county  
12 transportation committee and maintained by such district);  
13 plus

14 (b) the total of all individual transportation per diem  
15 reimbursement rates for the district as determined from the  
16 contracts submitted by the district multiplied by the number  
17 of pupil-instruction days scheduled for the ensuing school  
18 attendance year; plus

19 (c) any estimated costs for supervised home study or  
20 supervised correspondence study for the ensuing school  
21 fiscal year; plus

22 (d) the amount budgeted on the preliminary budget for  
23 the contingency amount permitted in 20-10-143, except if the  
24 amount exceeds 10% of the total of subsections (1)(a),  
25 (1)(b), and (1)(c) or \$100, whichever is larger, the

1 contingency amount on the preliminary budget must be reduced  
2 to the limitation amount and used in this determination of  
3 the schedule amount.

4 (2) The schedule amount determined in subsection (1) or  
5 the total preliminary transportation fund budget, whichever  
6 is smaller, is divided by 3 and the resulting one-third  
7 amount is used to determine the available state and county  
8 revenue to be budgeted on the following basis:

9 (a) the resulting one-third amount is the budgeted  
10 state transportation reimbursement, except that the state  
11 transportation reimbursement for the transportation of  
12 special education pupils under the provisions of 20-7-442  
13 must be two-thirds of the schedule amount attributed to the  
14 transportation of special education pupils;

15 (b) the resulting one-third amount, except as provided  
16 for joint elementary districts in subsection (2)(e), is the  
17 budgeted county transportation reimbursement for elementary  
18 districts and must be financed by the basic county tax under  
19 the provisions of 20-9-334;

20 (c) the resulting one-third amount multiplied by 2 is  
21 the budgeted county transportation reimbursement amount for  
22 high school districts financed under the provisions of  
23 subsection (5), except as provided for joint high school  
24 districts in subsection (2)(e), and except that the county  
25 transportation reimbursement for the transportation of

1 special education pupils under the provisions of 20-7-442  
2 must be one-third of the schedule amount attributed to the  
3 transportation of special education pupils;

4 (d) when the district has a sufficient amount of cash  
5 for reappropriation and other sources of district revenue,  
6 as determined in subsection (3), to reduce the total  
7 district obligation for financing to zero, any remaining  
8 amount of district revenue and cash reappropriated must be  
9 used to reduce the county financing obligation in subsection  
10 (2)(b) or (2)(c) and, if the county financing obligations  
11 are reduced to zero, to reduce the state financial  
12 obligation in subsection (2)(a); and

13 (e) the county revenue requirement for a joint  
14 district, after the application of any district money under  
15 subsection (2)(d), must be prorated to each county  
16 incorporated by the joint district in the same proportion as  
17 the ANB of the joint district is distributed by pupil  
18 residence in each county.

19 (3) The total of the money available for the reduction  
20 of property tax on the district for the transportation fund  
21 must be determined by totaling:

22 (a) anticipated federal money received under the  
23 provisions of Title I of Public Law 81-874 or other  
24 anticipated federal money received in lieu of that federal  
25 act; plus

1 (b) anticipated payments from other districts for  
 2 providing school bus transportation services for the  
 3 district; plus  
 4 (c) anticipated payments from a parent or guardian for  
 5 providing school bus transportation services for his child;  
 6 plus  
 7 (d) anticipated or reappropriated interest to be earned  
 8 by the investment of transportation fund cash in accordance  
 9 with the provisions of 20-9-213(4); plus  
 10 (e) anticipated or reappropriated revenue from property  
 11 taxes and fees imposed under 23-2-517, 23-2-803,  
 12 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204; plus  
 13 (f) gross proceeds taxes from coal under 15-23-703;  
 14 plus  
 15 (g) net proceeds taxes for ~~interim-production-and~~ new  
 16 production, as defined in 15-23-601, and local government  
 17 severance taxes on any other production occurring after  
 18 December 31, 1988; plus  
 19 (h) any other revenue anticipated by the trustees to be  
 20 earned during the ensuing school fiscal year which may be  
 21 used to finance the transportation fund; plus  
 22 (i) any cash available for reappropriation as  
 23 determined by subtracting the amount of the end-of-the-year  
 24 cash balance earmarked as the transportation fund cash  
 25 reserve for the ensuing school fiscal year by the trustees

1 from the end-of-the-year cash balance in the transportation  
 2 fund. The cash reserve may not be more than 20% of the final  
 3 transportation fund budget for the ensuing school fiscal  
 4 year and is for the purpose of paying transportation fund  
 5 warrants issued by the district under the final  
 6 transportation fund budget.

7 (4) The district levy requirement for each district's  
 8 transportation fund must be computed by:

9 (a) subtracting the schedule amount calculated in  
 10 subsection (1) from the total preliminary transportation  
 11 budget amount and, for an elementary district, adding the  
 12 difference to the district obligation to finance one-third  
 13 of the schedule amount as determined in subsection (2); and

14 (b) subtracting the amount of money available to reduce  
 15 the property tax on the district, as determined in  
 16 subsection (3), from the amount determined in subsection  
 17 (4)(a).

18 (5) The county levy requirement for the financing of  
 19 the county transportation reimbursement to high school  
 20 districts is computed by adding all requirements for all the  
 21 high school districts of the county, including the county's  
 22 obligation for reimbursements in joint high school  
 23 districts.

24 (6) The transportation fund levy requirements  
 25 determined in subsection (4) for each district and in



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1 subsection (5) for the county must be reported to the county  
2 commissioners on the second Monday of August by the county  
3 superintendent as the transportation fund levy requirements  
4 for the district and for the county, and the levies must be  
5 made by the county commissioners in accordance with  
6 20-9-142."

7 NEW SECTION. **Section 12.** Effective date. [This act] is  
8 effective on passage and approval.

-End-

APPROVED BY COMMITTEE  
ON TAXATION

SENATE BILL NO. 86

INTRODUCED BY ECK

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE TAXATION OF OIL AND NATURAL GAS BY DELETING OBSOLETE REFERENCES TO INTERIM PRODUCTION; CLARIFYING THE ALLOCATION OF NEW PRODUCTION; AMENDING SECTIONS 15-23-601, 15-23-602, 15-23-603, 15-23-607, 15-23-613, 15-23-621, 15-36-101, 20-9-141, 20-9-331, 20-9-333, AND 20-10-144, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 15-23-601, MCA, is amended to read:

"15-23-601. Definitions. As used in this part, the following definitions apply:

(1) "Excise tax" means the windfall profit tax on domestic crude oil imposed by Title I of the federal Crude Oil Windfall Profit Tax Act of 1980, as enacted or as amended.

~~(2) "Interim production" means the production of natural gas, petroleum, or other crude or mineral oil from any well that:~~

~~(a) has not produced natural gas, petroleum, or other crude or mineral oil during the 5 years immediately~~

~~preceding the first month of interim production, and~~

~~(b) began interim production after June 30, 1985, and before April 17, 1987.~~

~~(3)(2)~~ The term "new production" means the production of natural gas, petroleum, or other crude or mineral oil from any well:

(a) that has not produced natural gas, petroleum, or other crude or mineral oil during the 5 years immediately preceding the first month of qualified new production; and

(b) on which the notification required in 15-36-121(2) was given.

~~(4)(3)~~ The terms "operator" and "producer" mean any person who engages in the business of drilling for, extracting, or producing any natural gas, petroleum, or other crude or mineral oil.

~~(5)(4)~~ The term "well" includes each single well or group of wells, including dry wells, in one field or production unit and under the control of one operator or producer."

**Section 2.** Section 15-23-602, MCA, is amended to read:

"15-23-602. Statement of sales proceeds on ~~interim production and~~ new production. (1) As provided in subsection (2), each operator or producer of ~~interim production or~~ new production of natural gas, petroleum, or other crude or mineral oil shall make out and deliver to the department of

**SECOND READING**



1 revenue a statement of the gross sales proceeds of ~~interim~~  
 2 ~~production--or~~ new production of natural gas, petroleum, or  
 3 other crude or mineral oil from each well owned or worked by  
 4 the person. The gross sales proceeds must be determined by  
 5 multiplying the units of production sold from the well times  
 6 the royalty unit value of that production at the well. The  
 7 statement must be in the form prescribed by the department  
 8 and must be verified by the oath of the operator or producer  
 9 or the manager, superintendent, agent, president, or  
 10 vice-president of the corporation, association, or  
 11 partnership. The statement must show the following:

12 (a) the name and address of the operator, together with  
 13 a list in duplicate of the names and addresses of any  
 14 persons owning or claiming any royalty interest in the  
 15 production from the well or the proceeds derived from the  
 16 sale of the production, and the amount paid or yielded as  
 17 royalty to each of those persons during the period covered  
 18 by the statement;

19 (b) the description and location of the well;

20 (c) the number of cubic feet of natural gas, barrels of  
 21 petroleum or other crude or mineral oil sold from the well  
 22 during the period covered by the statement; and

23 (d) the gross sales proceeds in dollars and cents or,  
 24 in the case of sales between parties not acting at arm's  
 25 length, the greater of the gross sales proceeds from or the

1 fair market value of the products sold.

2 (2) Each operator having ~~interim--production--or~~ new  
 3 production as defined in 15-23-601 shall, on or before the  
 4 last day of the months of October, January, April, and July,  
 5 make out and deliver to the department of revenue a  
 6 statement of the gross sales proceeds of the ~~interim~~  
 7 ~~production--or~~ new production from each well owned or worked  
 8 by the person during the preceding calendar quarter. The  
 9 statement must be in the form prescribed by the department  
 10 and verified as provided in subsection (1). The statement  
 11 must show the information required in subsections (1)(a)  
 12 through (1)(d)."

13 **Section 3.** Section 15-23-603, MCA, is amended to read:

14 "15-23-603. Net proceeds -- how computed. (1) As  
 15 provided in subsection (2), the department of revenue shall  
 16 calculate and compute from the returns the gross sales  
 17 proceeds of the product yielded from the well for the year  
 18 covered by the statement and shall calculate the net  
 19 proceeds of the well yielded to the producer, which net  
 20 proceeds are determined by subtracting from the gross sales  
 21 proceeds of the well all royalty paid in cash by the  
 22 operator or producer and the gross value of all royalty  
 23 apportioned in kind by the operator or producer determined  
 24 by using as the value of a barrel of oil or a cubic foot of  
 25 gas the average selling price for the calendar year of a

1 barrel of oil or a cubic foot of gas from the well out of  
2 which the royalty was paid.

3 (2) For ~~interim--production--or~~ new production, net  
4 proceeds are the equivalent of the gross sales proceeds,  
5 without deduction for excise taxes, of the product yielded  
6 from the well for the quarter covered by the statement,  
7 except that in computing the total number of barrels of  
8 petroleum and other mineral or crude oil or cubic feet of  
9 natural gas produced, there must be deducted so much of the  
10 product as is used in the operation of the well from which  
11 the petroleum or other mineral or crude oil or natural gas  
12 is produced for pumping the petroleum or other mineral or  
13 crude oil or natural gas from the well to a tank or  
14 pipeline.

15 (3) In the statement of sales proceeds required under  
16 15-23-602 for lease or unitized areas from which ~~interim-or~~  
17 new production and other production have been sold, the  
18 number of barrels of ~~interim-and~~ new production of oil or  
19 cubic feet of ~~interim-or~~ new production of gas must be  
20 segregated from and stated separately from the number of  
21 barrels of other production of oil or cubic feet of other  
22 production of gas.

23 (4) In calculating the deduction for money expended for  
24 necessary chemical supplies needed and used in a tertiary  
25 recovery project approved by the department of revenue, as

1 provided in 15-36-101, the department shall require that the  
2 necessary chemical supplies, which include but are not  
3 limited to carbon dioxide supplies, be amortized over a  
4 10-year period beginning with the year in which the money  
5 was expended."

6 **Section 4.** Section 15-23-607, MCA, is amended to read:  
7 "15-23-607. County assessors to compute taxes. (1)  
8 Immediately after the board of county commissioners has  
9 fixed tax levies on the second Monday in August, the county  
10 assessor shall, subject to the provisions of 15-23-612,  
11 compute the taxes on net proceeds, as provided in subsection  
12 (2) of this section, and royalty assessments and shall  
13 deliver the book to the county treasurer on or before  
14 September 15. The county treasurer shall proceed to give  
15 full notice of the assessments to the operator and shall  
16 collect the taxes as provided by law.

17 (2) For ~~interim--production--or~~ new production, as  
18 defined in 15-23-601, the county assessor may not levy or  
19 assess any mills against the value of the ~~interim-production~~  
20 or new production, but shall instead levy a tax as follows:

21 (a) for ~~interim---production--or~~ new production of  
22 petroleum or other mineral or crude oil, 7% of net proceeds,  
23 as described in 15-23-603(2); or

24 (b) for ~~interim-production-or~~ new production of natural  
25 gas, 12% of net proceeds, as described in 15-23-603(2).

1 (3) The amount of tax levied in subsections (2)(a) and  
2 (2)(b), divided by the appropriate tax rate and multiplied  
3 by 60%, must be treated as taxable value for county bonding  
4 purposes.

5 (4) The taxable value of net proceeds for the purpose  
6 of computing guaranteed tax base aid for schools is the  
7 amount of tax received by a district in the previous year  
8 divided by the number of mills levied by the district in the  
9 previous year, multiplied by 1,000. This amount must be  
10 added to the district, county, and statewide taxable value  
11 when computing guaranteed tax base aid under 20-9-368.

12 (5) The operator or producer is liable for the payment  
13 of the taxes that, except as provided in 15-16-121, are  
14 payable by and must be collected from the operators in the  
15 same manner and under the same penalties as provided for the  
16 collection of taxes upon net proceeds of mines. However, the  
17 operator may at his option withhold from the proceeds of  
18 royalty interest, either in kind or in money, an estimated  
19 amount of the tax to be paid by him upon the royalty or  
20 royalty interest. After the withholding, any deviation  
21 between the estimated tax and the actual tax may be  
22 accounted for by adjusting subsequent withholdings from the  
23 proceeds of royalty interests."

24 **Section 5.** Section 15-23-613, MCA, is amended to read:

25 "15-23-613. Disposition of ~~interim-production-and new~~

1 production taxes. The county treasurer shall credit all  
2 taxes on ~~interim-production-and~~ new production, as provided  
3 for in 15-23-607, in the relative proportions required by  
4 the levies for state, county, school district, and municipal  
5 purposes in the same manner as property taxes were  
6 distributed in the year preceding the budget year."

7 **Section 6.** Section 15-23-621, MCA, is amended to read:

8 "15-23-621. Allocation of new production. (1) If a  
9 lease has production that does not qualify for new or  
10 interim production and ~~a-producing-well-is-completed-on--the~~  
11 ~~lease--after--December--31--1986~~ HAS NEW PRODUCTION, the  
12 allocation of the new production must be based on the  
13 average daily production per well. The average daily  
14 production per well must be determined by dividing the total  
15 production for the quarter by the number of well production  
16 days for the quarter.

17 (2) The number of well production days for the quarter  
18 is the sum of the number of completed wells on the first day  
19 of the quarter times the number of days in the quarter plus  
20 the number of days from the date of completion of any wells  
21 during the quarter to the end of the quarter. New production  
22 for the quarter must then be calculated by multiplying the  
23 ~~completed-after-December-31-1986~~ PRODUCING NEW PRODUCTION  
24 times the number of production days attributed to those  
25

1 wells for the quarter. The value of the production must be  
2 based on the average price received for the production for  
3 the quarter.

4 (3) Average daily production, well production days, and  
5 average price must be calculated each quarter."

6 **Section 7.** Section 15-36-101, MCA, is amended to read:

7 "15-36-101. Definitions and rate of tax -- state  
8 severance tax -- local government severance tax --  
9 assessment of nonworking interest owner -- exemption. (1)  
10 Every person engaging in or carrying on the business of  
11 producing petroleum, other mineral or crude oil, or natural  
12 gas within this state or engaging in or carrying on the  
13 business of owning, controlling, managing, leasing, or  
14 operating within this state any well or wells from which any  
15 merchantable or marketable petroleum, other mineral or crude  
16 oil, or natural gas is extracted or produced shall, except  
17 as provided in 15-36-121, each year when engaged in or  
18 carrying on the business in this state pay to the department  
19 of revenue a state severance tax for the exclusive use and  
20 benefit of the state of Montana plus a local government  
21 severance tax in lieu of a tax on net proceeds for the  
22 exclusive use and benefit of local government. Except as  
23 provided in subsection (3), the state severance tax and the  
24 local government severance tax are as follows:

25 (a) except as provided in subsections (1)(b), (1)(c),

1 and (1)(d), a 5% state severance tax on the total gross  
2 taxable value of all the petroleum and other mineral or  
3 crude oil produced by the person, plus the local government  
4 severance tax of 8.4% on the gross taxable value of all the  
5 petroleum and other mineral or crude oil produced by the  
6 person other than ~~interim--production-and~~ new production,  
7 from each lease or unit; but in determining the amount of  
8 the state severance tax and local government severance tax,  
9 there must be excluded from consideration all petroleum or  
10 other crude or mineral oil produced and used by the person  
11 during the year in connection with his operations in  
12 prospecting for, developing, and producing the petroleum or  
13 crude or mineral oil;

14 (b) a 2.65% state severance tax on the total gross  
15 taxable value of all natural gas produced by the person,  
16 plus the local government severance tax of 15.25% on the  
17 total gross taxable value of all natural gas produced by the  
18 person other than ~~interim-production-or~~ new production, from  
19 each lease or unit; but in determining the amount of the  
20 state severance tax and the local government severance tax,  
21 there must be excluded from consideration all gas produced  
22 and used by the person during the year in connection with  
23 his operations in prospecting for, developing, and producing  
24 the gas or petroleum or crude or mineral oil; and there must  
25 also be excluded from consideration all gas, including

1 carbon dioxide gas, recycled or reinjected into the ground;  
 2 (c) a 2.5% state severance tax on the total gross  
 3 taxable value of the incremental petroleum and other mineral  
 4 or crude oil produced by the person, plus the local  
 5 government severance tax of 5% on the total gross taxable  
 6 value of the incremental petroleum and other mineral or  
 7 crude oil produced by the person other than ~~interim~~  
 8 ~~production--and~~ new production, from each lease or unit in a  
 9 tertiary recovery project after July 1, 1985. For purposes  
 10 of this section, a tertiary recovery project must meet the  
 11 following requirements:

12 (i) the project must be approved as a tertiary recovery  
 13 project by the department of revenue. The approval may be  
 14 extended only after notice and hearing in accordance with  
 15 Title 2, chapter 4.

16 (ii) the property to be affected by the project must be  
 17 adequately delineated according to the specifications  
 18 required by the department; and

19 (iii) the project must involve the application of one or  
 20 more tertiary recovery methods that can reasonably be  
 21 expected to result in an increase, determined by the  
 22 department to be significant in light of all the facts and  
 23 circumstances, in the amount of crude oil which may  
 24 potentially be recovered. For purposes of this section,  
 25 tertiary recovery methods include but are not limited to:

1 (A) miscible fluid displacement;  
 2 (B) steam drive injection;  
 3 (C) micellar/emulsion flooding;  
 4 (D) in situ combustion;  
 5 (E) polymer augmented water flooding;  
 6 (F) cyclic steam injection;  
 7 (G) alkaline or caustic flooding;  
 8 (H) carbon dioxide water flooding;  
 9 (I) immiscible carbon dioxide displacement; or  
 10 (J) any other method approved by the department as a  
 11 tertiary recovery method.

12 (d) a 5% local government severance tax on the total  
 13 gross taxable value of all petroleum and other mineral or  
 14 crude oil produced by the person other than ~~interim-and~~ new  
 15 production produced by a stripper well, as defined in  
 16 15-36-121.

17 (2) For purposes of this section, the term "incremental  
 18 petroleum and other mineral or crude oil" means the amount  
 19 of oil, as determined by the department of revenue, to be in  
 20 excess of what would have been produced by primary and  
 21 secondary methods. The determination arrived at by the  
 22 department must be made only after notice and hearing and  
 23 shall specify through the life of a tertiary project,  
 24 calendar year by calendar year, the combined amount of  
 25 primary and secondary production that must be used to

1 establish the incremental production from each lease or unit  
2 in a tertiary recovery project.

3 (3) (a) A local government severance tax is imposed on  
4 the gross value paid in cash or apportioned in kind to a  
5 nonworking interest owner by the operator or producer of  
6 extracted marketable petroleum, other mineral or crude oil,  
7 or natural gas subject to local government severance taxes  
8 imposed under this chapter. The local government severance  
9 tax on nonworking interest owners is computed at the  
10 following rates:

11 (i) 12.5% on the gross value paid in cash or  
12 apportioned in kind to a nonworking interest owner by the  
13 operator or producer of extracted marketable petroleum and  
14 other mineral or crude oil;

15 (ii) 15.25% on the gross value paid in cash or  
16 apportioned in kind to a nonworking interest owner by the  
17 operator or producer of extracted or marketable natural gas.

18 (b) The amounts paid or apportioned in kind to  
19 nonworking interest owners are exempt from the local  
20 government severance taxes imposed under 15-36-121(2) and  
21 under subsections (1)(a) through (1)(d) of this section.

22 (4) Nothing in this part may be construed as requiring  
23 laborers or employees hired or employed by any person to  
24 drill any oil or natural gas well or to work in or about any  
25 oil or natural gas well or prospect or explore for or do any

1 work for the purpose of developing any petroleum, other  
2 mineral or crude oil, or natural gas to pay the severance  
3 tax, nor may work done or the drilling of a well or wells  
4 for the purpose of prospecting or exploring for petroleum,  
5 other mineral or crude oil, or natural gas or for the  
6 purpose of developing them be considered to be the engaging  
7 in or carrying on of the business. If, in the doing of any  
8 work, in the drilling of any oil or natural gas well, or in  
9 prospecting, exploring, or development work, any  
10 merchantable or marketable petroleum, other mineral or crude  
11 oil, or natural gas in excess of the quantity required by  
12 the person for carrying on the operation is produced  
13 sufficient in quantity to justify the marketing of the  
14 petroleum, other mineral or crude oil, or natural gas, the  
15 work, drilling, prospecting, exploring, or development work  
16 is considered to be the engaging in and carrying on of the  
17 business of producing petroleum, other mineral or crude oil,  
18 or natural gas within this state within the meaning of this  
19 section.

20 (5) Every person required to pay the state or local  
21 government severance tax under this section shall pay the  
22 tax in full for his own account and for the account of each  
23 of the other owner or owners of the gross proceeds in value  
24 or in kind of all the marketable petroleum or other mineral  
25 or crude oil or natural gas extracted and produced,



1 including owner or owners of working interest, royalty  
 2 interest, overriding royalty interest, carried working  
 3 interest, net proceeds interest, production payments, and  
 4 all other interest or interests owned or carved out of the  
 5 total gross proceeds in value or in kind of the extracted  
 6 marketable petroleum or other mineral or crude oil or  
 7 natural gas, except that any of the interests that are owned  
 8 by the federal, state, county, or municipal governments are  
 9 exempt from taxation under this chapter. Unless otherwise  
 10 provided in a contract or lease, the pro rata share of any  
 11 royalty owner or owners will be deducted from any  
 12 settlements under the lease or leases or division of  
 13 proceeds orders or other contracts.

14 (6) For purposes of this section, the following  
 15 definitions apply:

16 (a) "Gross taxable value" means the gross value of the  
 17 product as determined in 15-36-103 less the gross value paid  
 18 in cash or apportioned in kind to a nonworking interest  
 19 owner by the operator or producer of extracted marketable  
 20 petroleum, other mineral or crude oil, or natural gas.

21 (b) "Nonworking interest owner" means any interest  
 22 owner who does not share in the development and operation  
 23 costs of the lease or unit."

24 **Section 8.** Section 20-9-141, MCA, is amended to read:

25 "20-9-141. Computation of general fund net levy

1 requirement by county superintendent. (1) The county  
 2 superintendent shall compute the levy requirement for each  
 3 district's general fund on the basis of the following  
 4 procedure:

5 (a) Determine the funding required for the district's  
 6 final general fund budget less the amount established by the  
 7 schedules in 20-9-316 through 20-9-321 by totaling:

8 (i) the district's nonisolated school foundation  
 9 program requirement to be met by a district levy as provided  
 10 in 20-9-303; and

11 (ii) any additional general fund budget amount adopted  
 12 by the trustees of the district under the provisions of  
 13 20-9-353, including any additional levies authorized by the  
 14 electors of the district.

15 (b) Determine the money available for the reduction of  
 16 the property tax on the district for the general fund by  
 17 totaling:

18 (i) anticipated federal money received under the  
 19 provisions of Title I of Public Law 81-874 or other  
 20 anticipated federal money received in lieu of that federal  
 21 act;

22 (ii) anticipated tuition payments for out-of-district  
 23 pupils under the provisions of 20-5-303, 20-5-307, 20-5-312,  
 24 and 20-5-313;

25 (iii) general fund cash reappropriated, as established

1 under the provisions of 20-9-104;

2 (iv) anticipated or reappropriated state impact aid  
3 received under the provisions of 20-9-304;

4 (v) anticipated or reappropriated revenue from property  
5 taxes and fees imposed under 23-2-517, 23-2-803,  
6 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

7 (vi) anticipated net proceeds taxes for ~~interim~~  
8 ~~production-and~~ new production, as defined in 15-23-601;

9 (vii) anticipated revenue from local government  
10 severance taxes as provided in 15-36-112;

11 (viii) anticipated revenue from coal gross proceeds  
12 under 15-23-703;

13 (ix) anticipated interest to be earned or reappropriated  
14 interest earned by the investment of general fund cash in  
15 accordance with the provisions of 20-9-213(4);

16 (x) anticipated revenue from corporation license taxes  
17 collected from financial institutions under the provisions  
18 of 15-31-702; and

19 (xi) any other revenue anticipated by the trustees to be  
20 received during the ensuing school fiscal year which may be  
21 used to finance the general fund.

22 (c) Subtract the money available to reduce the property  
23 tax required to finance the general fund that has been  
24 determined in subsection (1)(b) from the total requirement  
25 determined in subsection (1)(a).

1 (2) The net general fund levy requirement determined in  
2 subsection (1)(c) must be reported to the county  
3 commissioners on the second Monday of August by the county  
4 superintendent as the general fund levy requirement for the  
5 district, and a levy must be made by the county  
6 commissioners in accordance with 20-9-142."

7 **Section 9.** Section 20-9-331, MCA, is amended to read:  
8 "20-9-331. Basic county tax and other revenues for  
9 county equalization of the elementary district foundation  
10 program. (1) The county commissioners of each county shall  
11 levy an annual basic tax of 33 mills on the dollar of the  
12 taxable value of all taxable property within the county,  
13 except for property subject to a tax or fee under 23-2-517,  
14 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for  
15 the purposes of local and state foundation program support.  
16 The revenue collected from this levy must be apportioned to  
17 the support of the foundation programs of the elementary  
18 school districts in the county and to the state special  
19 revenue fund, state equalization aid account, in the  
20 following manner:  
21 (a) In order to determine the amount of revenue raised  
22 by this levy which is retained by the county, the sum of the  
23 estimated revenue identified in subsection (2) must be  
24 subtracted from the total of the foundation programs of all  
25 elementary districts of the county.

(b) If the basic levy prescribed by this section produces more revenue than is required to finance the difference determined in subsection (1)(a), the county treasurer shall remit the surplus funds to the state treasurer for deposit to the state special revenue fund, state equalization aid account, immediately upon occurrence of a surplus balance and each subsequent month thereafter, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(c) If revenue from the basic levy prescribed by this section when combined with the other revenue from subsection (2) is insufficient to fully fund the percentage determined in 20-9-347(1)(b) and the county is eligible for an apportionment of state equalization aid under the provisions of 20-9-347(1)(c), the county superintendent shall notify the superintendent of public instruction of the deficiency. The superintendent of public instruction shall increase the state equalization aid payments to the districts in the affected county to offset the deficiency. A payment may not be made under this subsection (c) that allows a district to receive foundation program funding in excess of the foundation program amount of the district.

(2) The revenue realized from the county's portion of the levy prescribed by this section and the revenue from the following sources must be used for the equalization of the

elementary district foundation programs of the county as prescribed in 20-9-334, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) the portion of the federal Taylor Grazing Act funds distributed to a county and designated for the common school fund under the provisions of 17-3-222;

(b) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of 17-3-232;

(c) all money paid into the county treasury as a result of fines for violations of law, except money paid to a justice's court, and the use of which is not otherwise specified by law;

(d) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established or referred to in this section;

(e) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(f) gross proceeds taxes from coal under 15-23-703;

(g) net proceeds taxes for ~~interim-production-and~~ new

1 production, as defined in 15-23-601, and local government  
2 severance taxes on any other production occurring after  
3 December 31, 1988; and

4 (h) anticipated revenue from property taxes and fees  
5 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
6 61-3-537, and 67-3-204."

7 **Section 10.** Section 20-9-333, MCA, is amended to read:

8 \*20-9-333. Basic special levy and other revenues for  
9 county equalization of high school district foundation  
10 program. (1) The county commissioners of each county shall  
11 levy an annual basic special tax for high schools of 22  
12 mills on the dollar of the taxable value of all taxable  
13 property within the county, except for property subject to a  
14 tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
15 61-3-537, and 67-3-204, for the purposes of local and state  
16 foundation program support. The revenue collected from this  
17 levy must be apportioned to the support of the foundation  
18 programs of high school districts in the county and to the  
19 state special revenue fund, state equalization aid account,  
20 in the following manner:

21 (a) In order to determine the amount of revenue raised  
22 by this levy which is retained by the county, the sum of the  
23 estimated revenue identified in subsection (2) must be  
24 subtracted from the sum of the county's high school tuition  
25 obligation and the total of the foundation programs of all

1 high school districts of the county.

2 (b) If the basic levy prescribed by this section  
3 produces more revenue than is required to finance the  
4 difference determined in subsection (1)(a), the county  
5 treasurer shall remit the surplus funds to the state  
6 treasurer for deposit to the state special revenue fund,  
7 state equalization aid account, immediately upon occurrence  
8 of a surplus balance and each subsequent month thereafter,  
9 with any final remittance due no later than June 20 of the  
10 fiscal year for which the levy has been set.

11 (c) If revenue from the basic levy prescribed by this  
12 section when combined with the other revenue from subsection  
13 (2) is insufficient to fully fund the percentage determined  
14 in 20-9-347(1)(b) and the county is eligible for an  
15 apportionment of state equalization aid under the provisions  
16 of 20-9-347(1)(c), the county superintendent shall notify  
17 the superintendent of public instruction of the deficiency.  
18 The superintendent of public instruction shall increase the  
19 state equalization aid payments to the districts in the  
20 affected county to offset the deficiency. A payment may not  
21 be made under this subsection (c) that allows a district to  
22 receive foundation program funding in excess of the  
23 foundation program amount of the district.

24 (2) The revenue realized from the county's portion of  
25 the levy prescribed in this section and the revenue from the

1 following sources must be used for the equalization of the  
 2 high school district foundation programs of the county as  
 3 prescribed in 20-9-334, and a separate accounting must be  
 4 kept of the revenue by the county treasurer in accordance  
 5 with 20-9-212(1):

6 (a) any money remaining at the end of the immediately  
 7 preceding school fiscal year in the county treasurer's  
 8 accounts for the various sources of revenue established in  
 9 this section;

10 (b) any federal or state money distributed to the  
 11 county as payment in lieu of property taxation, including  
 12 federal forest reserve funds allocated under the provisions  
 13 of 17-3-213;

14 (c) gross proceeds taxes from coal under 15-23-703;

15 (d) net proceeds taxes for ~~interim-production--and~~ new  
 16 production, as defined in 15-23-601, and local government  
 17 severance taxes on any other production occurring after  
 18 December 31, 1988; and

19 (e) anticipated revenue from property taxes and fees  
 20 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
 21 61-3-537, and 67-3-204."

22 **Section 11.** Section 20-10-144, MCA, is amended to read:

23 "20-10-144. Computation of revenues and net tax levy  
 24 requirements for the transportation fund budget. Before the  
 25 fourth Monday of July and in accordance with 20-9-123, the

1 county superintendent shall compute the revenue available to  
 2 finance the transportation fund budget of each district. The  
 3 county superintendent shall compute the revenue for each  
 4 district on the following basis:

5 (1) The "schedule amount" of the preliminary budget  
 6 expenditures that is derived from the rate schedules in  
 7 20-10-141 and 20-10-142 must be determined by adding the  
 8 following amounts:

9 (a) the sum of the maximum reimbursable expenditures  
 10 for all approved school bus routes maintained by the  
 11 district (to determine the maximum reimbursable expenditure,  
 12 multiply the applicable rate per bus mile by the total  
 13 number of miles to be traveled during the ensuing school  
 14 fiscal year on each bus route approved by the county  
 15 transportation committee and maintained by such district);  
 16 plus

17 (b) the total of all individual transportation per diem  
 18 reimbursement rates for the district as determined from the  
 19 contracts submitted by the district multiplied by the number  
 20 of pupil-instruction days scheduled for the ensuing school  
 21 attendance year; plus

22 (c) any estimated costs for supervised home study or  
 23 supervised correspondence study for the ensuing school  
 24 fiscal year; plus

25 (d) the amount budgeted on the preliminary budget for

1 the contingency amount permitted in 20-10-143, except if the  
 2 amount exceeds 10% of the total of subsections (1)(a),  
 3 (1)(b), and (1)(c) or \$100, whichever is larger, the  
 4 contingency amount on the preliminary budget must be reduced  
 5 to the limitation amount and used in this determination of  
 6 the schedule amount.

7 (2) The schedule amount determined in subsection (1) or  
 8 the total preliminary transportation fund budget, whichever  
 9 is smaller, is divided by 3 and the resulting one-third  
 10 amount is used to determine the available state and county  
 11 revenue to be budgeted on the following basis:

12 (a) the resulting one-third amount is the budgeted  
 13 state transportation reimbursement, except that the state  
 14 transportation reimbursement for the transportation of  
 15 special education pupils under the provisions of 20-7-442  
 16 must be two-thirds of the schedule amount attributed to the  
 17 transportation of special education pupils;

18 (b) the resulting one-third amount, except as provided  
 19 for joint elementary districts in subsection (2)(e), is the  
 20 budgeted county transportation reimbursement for elementary  
 21 districts and must be financed by the basic county tax under  
 22 the provisions of 20-9-334;

23 (c) the resulting one-third amount multiplied by 2 is  
 24 the budgeted county transportation reimbursement amount for  
 25 high school districts financed under the provisions of

1 subsection (5), except as provided for joint high school  
 2 districts in subsection (2)(e), and except that the county  
 3 transportation reimbursement for the transportation of  
 4 special education pupils under the provisions of 20-7-442  
 5 must be one-third of the schedule amount attributed to the  
 6 transportation of special education pupils;

7 (d) when the district has a sufficient amount of cash  
 8 for reappropriation and other sources of district revenue,  
 9 as determined in subsection (3), to reduce the total  
 10 district obligation for financing to zero, any remaining  
 11 amount of district revenue and cash reappropriated must be  
 12 used to reduce the county financing obligation in subsection  
 13 (2)(b) or (2)(c) and, if the county financing obligations  
 14 are reduced to zero, to reduce the state financial  
 15 obligation in subsection (2)(a); and

16 (e) the county revenue requirement for a joint  
 17 district, after the application of any district money under  
 18 subsection (2)(d), must be prorated to each county  
 19 incorporated by the joint district in the same proportion as  
 20 the ANE of the joint district is distributed by pupil  
 21 residence in each county.

22 (3) The total of the money available for the reduction  
 23 of property tax on the district for the transportation fund  
 24 must be determined by totaling:

25 (a) anticipated federal money received under the

1 provisions of Title I of Public Law 81-874 or other  
 2 anticipated federal money received in lieu of that federal  
 3 act; plus

4 (b) anticipated payments from other districts for  
 5 providing school bus transportation services for the  
 6 district; plus

7 (c) anticipated payments from a parent or guardian for  
 8 providing school bus transportation services for his child;  
 9 plus

10 (d) anticipated or reappropriated interest to be earned  
 11 by the investment of transportation fund cash in accordance  
 12 with the provisions of 20-9-213(4); plus

13 (e) anticipated or reappropriated revenue from property  
 14 taxes and fees imposed under 23-2-517, 23-2-803,  
 15 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204; plus

16 (f) gross proceeds taxes from coal under 15-23-703;  
 17 plus

18 (g) net proceeds taxes for ~~interim-production~~ and new  
 19 production, as defined in 15-23-601, and local government  
 20 severance taxes on any other production occurring after  
 21 December 31, 1988; plus

22 (h) any other revenue anticipated by the trustees to be  
 23 earned during the ensuing school fiscal year which may be  
 24 used to finance the transportation fund; plus

25 (i) any cash available for reappropriation as

1 determined by subtracting the amount of the end-of-the-year  
 2 cash balance earmarked as the transportation fund cash  
 3 reserve for the ensuing school fiscal year by the trustees  
 4 from the end-of-the-year cash balance in the transportation  
 5 fund. The cash reserve may not be more than 20% of the final  
 6 transportation fund budget for the ensuing school fiscal  
 7 year and is for the purpose of paying transportation fund  
 8 warrants issued by the district under the final  
 9 transportation fund budget.

10 (4) The district levy requirement for each district's  
 11 transportation fund must be computed by:

12 (a) subtracting the schedule amount calculated in  
 13 subsection (1) from the total preliminary transportation  
 14 budget amount and, for an elementary district, adding the  
 15 difference to the district obligation to finance one-third  
 16 of the schedule amount as determined in subsection (2); and

17 (b) subtracting the amount of money available to reduce  
 18 the property tax on the district, as determined in  
 19 subsection (3), from the amount determined in subsection  
 20 (4)(a).

21 (5) The county levy requirement for the financing of  
 22 the county transportation reimbursement to high school  
 23 districts is computed by adding all requirements for all the  
 24 high school districts of the county, including the county's  
 25 obligation for reimbursements in joint high school

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1 districts.

2 (6) The transportation fund levy requirements  
3 determined in subsection (4) for each district and in  
4 subsection (5) for the county must be reported to the county  
5 commissioners on the second Monday of August by the county  
6 superintendent as the transportation fund levy requirements  
7 for the district and for the county, and the levies must be  
8 made by the county commissioners in accordance with  
9 20-9-142."

10 NEW SECTION. **Section 12.** Effective date. [This act] is  
11 effective on passage and approval.

-End-



SENATE BILL NO. 86

INTRODUCED BY ECK

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE TAXATION OF OIL AND NATURAL GAS BY DELETING OBSOLETE REFERENCES TO INTERIM PRODUCTION; CLARIFYING THE ALLOCATION OF NEW PRODUCTION; AMENDING SECTIONS 15-23-601, 15-23-602, 15-23-603, 15-23-607, 15-23-613, 15-23-621, 15-36-101, 20-9-141, 20-9-331, 20-9-333, AND 20-10-144, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 15-23-601, MCA, is amended to read:

"15-23-601. Definitions. As used in this part, the following definitions apply:

(1) "Excise tax" means the windfall profit tax on domestic crude oil imposed by Title I of the federal Crude Oil Windfall Profit Tax Act of 1980, as enacted or as amended.

(2) "interim production" means the production of natural gas, petroleum, or other crude or mineral oil from any well that:

(a) has not produced natural gas, petroleum, or other crude or mineral oil during the 5 years immediately

preceding the first month of interim production; and

(b) began interim production after June 30, 1985, and before April 1, 1987;

(3)(2) The term "new production" means the production of natural gas, petroleum, or other crude or mineral oil from any well:

(a) DRILLED AFTER JUNE 30, 1985, that has not produced natural gas, petroleum, or other crude or mineral oil during the 5 years immediately preceding the first month of qualified new production; and

(b) on which the notification required in 15-36-121(2) was given.

(4)(3) The terms "operator" and "producer" mean any person who engages in the business of drilling for, extracting, or producing any natural gas, petroleum, or other crude or mineral oil.

(5)(4) The term "well" includes each single well or group of wells, including dry wells, in one field or production unit and under the control of one operator or producer."

Section 2. Section 15-23-602, MCA, is amended to read:

"15-23-602. Statement of sales proceeds on interim production and new production. (1) As provided in subsection (2), each operator or producer of interim production or new production of natural gas, petroleum, or other crude or

THIRD READING



1 mineral oil shall make out and deliver to the department of  
 2 revenue a statement of the gross sales proceeds of ~~interim~~  
 3 ~~production-or~~ new production of natural gas, petroleum, or  
 4 other crude or mineral oil from each well owned or worked by  
 5 the person. The gross sales proceeds must be determined by  
 6 multiplying the units of production sold from the well times  
 7 the royalty unit value of that production at the well. The  
 8 statement must be in the form prescribed by the department  
 9 and must be verified by the oath of the operator or producer  
 10 or the manager, superintendent, agent, president, or  
 11 vice-president of the corporation, association, or  
 12 partnership. The statement must show the following:

13 (a) the name and address of the operator, together with  
 14 a list in duplicate of the names and addresses of any  
 15 persons owning or claiming any royalty interest in the  
 16 production from the well or the proceeds derived from the  
 17 sale of the production, and the amount paid or yielded as  
 18 royalty to each of those persons during the period covered  
 19 by the statement;

20 (b) the description and location of the well;

21 (c) the number of cubic feet of natural gas, barrels of  
 22 petroleum or other crude or mineral oil sold from the well  
 23 during the period covered by the statement; and

24 (d) the gross sales proceeds in dollars and cents or,  
 25 in the case of sales between parties not acting at arm's

1 length, the greater of the gross sales proceeds from or the  
 2 fair market value of the products sold.

3 (2) Each operator having ~~interim--production--or~~ new  
 4 production as defined in 15-23-601 shall, on or before the  
 5 last day of the months of October, January, April, and July,  
 6 make out and deliver to the department of revenue a  
 7 statement of the gross sales proceeds of the ~~interim~~  
 8 ~~production-or~~ new production from each well owned or worked  
 9 by the person during the preceding calendar quarter. The  
 10 statement must be in the form prescribed by the department  
 11 and verified as provided in subsection (1). The statement  
 12 must show the information required in subsections (1)(a)  
 13 through (1)(d)."

14 **Section 3.** Section 15-23-603, MCA, is amended to read:

15 "15-23-603. Net proceeds -- how computed. (1) As  
 16 provided in subsection (2), the department of revenue shall  
 17 calculate and compute from the returns the gross sales  
 18 proceeds of the product yielded from the well for the year  
 19 covered by the statement and shall calculate the net  
 20 proceeds of the well yielded to the producer, which net  
 21 proceeds are determined by subtracting from the gross sales  
 22 proceeds of the well all royalty paid in cash by the  
 23 operator or producer and the gross value of all royalty  
 24 apportioned in kind by the operator or producer determined  
 25 by using as the value of a barrel of oil or a cubic foot of

1 gas the average selling price for the calendar year of a  
2 barrel of oil or a cubic foot of gas from the well out of  
3 which the royalty was paid.

4 (2) For ~~interim--production--or~~ new production, net  
5 proceeds are the equivalent of the gross sales proceeds,  
6 without deduction for excise taxes, of the product yielded  
7 from the well for the quarter covered by the statement,  
8 except that in computing the total number of barrels of  
9 petroleum and other mineral or crude oil or cubic feet of  
10 natural gas produced, there must be deducted so much of the  
11 product as is used in the operation of the well from which  
12 the petroleum or other mineral or crude oil or natural gas  
13 is produced for pumping the petroleum or other mineral or  
14 crude oil or natural gas from the well to a tank or  
15 pipeline.

16 (3) In the statement of sales proceeds required under  
17 15-23-602 for lease or unitized areas from which ~~interim--or~~  
18 new production and other production have been sold, the  
19 number of barrels of ~~interim-and~~ new production of oil or  
20 cubic feet of ~~interim--or~~ new production of gas must be  
21 segregated from and stated separately from the number of  
22 barrels of other production of oil or cubic feet of other  
23 production of gas.

24 (4) In calculating the deduction for money expended for  
25 necessary chemical supplies needed and used in a tertiary

1 recovery project approved by the department of revenue, as  
2 provided in 15-36-101, the department shall require that the  
3 necessary chemical supplies, which include but are not  
4 limited to carbon dioxide supplies, be amortized over a  
5 10-year period beginning with the year in which the money  
6 was expended."

7 **Section 4.** Section 15-23-607, MCA, is amended to read:

8 "15-23-607. County assessors to compute taxes. (1)  
9 Immediately after the board of county commissioners has  
10 fixed tax levies on the second Monday in August, the county  
11 assessor shall, subject to the provisions of 15-23-612,  
12 compute the taxes on net proceeds, as provided in subsection  
13 (2) of this section, and royalty assessments and shall  
14 deliver the book to the county treasurer on or before  
15 September 15. The county treasurer shall proceed to give  
16 full notice of the assessments to the operator and shall  
17 collect the taxes as provided by law.

18 (2) For ~~interim--production--or~~ new production, as  
19 defined in 15-23-601, the county assessor may not levy or  
20 assess any mills against the value of the ~~interim-production~~  
21 or new production, but shall instead levy a tax as follows:

22 (a) for ~~interim--production--or~~ new production of  
23 petroleum or other mineral or crude oil, 7% of net proceeds,  
24 as described in 15-23-603(2); or

25 (b) for ~~interim-production-or~~ new production of natural

1 gas, 12% of net proceeds, as described in 15-23-603(2).

2 (3) The amount of tax levied in subsections (2)(a) and  
3 (2)(b), divided by the appropriate tax rate and multiplied  
4 by 60%, must be treated as taxable value for county bonding  
5 purposes.

6 (4) The taxable value of net proceeds for the purpose  
7 of computing guaranteed tax base aid for schools is the  
8 amount of tax received by a district in the previous year  
9 divided by the number of mills levied by the district in the  
10 previous year, multiplied by 1,000. This amount must be  
11 added to the district, county, and statewide taxable value  
12 when computing guaranteed tax base aid under 20-9-368.

13 (5) The operator or producer is liable for the payment  
14 of the taxes that, except as provided in 15-16-121, are  
15 payable by and must be collected from the operators in the  
16 same manner and under the same penalties as provided for the  
17 collection of taxes upon net proceeds of mines. However, the  
18 operator may at his option withhold from the proceeds of  
19 royalty interest, either in kind or in money, an estimated  
20 amount of the tax to be paid by him upon the royalty or  
21 royalty interest. After the withholding, any deviation  
22 between the estimated tax and the actual tax may be  
23 accounted for by adjusting subsequent withholdings from the  
24 proceeds of royalty interests."

25 **Section 5.** Section 15-23-613, MCA, is amended to read:

1 "15-23-613. Disposition of ~~interim-production--and~~ new  
2 production taxes. The county treasurer shall credit all  
3 taxes on ~~interim-production-and~~ new production, as provided  
4 for in 15-23-607, in the relative proportions required by  
5 the levies for state, county, school district, and municipal  
6 purposes in the same manner as property taxes were  
7 distributed in the year preceding the budget year."

8 **Section 6.** Section 15-23-621, MCA, is amended to read:

9 "15-23-621. Allocation of new production. (1) If a  
10 lease has production that does not qualify for new or  
11 interim production and ~~a-producing-well-is-completed-on-the~~  
12 ~~lease-after--December--31,--1986~~ HAS NEW PRODUCTION, the  
13 allocation of the new production must be based on the  
14 average daily production per well. The average daily  
15 production per well must be determined by dividing the total  
16 production for the quarter by the number of well production  
17 days for the quarter.

18 (2) The EXCEPT AS PROVIDED IN SUBSECTION (4), THE  
19 number of well production days for the quarter is the sum of  
20 the number of completed wells on the first day of the  
21 quarter times the number of days in the quarter plus the  
22 number of days from the date of completion of any wells  
23 during the quarter to the end of the quarter. New production  
24 for the quarter must then be calculated by multiplying the  
25 average daily production per well times the number of wells

1 ~~completed-after-December-31-1986~~ PRODUCING NEW PRODUCTION  
 2 times the number of production days attributed to those  
 3 wells for the quarter. The value of the production must be  
 4 based on the average price received for the production for  
 5 the quarter.

6 (3) Average daily production, well production days, and  
 7 average price must be calculated each quarter.

8 (4) SUBSECTIONS (1) THROUGH (3) DO NOT APPLY TO A WELL  
 9 PRODUCING NEW PRODUCTION FROM A LEASE THAT HAS PRODUCTION  
 10 THAT DOES NOT QUALIFY FOR NEW PRODUCTION IF THE ACTUAL NEW  
 11 PRODUCTION FROM THE WELL CAN BE DETERMINED IN A VERIFIABLE  
 12 MANNER."

13 **Section 7.** Section 15-36-101, MCA, is amended to read:

14 "15-36-101. Definitions and rate of tax -- state  
 15 severance tax -- local government severance tax --  
 16 assessment of nonworking interest owner -- exemption. (1)  
 17 Every person engaging in or carrying on the business of  
 18 producing petroleum, other mineral or crude oil, or natural  
 19 gas within this state or engaging in or carrying on the  
 20 business of owning, controlling, managing, leasing, or  
 21 operating within this state any well or wells from which any  
 22 merchantable or marketable petroleum, other mineral or crude  
 23 oil, or natural gas is extracted or produced shall, except  
 24 as provided in 15-36-121, each year when engaged in or  
 25 carrying on the business in this state pay to the department

1 of revenue a state severance tax for the exclusive use and  
 2 benefit of the state of Montana plus a local government  
 3 severance tax in lieu of a tax on net proceeds for the  
 4 exclusive use and benefit of local government. Except as  
 5 provided in subsection (3), the state severance tax and the  
 6 local government severance tax are as follows:

7 (a) except as provided in subsections (1)(b), (1)(c),  
 8 and (1)(d), a 5% state severance tax on the total gross  
 9 taxable value of all the petroleum and other mineral or  
 10 crude oil produced by the person, plus the local government  
 11 severance tax of 8.4% on the gross taxable value of all the  
 12 petroleum and other mineral or crude oil produced by the  
 13 person other than ~~interim--production-and~~ new production,  
 14 from each lease or unit; but in determining the amount of  
 15 the state severance tax and local government severance tax,  
 16 there must be excluded from consideration all petroleum or  
 17 other crude or mineral oil produced and used by the person  
 18 during the year in connection with his operations in  
 19 prospecting for, developing, and producing the petroleum or  
 20 crude or mineral oil;

21 (b) a 2.65% state severance tax on the total gross  
 22 taxable value of all natural gas produced by the person,  
 23 plus the local government severance tax of 15.25% on the  
 24 total gross taxable value of all natural gas produced by the  
 25 person other than ~~interim-production-or~~ new production, from

1 each lease or unit; but in determining the amount of the  
 2 state severance tax and the local government severance tax,  
 3 there must be excluded from consideration all gas produced  
 4 and used by the person during the year in connection with  
 5 his operations in prospecting for, developing, and producing  
 6 the gas or petroleum or crude or mineral oil; and there must  
 7 also be excluded from consideration all gas, including  
 8 carbon dioxide gas, recycled or reinjected into the ground;

9 (c) a 2.5% state severance tax on the total gross  
 10 taxable value of the incremental petroleum and other mineral  
 11 or crude oil produced by the person, plus the local  
 12 government severance tax of 5% on the total gross taxable  
 13 value of the incremental petroleum and other mineral or  
 14 crude oil produced by the person other than ~~interim~~  
 15 ~~production--and~~ new production, from each lease or unit in a  
 16 tertiary recovery project after July 1, 1985. For purposes  
 17 of this section, a tertiary recovery project must meet the  
 18 following requirements:

19 (i) the project must be approved as a tertiary recovery  
 20 project by the department of revenue. The approval may be  
 21 extended only after notice and hearing in accordance with  
 22 Title 2, chapter 4.

23 (ii) the property to be affected by the project must be  
 24 adequately delineated according to the specifications  
 25 required by the department; and

1 (iii) the project must involve the application of one or  
 2 more tertiary recovery methods that can reasonably be  
 3 expected to result in an increase, determined by the  
 4 department to be significant in light of all the facts and  
 5 circumstances, in the amount of crude oil which may  
 6 potentially be recovered. For purposes of this section,  
 7 tertiary recovery methods include but are not limited to:

- 8 (A) miscible fluid displacement;
- 9 (B) steam drive injection;
- 10 (C) micellar/emulsion flooding;
- 11 (D) in situ combustion;
- 12 (E) polymer augmented water flooding;
- 13 (F) cyclic steam injection;
- 14 (G) alkaline or caustic flooding;
- 15 (H) carbon dioxide water flooding;
- 16 (I) immiscible carbon dioxide displacement; or
- 17 (J) any other method approved by the department as a  
 18 tertiary recovery method.

19 (d) a 5% local government severance tax on the total  
 20 gross taxable value of all petroleum and other mineral or  
 21 crude oil produced by the person other than ~~interim-and~~ new  
 22 production produced by a stripper well, as defined in  
 23 15-36-121.

24 (2) For purposes of this section, the term "incremental  
 25 petroleum and other mineral or crude oil" means the amount

1 of oil, as determined by the department of revenue, to be in  
 2 excess of what would have been produced by primary and  
 3 secondary methods. The determination arrived at by the  
 4 department must be made only after notice and hearing and  
 5 shall specify through the life of a tertiary project,  
 6 calendar year by calendar year, the combined amount of  
 7 primary and secondary production that must be used to  
 8 establish the incremental production from each lease or unit  
 9 in a tertiary recovery project.

10 (3) (a) A local government severance tax is imposed on  
 11 the gross value paid in cash or apportioned in kind to a  
 12 nonworking interest owner by the operator or producer of  
 13 extracted marketable petroleum, other mineral or crude oil,  
 14 or natural gas subject to local government severance taxes  
 15 imposed under this chapter. The local government severance  
 16 tax on nonworking interest owners is computed at the  
 17 following rates:

18 (i) 12.5% on the gross value paid in cash or  
 19 apportioned in kind to a nonworking interest owner by the  
 20 operator or producer of extracted marketable petroleum and  
 21 other mineral or crude oil;

22 (ii) 15.25% on the gross value paid in cash or  
 23 apportioned in kind to a nonworking interest owner by the  
 24 operator or producer of extracted or marketable natural gas.

25 (b) The amounts paid or apportioned in kind to

1 nonworking interest owners are exempt from the local  
 2 government severance taxes imposed under 15-36-121(2) and  
 3 under subsections (1)(a) through (1)(d) of this section.

4 (4) Nothing in this part may be construed as requiring  
 5 laborers or employees hired or employed by any person to  
 6 drill any oil or natural gas well or to work in or about any  
 7 oil or natural gas well or prospect or explore for or do any  
 8 work for the purpose of developing any petroleum, other  
 9 mineral or crude oil, or natural gas to pay the severance  
 10 tax, nor may work done or the drilling of a well or wells  
 11 for the purpose of prospecting or exploring for petroleum,  
 12 other mineral or crude oil, or natural gas or for the  
 13 purpose of developing them be considered to be the engaging  
 14 in or carrying on of the business. If, in the doing of any  
 15 work, in the drilling of any oil or natural gas well, or in  
 16 prospecting, exploring, or development work, any  
 17 merchantable or marketable petroleum, other mineral or crude  
 18 oil, or natural gas in excess of the quantity required by  
 19 the person for carrying on the operation is produced  
 20 sufficient in quantity to justify the marketing of the  
 21 petroleum, other mineral or crude oil, or natural gas, the  
 22 work, drilling, prospecting, exploring, or development work  
 23 is considered to be the engaging in and carrying on of the  
 24 business of producing petroleum, other mineral or crude oil,  
 25 or natural gas within this state within the meaning of this

1 section.

2 (5) Every person required to pay the state or local  
3 government severance tax under this section shall pay the  
4 tax in full for his own account and for the account of each  
5 of the other owner or owners of the gross proceeds in value  
6 or in kind of all the marketable petroleum or other mineral  
7 or crude oil or natural gas extracted and produced,  
8 including owner or owners of working interest, royalty  
9 interest, overriding royalty interest, carried working  
10 interest, net proceeds interest, production payments, and  
11 all other interest or interests owned or carved out of the  
12 total gross proceeds in value or in kind of the extracted  
13 marketable petroleum or other mineral or crude oil or  
14 natural gas, except that any of the interests that are owned  
15 by the federal, state, county, or municipal governments are  
16 exempt from taxation under this chapter. Unless otherwise  
17 provided in a contract or lease, the pro rata share of any  
18 royalty owner or owners will be deducted from any  
19 settlements under the lease or leases or division of  
20 proceeds orders or other contracts.

21 (6) For purposes of this section, the following  
22 definitions apply:

23 (a) "Gross taxable value" means the gross value of the  
24 product as determined in 15-36-103 less the gross value paid  
25 in cash or apportioned in kind to a nonworking interest

1 owner by the operator or producer of extracted marketable  
2 petroleum, other mineral or crude oil, or natural gas.

3 (b) "Nonworking interest owner" means any interest  
4 owner who does not share in the development and operation  
5 costs of the lease or unit."

6 **Section 8.** Section 20-9-141, MCA, is amended to read:

7 "20-9-141. Computation of general fund net levy  
8 requirement by county superintendent. (1) The county  
9 superintendent shall compute the levy requirement for each  
10 district's general fund on the basis of the following  
11 procedure:

12 (a) Determine the funding required for the district's  
13 final general fund budget less the amount established by the  
14 schedules in 20-9-316 through 20-9-321 by totaling:

15 (i) the district's nonisolated school foundation  
16 program requirement to be met by a district levy as provided  
17 in 20-9-303; and

18 (ii) any additional general fund budget amount adopted  
19 by the trustees of the district under the provisions of  
20 20-9-353, including any additional levies authorized by the  
21 electors of the district.

22 (b) Determine the money available for the reduction of  
23 the property tax on the district for the general fund by  
24 totaling:

25 (i) anticipated federal money received under the



1 provisions of Title I of Public Law 81-874 or other  
2 anticipated federal money received in lieu of that federal  
3 act;

4 (ii) anticipated tuition payments for out-of-district  
5 pupils under the provisions of 20-5-303, 20-5-307, 20-5-312,  
6 and 20-5-313;

7 (iii) general fund cash reappropriated, as established  
8 under the provisions of 20-9-104;

9 (iv) anticipated or reappropriated state impact aid  
10 received under the provisions of 20-9-304;

11 (v) anticipated or reappropriated revenue from property  
12 taxes and fees imposed under 23-2-517, 23-2-803,  
13 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

14 (vi) anticipated net proceeds taxes for interim  
15 production-and new production, as defined in 15-23-601;

16 (vii) anticipated revenue from local government  
17 severance taxes as provided in 15-36-112;

18 (viii) anticipated revenue from coal gross proceeds  
19 under 15-23-703;

20 (ix) anticipated interest to be earned or reappropriated  
21 interest earned by the investment of general fund cash in  
22 accordance with the provisions of 20-9-213(4);

23 (x) anticipated revenue from corporation license taxes  
24 collected from financial institutions under the provisions  
25 of 15-31-702; and

1 (xi) any other revenue anticipated by the trustees to be  
2 received during the ensuing school fiscal year which may be  
3 used to finance the general fund.

4 (c) Subtract the money available to reduce the property  
5 tax required to finance the general fund that has been  
6 determined in subsection (1)(b) from the total requirement  
7 determined in subsection (1)(a).

8 (2) The net general fund levy requirement determined in  
9 subsection (1)(c) must be reported to the county  
10 commissioners on the second Monday of August by the county  
11 superintendent as the general fund levy requirement for the  
12 district, and a levy must be made by the county  
13 commissioners in accordance with 20-9-142."

14 **Section 9.** Section 20-9-331, MCA, is amended to read:

15 "20-9-331. Basic county tax and other revenues for  
16 county equalization of the elementary district foundation  
17 program. (1) The county commissioners of each county shall  
18 levy an annual basic tax of 33 mills on the dollar of the  
19 taxable value of all taxable property within the county,  
20 except for property subject to a tax or fee under 23-2-517,  
21 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for  
22 the purposes of local and state foundation program support.  
23 The revenue collected from this levy must be apportioned to  
24 the support of the foundation programs of the elementary  
25 school districts in the county and to the state special

1 revenue fund, state equalization aid account, in the  
2 following manner:

3 (a) In order to determine the amount of revenue raised  
4 by this levy which is retained by the county, the sum of the  
5 estimated revenue identified in subsection (2) must be  
6 subtracted from the total of the foundation programs of all  
7 elementary districts of the county.

8 (b) If the basic levy prescribed by this section  
9 produces more revenue than is required to finance the  
10 difference determined in subsection (1)(a), the county  
11 treasurer shall remit the surplus funds to the state  
12 treasurer for deposit to the state special revenue fund,  
13 state equalization aid account, immediately upon occurrence  
14 of a surplus balance and each subsequent month thereafter,  
15 with any final remittance due no later than June 20 of the  
16 fiscal year for which the levy has been set.

17 (c) If revenue from the basic levy prescribed by this  
18 section when combined with the other revenue from subsection  
19 (2) is insufficient to fully fund the percentage determined  
20 in 20-9-347(1)(b) and the county is eligible for an  
21 apportionment of state equalization aid under the provisions  
22 of 20-9-347(1)(c), the county superintendent shall notify  
23 the superintendent of public instruction of the deficiency.  
24 The superintendent of public instruction shall increase the  
25 state equalization aid payments to the districts in the

1 affected county to offset the deficiency. A payment may not  
2 be made under this subsection (c) that allows a district to  
3 receive foundation program funding in excess of the  
4 foundation program amount of the district.

5 (2) The revenue realized from the county's portion of  
6 the levy prescribed by this section and the revenue from the  
7 following sources must be used for the equalization of the  
8 elementary district foundation programs of the county as  
9 prescribed in 20-9-334, and a separate accounting must be  
10 kept of the revenue by the county treasurer in accordance  
11 with 20-9-212(1):

12 (a) the portion of the federal Taylor Grazing Act funds  
13 distributed to a county and designated for the common school  
14 fund under the provisions of 17-3-222;

15 (b) the portion of the federal flood control act funds  
16 distributed to a county and designated for expenditure for  
17 the benefit of the county common schools under the  
18 provisions of 17-3-232;

19 (c) all money paid into the county treasury as a result  
20 of fines for violations of law, except money paid to a  
21 justice's court, and the use of which is not otherwise  
22 specified by law;

23 (d) any money remaining at the end of the immediately  
24 preceding school fiscal year in the county treasurer's  
25 accounts for the various sources of revenue established or

1 referred to in this section;

2 (e) any federal or state money distributed to the  
3 county as payment in lieu of property taxation, including  
4 federal forest reserve funds allocated under the provisions  
5 of 17-3-213;

6 (f) gross proceeds taxes from coal under 15-23-703;

7 (g) net proceeds taxes for ~~interim-production-and~~ new  
8 production, as defined in 15-23-601, and local government  
9 severance taxes on any other production occurring after  
10 December 31, 1988; and

11 (h) anticipated revenue from property taxes and fees  
12 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
13 61-3-537, and 67-3-204."

14 **Section 10.** Section 20-9-333, MCA, is amended to read:

15 "20-9-333. Basic special levy and other revenues for  
16 county equalization of high school district foundation  
17 program. (1) The county commissioners of each county shall  
18 levy an annual basic special tax for high schools of 22  
19 mills on the dollar of the taxable value of all taxable  
20 property within the county, except for property subject to a  
21 tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
22 61-3-537, and 67-3-204, for the purposes of local and state  
23 foundation program support. The revenue collected from this  
24 levy must be apportioned to the support of the foundation  
25 programs of high school districts in the county and to the

1 state special revenue fund, state equalization aid account,  
2 in the following manner:

3 (a) In order to determine the amount of revenue raised  
4 by this levy which is retained by the county, the sum of the  
5 estimated revenue identified in subsection (2) must be  
6 subtracted from the sum of the county's high school tuition  
7 obligation and the total of the foundation programs of all  
8 high school districts of the county.

9 (b) If the basic levy prescribed by this section  
10 produces more revenue than is required to finance the  
11 difference determined in subsection (1)(a), the county  
12 treasurer shall remit the surplus funds to the state  
13 treasurer for deposit to the state special revenue fund,  
14 state equalization aid account, immediately upon occurrence  
15 of a surplus balance and each subsequent month thereafter,  
16 with any final remittance due no later than June 20 of the  
17 fiscal year for which the levy has been set.

18 (c) If revenue from the basic levy prescribed by this  
19 section when combined with the other revenue from subsection  
20 (2) is insufficient to fully fund the percentage determined  
21 in 20-9-347(1)(b) and the county is eligible for an  
22 apportionment of state equalization aid under the provisions  
23 of 20-9-347(1)(c), the county superintendent shall notify  
24 the superintendent of public instruction of the deficiency.  
25 The superintendent of public instruction shall increase the

1 state equalization aid payments to the districts in the  
 2 affected county to offset the deficiency. A payment may not  
 3 be made under this subsection (c) that allows a district to  
 4 receive foundation program funding in excess of the  
 5 foundation program amount of the district.

6 (2) The revenue realized from the county's portion of  
 7 the levy prescribed in this section and the revenue from the  
 8 following sources must be used for the equalization of the  
 9 high school district foundation programs of the county as  
 10 prescribed in 20-9-334, and a separate accounting must be  
 11 kept of the revenue by the county treasurer in accordance  
 12 with 20-9-212(1):

13 (a) any money remaining at the end of the immediately  
 14 preceding school fiscal year in the county treasurer's  
 15 accounts for the various sources of revenue established in  
 16 this section;

17 (b) any federal or state money distributed to the  
 18 county as payment in lieu of property taxation, including  
 19 federal forest reserve funds allocated under the provisions  
 20 of 17-3-213;

21 (c) gross proceeds taxes from coal under 15-23-703;

22 (d) net proceeds taxes for ~~interim-production~~ and new  
 23 production, as defined in 15-23-601, and local government  
 24 severance taxes on any other production occurring after  
 25 December 31, 1988; and

1 (e) anticipated revenue from property taxes and fees  
 2 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
 3 61-3-537, and 67-3-204."

4 **Section 11.** Section 20-10-144, MCA, is amended to read:

5 **"20-10-144.** Computation of revenues and net tax levy  
 6 requirements for the transportation fund budget. Before the  
 7 fourth Monday of July and in accordance with 20-9-123, the  
 8 county superintendent shall compute the revenue available to  
 9 finance the transportation fund budget of each district. The  
 10 county superintendent shall compute the revenue for each  
 11 district on the following basis:

12 (1) The "schedule amount" of the preliminary budget  
 13 expenditures that is derived from the rate schedules in  
 14 20-10-141 and 20-10-142 must be determined by adding the  
 15 following amounts:

16 (a) the sum of the maximum reimbursable expenditures  
 17 for all approved school bus routes maintained by the  
 18 district (to determine the maximum reimbursable expenditure,  
 19 multiply the applicable rate per bus mile by the total  
 20 number of miles to be traveled during the ensuing school  
 21 fiscal year on each bus route approved by the county  
 22 transportation committee and maintained by such district);  
 23 plus

24 (b) the total of all individual transportation per diem  
 25 reimbursement rates for the district as determined from the

1 contracts submitted by the district multiplied by the number  
2 of pupil-instruction days scheduled for the ensuing school  
3 attendance year; plus

4 (c) any estimated costs for supervised home study or  
5 supervised correspondence study for the ensuing school  
6 fiscal year; plus

7 (d) the amount budgeted on the preliminary budget for  
8 the contingency amount permitted in 20-10-143, except if the  
9 amount exceeds 10% of the total of subsections (1)(a),  
10 (1)(b), and (1)(c) or \$100, whichever is larger, the  
11 contingency amount on the preliminary budget must be reduced  
12 to the limitation amount and used in this determination of  
13 the schedule amount.

14 (2) The schedule amount determined in subsection (1) or  
15 the total preliminary transportation fund budget, whichever  
16 is smaller, is divided by 3 and the resulting one-third  
17 amount is used to determine the available state and county  
18 revenue to be budgeted on the following basis:

19 (a) the resulting one-third amount is the budgeted  
20 state transportation reimbursement, except that the state  
21 transportation reimbursement for the transportation of  
22 special education pupils under the provisions of 20-7-442  
23 must be two-thirds of the schedule amount attributed to the  
24 transportation of special education pupils;

25 (b) the resulting one-third amount, except as provided

1 for joint elementary districts in subsection (2)(e), is the  
2 budgeted county transportation reimbursement for elementary  
3 districts and must be financed by the basic county tax under  
4 the provisions of 20-9-334;

5 (c) the resulting one-third amount multiplied by 2 is  
6 the budgeted county transportation reimbursement amount for  
7 high school districts financed under the provisions of  
8 subsection (5), except as provided for joint high school  
9 districts in subsection (2)(e), and except that the county  
10 transportation reimbursement for the transportation of  
11 special education pupils under the provisions of 20-7-442  
12 must be one-third of the schedule amount attributed to the  
13 transportation of special education pupils;

14 (d) when the district has a sufficient amount of cash  
15 for reappropriation and other sources of district revenue,  
16 as determined in subsection (3), to reduce the total  
17 district obligation for financing to zero, any remaining  
18 amount of district revenue and cash reappropriated must be  
19 used to reduce the county financing obligation in subsection  
20 (2)(b) or (2)(c) and, if the county financing obligations  
21 are reduced to zero, to reduce the state financial  
22 obligation in subsection (2)(a); and

23 (e) the county revenue requirement for a joint  
24 district, after the application of any district money under  
25 subsection (2)(d), must be prorated to each county

1 incorporated by the joint district in the same proportion as  
2 the ANB of the joint district is distributed by pupil  
3 residence in each county.

4 (3) The total of the money available for the reduction  
5 of property tax on the district for the transportation fund  
6 must be determined by totaling:

7 (a) anticipated federal money received under the  
8 provisions of Title I of Public Law 81-874 or other  
9 anticipated federal money received in lieu of that federal  
10 act; plus

11 (b) anticipated payments from other districts for  
12 providing school bus transportation services for the  
13 district; plus

14 (c) anticipated payments from a parent or guardian for  
15 providing school bus transportation services for his child;  
16 plus

17 (d) anticipated or reappropriated interest to be earned  
18 by the investment of transportation fund cash in accordance  
19 with the provisions of 20-9-213(4); plus

20 (e) anticipated or reappropriated revenue from property  
21 taxes and fees imposed under 23-2-517, 23-2-803,  
22 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204; plus

23 (f) gross proceeds taxes from coal under 15-23-703;  
24 plus

25 (g) net proceeds taxes for ~~interim-production~~ and new

1 production, as defined in 15-23-601, and local government  
2 severance taxes on any other production occurring after  
3 December 31, 1988; plus

4 (h) any other revenue anticipated by the trustees to be  
5 earned during the ensuing school fiscal year which may be  
6 used to finance the transportation fund; plus

7 (i) any cash available for reappropriation as  
8 determined by subtracting the amount of the end-of-the-year  
9 cash balance earmarked as the transportation fund cash  
10 reserve for the ensuing school fiscal year by the trustees  
11 from the end-of-the-year cash balance in the transportation  
12 fund. The cash reserve may not be more than 20% of the final  
13 transportation fund budget for the ensuing school fiscal  
14 year and is for the purpose of paying transportation fund  
15 warrants issued by the district under the final  
16 transportation fund budget.

17 (4) The district levy requirement for each district's  
18 transportation fund must be computed by:

19 (a) subtracting the schedule amount calculated in  
20 subsection (1) from the total preliminary transportation  
21 budget amount and, for an elementary district, adding the  
22 difference to the district obligation to finance one-third  
23 of the schedule amount as determined in subsection (2); and

24 (b) subtracting the amount of money available to reduce  
25 the property tax on the district, as determined in

1 subsection (3), from the amount determined in subsection  
2 (4)(a).

3 (5) The county levy requirement for the financing of  
4 the county transportation reimbursement to high school  
5 districts is computed by adding all requirements for all the  
6 high school districts of the county, including the county's  
7 obligation for reimbursements in joint high school  
8 districts.

9 (6) The transportation fund levy requirements  
10 determined in subsection (4) for each district and in  
11 subsection (5) for the county must be reported to the county  
12 commissioners on the second Monday of August by the county  
13 superintendent as the transportation fund levy requirements  
14 for the district and for the county, and the levies must be  
15 made by the county commissioners in accordance with  
16 20-9-142."

17 NEW SECTION. **Section 12.** Effective date. [This act] is  
18 effective on passage and approval.

-End-

1 SENATE BILL NO. 86

2 INTRODUCED BY ECK

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE TAXATION  
6 OF OIL AND NATURAL GAS BY DELETING OBSOLETE REFERENCES TO  
7 INTERIM PRODUCTION; TO CLARIFY THE ALLOCATION OF NEW  
8 PRODUCTION; AMENDING SECTIONS 15-23-601, 15-23-602,  
9 15-23-603, 15-23-607, 15-23-613, 15-23-621, 15-36-101,  
10 20-9-141, 20-9-331, 20-9-333, AND 20-10-144, MCA; AND  
11 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 15-23-601, MCA, is amended to read:

15 "15-23-601. Definitions. As used in this part, the  
16 following definitions apply:

17 (1) "Excise tax" means the windfall profit tax on  
18 domestic crude oil imposed by Title I of the federal Crude  
19 Oil Windfall Profit Tax Act of 1980, as enacted or as  
20 amended.

21 ~~(2) "interim production" means the production of~~  
22 ~~natural gas, petroleum, or other crude or mineral oil from~~  
23 ~~any well that:~~

24 ~~(a) has not produced natural gas, petroleum, or other~~  
25 ~~crude or mineral oil during the 5 years immediately~~

1 ~~preceding the first month of interim production, and~~

2 ~~(b) began interim production after June 30, 1985, and~~  
3 ~~before April 1, 1987.~~

4 ~~(3)(2)~~ The term "new production" means the production  
5 of natural gas, petroleum, or other crude or mineral oil  
6 from any well.

7 ~~(a)~~ DRILLED AFTER JUNE 30, 1985, OR that has not  
8 produced natural gas, petroleum, or other crude or mineral  
9 oil during the 5 years immediately preceding the first month  
10 of qualified new production, ~~and~~

11 ~~(b) on which the notification required in 15-36-121(2)~~  
12 ~~was given.~~

13 ~~(4)(3)~~ The terms "operator" and "producer" mean any  
14 person who engages in the business of drilling for,  
15 extracting, or producing any natural gas, petroleum, or  
16 other crude or mineral oil.

17 ~~(5)(4)~~ The term "well" includes each single well or  
18 group of wells, including dry wells, in one field or  
19 production unit and under the control of one operator or  
20 producer."

21 **Section 2.** Section 15-23-602, MCA, is amended to read:

22 "15-23-602. Statement of sales proceeds on interim  
23 production and new production. (1) As provided in subsection  
24 (2), each operator or producer of interim production or new  
25 production of natural gas, petroleum, or other crude or



1 mineral oil shall make out and deliver to the department of  
 2 revenue a statement of the gross sales proceeds of ~~interim~~  
 3 ~~production--or~~ new production of natural gas, petroleum, or  
 4 other crude or mineral oil from each well owned or worked by  
 5 the person. The gross sales proceeds must be determined by  
 6 multiplying the units of production sold from the well times  
 7 the royalty unit value of that production at the well. The  
 8 statement must be in the form prescribed by the department  
 9 and must be verified by the oath of the operator or producer  
 10 or the manager, superintendent, agent, president, or  
 11 vice-president of the corporation, association, or  
 12 partnership. The statement must show the following:

13 (a) the name and address of the operator, together with  
 14 a list in duplicate of the names and addresses of any  
 15 persons owning or claiming any royalty interest in the  
 16 production from the well or the proceeds derived from the  
 17 sale of the production, and the amount paid or yielded as  
 18 royalty to each of those persons during the period covered  
 19 by the statement;

20 (b) the description and location of the well;

21 (c) the number of cubic feet of natural gas, barrels of  
 22 petroleum or other crude or mineral oil sold from the well  
 23 during the period covered by the statement; and

24 (d) the gross sales proceeds in dollars and cents or,  
 25 in the case of sales between parties not acting at arm's

1 length, the greater of the gross sales proceeds from or the  
 2 fair market value of the products sold.

3 (2) Each operator having ~~interim--production--or~~ new  
 4 production as defined in 15-23-601 shall, on or before the  
 5 last day of the months of October, January, April, and July,  
 6 make out and deliver to the department of revenue a  
 7 statement of the gross sales proceeds of the ~~interim~~  
 8 ~~production--or~~ new production from each well owned or worked  
 9 by the person during the preceding calendar quarter. The  
 10 statement must be in the form prescribed by the department  
 11 and verified as provided in subsection (1). The statement  
 12 must show the information required in subsections (1)(a)  
 13 through (1)(d)."

14 **Section 3.** Section 15-23-603, MCA, is amended to read:

15 "15-23-603. Net proceeds -- how computed. (1) As  
 16 provided in subsection (2), the department of revenue shall  
 17 calculate and compute from the returns the gross sales  
 18 proceeds of the product yielded from the well for the year  
 19 covered by the statement and shall calculate the net  
 20 proceeds of the well yielded to the producer, which net  
 21 proceeds are determined by subtracting from the gross sales  
 22 proceeds of the well all royalty paid in cash by the  
 23 operator or producer and the gross value of all royalty  
 24 apportioned in kind by the operator or producer determined  
 25 by using as the value of a barrel of oil or a cubic foot of

1 gas the average selling price for the calendar year of a  
2 barrel of oil or a cubic foot of gas from the well out of  
3 which the royalty was paid.

4 (2) For ~~interim--production--or~~ new production, net  
5 proceeds are the equivalent of the gross sales proceeds,  
6 without deduction for excise taxes, of the product yielded  
7 from the well for the quarter covered by the statement,  
8 except that in computing the total number of barrels of  
9 petroleum and other mineral or crude oil or cubic feet of  
10 natural gas produced, there must be deducted so much of the  
11 product as is used in the operation of the well from which  
12 the petroleum or other mineral or crude oil or natural gas  
13 is produced for pumping the petroleum or other mineral or  
14 crude oil or natural gas from the well to a tank or  
15 pipeline.

16 (3) In the statement of sales proceeds required under  
17 15-23-602 for lease or unitized areas from which ~~interim--or~~  
18 new production and other production have been sold, the  
19 number of barrels of ~~interim--and~~ new production of oil or  
20 cubic feet of ~~interim--or~~ new production of gas must be  
21 segregated from and stated separately from the number of  
22 barrels of other production of oil or cubic feet of other  
23 production of gas.

24 (4) In calculating the deduction for money expended for  
25 necessary chemical supplies needed and used in a tertiary

1 recovery project approved by the department of revenue, as  
2 provided in 15-36-101, the department shall require that the  
3 necessary chemical supplies, which include but are not  
4 limited to carbon dioxide supplies, be amortized over a  
5 10-year period beginning with the year in which the money  
6 was expended."

7 **Section 4.** Section 15-23-607, MCA, is amended to read:

8 "15-23-607. County assessors to compute taxes. (1)  
9 Immediately after the board of county commissioners has  
10 fixed tax levies on the second Monday in August, the county  
11 assessor shall, subject to the provisions of 15-23-612,  
12 compute the taxes on net proceeds, as provided in subsection  
13 (2) of this section, and royalty assessments and shall  
14 deliver the book to the county treasurer on or before  
15 September 15. The county treasurer shall proceed to give  
16 full notice of the assessments to the operator and shall  
17 collect the taxes as provided by law.

18 (2) For ~~interim--production--or~~ new production, as  
19 defined in 15-23-601, the county assessor may not levy or  
20 assess any mills against the value of the ~~interim--production~~  
21 or new production, but shall instead levy a tax as follows:

22 (a) for ~~interim---production--or~~ new production of  
23 petroleum or other mineral or crude oil, 7% of net proceeds,  
24 as described in 15-23-603(2); or

25 (b) for ~~interim--production--or~~ new production of natural

1 gas, 12% of net proceeds, as described in 15-23-603(2).

2 (3) The amount of tax levied in subsections (2)(a) and  
3 (2)(b), divided by the appropriate tax rate and multiplied  
4 by 60%, must be treated as taxable value for county bonding  
5 purposes.

6 (4) The taxable value of net proceeds for the purpose  
7 of computing guaranteed tax base aid for schools is the  
8 amount of tax received by a district in the previous year  
9 divided by the number of mills levied by the district in the  
10 previous year, multiplied by 1,000. This amount must be  
11 added to the district, county, and statewide taxable value  
12 when computing guaranteed tax base aid under 20-9-368.

13 (5) The operator or producer is liable for the payment  
14 of the taxes that, except as provided in 15-16-121, are  
15 payable by and must be collected from the operators in the  
16 same manner and under the same penalties as provided for the  
17 collection of taxes upon net proceeds of mines. However, the  
18 operator may at his option withhold from the proceeds of  
19 royalty interest, either in kind or in money, an estimated  
20 amount of the tax to be paid by him upon the royalty or  
21 royalty interest. After the withholding, any deviation  
22 between the estimated tax and the actual tax may be  
23 accounted for by adjusting subsequent withholdings from the  
24 proceeds of royalty interests."

25 **Section 5.** Section 15-23-613, MCA, is amended to read:

1 **\*15-23-613. Disposition of interim-production-and new**  
2 **production taxes.** The county treasurer shall credit all  
3 taxes on ~~interim-production-and~~ new production, as provided  
4 for in 15-23-607, in the relative proportions required by  
5 the levies for state, county, school district, and municipal  
6 purposes in the same manner as property taxes were  
7 distributed in the year preceding the budget year."

8 **Section 6.** Section 15-23-621, MCA, is amended to read:

9 **\*15-23-621. Allocation of new production.** (1) If a  
10 lease has production that does not qualify for new or  
11 ~~interim production and a-producing-well-is-completed-on--the~~  
12 ~~lease--after--December--31--1986~~ HAS NEW PRODUCTION, the  
13 allocation of the new production must be based on the  
14 average daily production per well. The average daily  
15 production per well must be determined by dividing the total  
16 production for the quarter by the number of well production  
17 days for the quarter.

18 (2) ~~The~~ EXCEPT AS PROVIDED IN SUBSECTION (4), THE  
19 number of well production days for the quarter is the sum of  
20 the number of completed wells on the first day of the  
21 quarter times the number of days in the quarter plus the  
22 number of days from the date of completion of any wells  
23 during the quarter to the end of the quarter. New production  
24 for the quarter must then be calculated by multiplying the  
25 average daily production per well times the number of wells

1 completed--after-December-31-1986, PRODUCING NEW PRODUCTION  
2 times the number of production days attributed to those  
3 wells for the quarter. The value of the production must be  
4 based on the average price received for the production for  
5 the quarter.

6 (3) Average daily production, well production days, and  
7 average price must be calculated each quarter.

8 (4) SUBSECTIONS (1) THROUGH (3) DO NOT APPLY TO A WELL  
9 PRODUCING NEW PRODUCTION FROM A LEASE THAT HAS PRODUCTION  
10 THAT DOES NOT QUALIFY FOR NEW PRODUCTION IF THE ACTUAL NEW  
11 PRODUCTION FROM THE WELL CAN BE DETERMINED IN A VERIFIABLE  
12 MANNER."

13 **Section 7.** Section 15-36-101, MCA, is amended to read:

14 "15-36-101. Definitions and rate of tax -- state  
15 severance tax -- local government severance tax --  
16 assessment of nonworking interest owner -- exemption. (1)  
17 Every person engaging in or carrying on the business of  
18 producing petroleum, other mineral or crude oil, or natural  
19 gas within this state or engaging in or carrying on the  
20 business of owning, controlling, managing, leasing, or  
21 operating within this state any well or wells from which any  
22 merchantable or marketable petroleum, other mineral or crude  
23 oil, or natural gas is extracted or produced shall, except  
24 as provided in 15-36-121, each year when engaged in or  
25 carrying on the business in this state pay to the department

1 of revenue a state severance tax for the exclusive use and  
2 benefit of the state of Montana plus a local government  
3 severance tax in lieu of a tax on net proceeds for the  
4 exclusive use and benefit of local government. Except as  
5 provided in subsection (3), the state severance tax and the  
6 local government severance tax are as follows:

7 (a) except as provided in subsections (1)(b), (1)(c),  
8 and (1)(d), a 5% state severance tax on the total gross  
9 taxable value of all the petroleum and other mineral or  
10 crude oil produced by the person, plus the local government  
11 severance tax of 8.4% on the gross taxable value of all the  
12 petroleum and other mineral or crude oil produced by the  
13 person other than ~~interim-production-and~~ new production,  
14 from each lease or unit; but in determining the amount of  
15 the state severance tax and local government severance tax,  
16 there must be excluded from consideration all petroleum or  
17 other crude or mineral oil produced and used by the person  
18 during the year in connection with his operations in  
19 prospecting for, developing, and producing the petroleum or  
20 crude or mineral oil;

21 (b) a 2.65% state severance tax on the total gross  
22 taxable value of all natural gas produced by the person,  
23 plus the local government severance tax of 15.25% on the  
24 total gross taxable value of all natural gas produced by the  
25 person other than ~~interim-production-or~~ new production, from

1 each lease or unit; but in determining the amount of the  
 2 state severance tax and the local government severance tax,  
 3 there must be excluded from consideration all gas produced  
 4 and used by the person during the year in connection with  
 5 his operations in prospecting for, developing, and producing  
 6 the gas or petroleum or crude or mineral oil; and there must  
 7 also be excluded from consideration all gas, including  
 8 carbon dioxide gas, recycled or reinjected into the ground;

9 (c) a 2.5% state severance tax on the total gross  
 10 taxable value of the incremental petroleum and other mineral  
 11 or crude oil produced by the person, plus the local  
 12 government severance tax of 5% on the total gross taxable  
 13 value of the incremental petroleum and other mineral or  
 14 crude oil produced by the person other than ~~interim~~  
 15 ~~production-and~~ new production, from each lease or unit in a  
 16 tertiary recovery project after July 1, 1985. For purposes  
 17 of this section, a tertiary recovery project must meet the  
 18 following requirements:

19 (i) the project must be approved as a tertiary recovery  
 20 project by the department of revenue. The approval may be  
 21 extended only after notice and hearing in accordance with  
 22 Title 2, chapter 4.

23 (ii) the property to be affected by the project must be  
 24 adequately delineated according to the specifications  
 25 required by the department; and

1 (iii) the project must involve the application of one or  
 2 more tertiary recovery methods that can reasonably be  
 3 expected to result in an increase, determined by the  
 4 department to be significant in light of all the facts and  
 5 circumstances, in the amount of crude oil which may  
 6 potentially be recovered. For purposes of this section,  
 7 tertiary recovery methods include but are not limited to:

- 8 (A) miscible fluid displacement;
- 9 (B) steam drive injection;
- 10 (C) micellar/emulsion flooding;
- 11 (D) in situ combustion;
- 12 (E) polymer augmented water flooding;
- 13 (F) cyclic steam injection;
- 14 (G) alkaline or caustic flooding;
- 15 (H) carbon dioxide water flooding;
- 16 (I) immiscible carbon dioxide displacement; or
- 17 (J) any other method approved by the department as a  
 18 tertiary recovery method.

19 (d) a 5% local government severance tax on the total  
 20 gross taxable value of all petroleum and other mineral or  
 21 crude oil produced by the person other than ~~interim-and~~ new  
 22 production produced by a stripper well, as defined in  
 23 15-36-121.

24 (2) For purposes of this section, the term "incremental  
 25 petroleum and other mineral or crude oil" means the amount

1 of oil, as determined by the department of revenue, to be in  
 2 excess of what would have been produced by primary and  
 3 secondary methods. The determination arrived at by the  
 4 department must be made only after notice and hearing and  
 5 shall specify through the life of a tertiary project,  
 6 calendar year by calendar year, the combined amount of  
 7 primary and secondary production that must be used to  
 8 establish the incremental production from each lease or unit  
 9 in a tertiary recovery project.

10 (3) (a) A local government severance tax is imposed on  
 11 the gross value paid in cash or apportioned in kind to a  
 12 nonworking interest owner by the operator or producer of  
 13 extracted marketable petroleum, other mineral or crude oil,  
 14 or natural gas subject to local government severance taxes  
 15 imposed under this chapter. The local government severance  
 16 tax on nonworking interest owners is computed at the  
 17 following rates:

18 (i) 12.5% on the gross value paid in cash or  
 19 apportioned in kind to a nonworking interest owner by the  
 20 operator or producer of extracted marketable petroleum and  
 21 other mineral or crude oil;

22 (ii) 15.25% on the gross value paid in cash or  
 23 apportioned in kind to a nonworking interest owner by the  
 24 operator or producer of extracted or marketable natural gas.

25 (b) The amounts paid or apportioned in kind to

1 nonworking interest owners are exempt from the local  
 2 government severance taxes imposed under 15-36-121(2) and  
 3 under subsections (1)(a) through (1)(d) of this section.

4 (4) Nothing in this part may be construed as requiring  
 5 laborers or employees hired or employed by any person to  
 6 drill any oil or natural gas well or to work in or about any  
 7 oil or natural gas well or prospect or explore for or do any  
 8 work for the purpose of developing any petroleum, other  
 9 mineral or crude oil, or natural gas to pay the severance  
 10 tax, nor may work done or the drilling of a well or wells  
 11 for the purpose of prospecting or exploring for petroleum,  
 12 other mineral or crude oil, or natural gas or for the  
 13 purpose of developing them be considered to be the engaging  
 14 in or carrying on of the business. If, in the doing of any  
 15 work, in the drilling of any oil or natural gas well, or in  
 16 prospecting, exploring, or development work, any  
 17 merchantable or marketable petroleum, other mineral or crude  
 18 oil, or natural gas in excess of the quantity required by  
 19 the person for carrying on the operation is produced  
 20 sufficient in quantity to justify the marketing of the  
 21 petroleum, other mineral or crude oil, or natural gas, the  
 22 work, drilling, prospecting, exploring, or development work  
 23 is considered to be the engaging in and carrying on of the  
 24 business of producing petroleum, other mineral or crude oil,  
 25 or natural gas within this state within the meaning of this

1 section.

2 (5) Every person required to pay the state or local  
3 government severance tax under this section shall pay the  
4 tax in full for his own account and for the account of each  
5 of the other owner or owners of the gross proceeds in value  
6 or in kind of all the marketable petroleum or other mineral  
7 or crude oil or natural gas extracted and produced,  
8 including owner or owners of working interest, royalty  
9 interest, overriding royalty interest, carried working  
10 interest, net proceeds interest, production payments, and  
11 all other interest or interests owned or carved out of the  
12 total gross proceeds in value or in kind of the extracted  
13 marketable petroleum or other mineral or crude oil or  
14 natural gas, except that any of the interests that are owned  
15 by the federal, state, county, or municipal governments are  
16 exempt from taxation under this chapter. Unless otherwise  
17 provided in a contract or lease, the pro rata share of any  
18 royalty owner or owners will be deducted from any  
19 settlements under the lease or leases or division of  
20 proceeds orders or other contracts.

21 (6) For purposes of this section, the following  
22 definitions apply:

23 (a) "Gross taxable value" means the gross value of the  
24 product as determined in 15-36-103 less the gross value paid  
25 in cash or apportioned in kind to a nonworking interest

1 owner by the operator or producer of extracted marketable  
2 petroleum, other mineral or crude oil, or natural gas.

3 (b) "Nonworking interest owner" means any interest  
4 owner who does not share in the development and operation  
5 costs of the lease or unit."

6 **Section 8.** Section 20-9-141, MCA, is amended to read:

7 "20-9-141. Computation of general fund net levy  
8 requirement by county superintendent. (1) The county  
9 superintendent shall compute the levy requirement for each  
10 district's general fund on the basis of the following  
11 procedure:

12 (a) Determine the funding required for the district's  
13 final general fund budget less the amount established by the  
14 schedules in 20-9-316 through 20-9-321 by totaling:

15 (i) the district's nonisolated school foundation  
16 program requirement to be met by a district levy as provided  
17 in 20-9-303; and

18 (ii) any additional general fund budget amount adopted  
19 by the trustees of the district under the provisions of  
20 20-9-353, including any additional levies authorized by the  
21 electors of the district.

22 (b) Determine the money available for the reduction of  
23 the property tax on the district for the general fund by  
24 totaling:

25 (i) anticipated federal money received under the

1 provisions of Title I of Public Law 81-874 or other  
 2 anticipated federal money received in lieu of that federal  
 3 act;

4 (ii) anticipated tuition payments for out-of-district  
 5 pupils under the provisions of 20-5-303, 20-5-307, 20-5-312,  
 6 and 20-5-313;

7 (iii) general fund cash reappropriated, as established  
 8 under the provisions of 20-9-104;

9 (iv) anticipated or reappropriated state impact aid  
 10 received under the provisions of 20-9-304;

11 (v) anticipated or reappropriated revenue from property  
 12 taxes and fees imposed under 23-2-517, 23-2-803,  
 13 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

14 (vi) anticipated net proceeds taxes for interim  
 15 ~~production~~ and new production, as defined in 15-23-601;

16 (vii) anticipated revenue from local government  
 17 severance taxes as provided in 15-36-112;

18 (viii) anticipated revenue from coal gross proceeds  
 19 under 15-23-703;

20 (ix) anticipated interest to be earned or reappropriated  
 21 interest earned by the investment of general fund cash in  
 22 accordance with the provisions of 20-9-213(4);

23 (x) anticipated revenue from corporation license taxes  
 24 collected from financial institutions under the provisions  
 25 of 15-31-702; and

1 (xi) any other revenue anticipated by the trustees to be  
 2 received during the ensuing school fiscal year which may be  
 3 used to finance the general fund.

4 (c) Subtract the money available to reduce the property  
 5 tax required to finance the general fund that has been  
 6 determined in subsection (1)(b) from the total requirement  
 7 determined in subsection (1)(a).

8 (2) The net general fund levy requirement determined in  
 9 subsection (1)(c) must be reported to the county  
 10 commissioners on the second Monday of August by the county  
 11 superintendent as the general fund levy requirement for the  
 12 district, and a levy must be made by the county  
 13 commissioners in accordance with 20-9-142."

14 **Section 9.** Section 20-9-331, MCA, is amended to read:  
 15 **"20-9-331. Basic county tax and other revenues for**  
 16 **county equalization of the elementary district foundation**  
 17 **program.** (1) The county commissioners of each county shall  
 18 levy an annual basic tax of 33 mills on the dollar of the  
 19 taxable value of all taxable property within the county,  
 20 except for property subject to a tax or fee under 23-2-517,  
 21 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for  
 22 the purposes of local and state foundation program support.  
 23 The revenue collected from this levy must be apportioned to  
 24 the support of the foundation programs of the elementary  
 25 school districts in the county and to the state special



1 revenue fund, state equalization aid account, in the  
2 following manner

3 (a) In order to determine the amount of revenue raised  
4 by this levy which is retained by the county, the sum of the  
5 estimated revenue identified in subsection (2) must be  
6 subtracted from the total of the foundation programs of all  
7 elementary districts of the county.

8 (b) If the basic levy prescribed by this section  
9 produces more revenue than is required to finance the  
10 difference determined in subsection (1)(a), the county  
11 treasurer shall remit the surplus funds to the state  
12 treasurer for deposit to the state special revenue fund,  
13 state equalization aid account, immediately upon occurrence  
14 of a surplus balance and each subsequent month thereafter,  
15 with any final remittance due no later than June 20 of the  
16 fiscal year for which the levy has been set.

17 (c) If revenue from the basic levy prescribed by this  
18 section when combined with the other revenue from subsection  
19 (2) is insufficient to fully fund the percentage determined  
20 in 20-9-347(1)(b) and the county is eligible for an  
21 apportionment of state equalization aid under the provisions  
22 of 20-9-347(1)(c), the county superintendent shall notify  
23 the superintendent of public instruction of the deficiency.  
24 The superintendent of public instruction shall increase the  
25 state equalization aid payments to the districts in the

1 affected county to offset the deficiency. A payment may not  
2 be made under this subsection (c) that allows a district to  
3 receive foundation program funding in excess of the  
4 foundation program amount of the district.

5 (2) The revenue realized from the county's portion of  
6 the levy prescribed by this section and the revenue from the  
7 following sources must be used for the equalization of the  
8 elementary district foundation programs of the county as  
9 prescribed in 20-9-334, and a separate accounting must be  
10 kept of the revenue by the county treasurer in accordance  
11 with 20-9-212(1):

12 (a) the portion of the federal Taylor Grazing Act funds  
13 distributed to a county and designated for the common school  
14 fund under the provisions of 17-3-222;

15 (b) the portion of the federal flood control act funds  
16 distributed to a county and designated for expenditure for  
17 the benefit of the county common schools under the  
18 provisions of 17-3-232;

19 (c) all money paid into the county treasury as a result  
20 of fines for violations of law, except money paid to a  
21 justice's court, and the use of which is not otherwise  
22 specified by law;

23 (d) any money remaining at the end of the immediately  
24 preceding school fiscal year in the county treasurer's  
25 accounts for the various sources of revenue established or

1 referred to in this section;

2 (e) any federal or state money distributed to the  
3 county as payment in lieu of property taxation, including  
4 federal forest reserve funds allocated under the provisions  
5 of 17-3-213;

6 (f) gross proceeds taxes from coal under 15-23-703;

7 (g) net proceeds taxes for ~~interim-production~~ and new  
8 production, as defined in 15-23-601, and local government  
9 severance taxes on any other production occurring after  
10 December 31, 1988; and

11 (h) anticipated revenue from property taxes and fees  
12 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
13 61-3-537, and 67-3-204."

14 **Section 10.** Section 20-9-333, MCA, is amended to read:

15 "20-9-333. **Basic special levy and other revenues for**  
16 **county equalization of high school district foundation**  
17 **program.** (1) The county commissioners of each county shall  
18 levy an annual basic special tax for high schools of 22  
19 mills on the dollar of the taxable value of all taxable  
20 property within the county, except for property subject to a  
21 tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
22 61-3-537, and 67-3-204, for the purposes of local and state  
23 foundation program support. The revenue collected from this  
24 levy must be apportioned to the support of the foundation  
25 programs of high school districts in the county and to the

1 state special revenue fund, state equalization aid account,  
2 in the following manner:

3 (a) In order to determine the amount of revenue raised  
4 by this levy which is retained by the county, the sum of the  
5 estimated revenue identified in subsection (2) must be  
6 subtracted from the sum of the county's high school tuition  
7 obligation and the total of the foundation programs of all  
8 high school districts of the county.

9 (b) If the basic levy prescribed by this section  
10 produces more revenue than is required to finance the  
11 difference determined in subsection (1)(a), the county  
12 treasurer shall remit the surplus funds to the state  
13 treasurer for deposit to the state special revenue fund,  
14 state equalization aid account, immediately upon occurrence  
15 of a surplus balance and each subsequent month thereafter,  
16 with any final remittance due no later than June 20 of the  
17 fiscal year for which the levy has been set.

18 (c) If revenue from the basic levy prescribed by this  
19 section when combined with the other revenue from subsection  
20 (2) is insufficient to fully fund the percentage determined  
21 in 20-9-347(1)(b) and the county is eligible for an  
22 apportionment of state equalization aid under the provisions  
23 of 20-9-347(1)(c), the county superintendent shall notify  
24 the superintendent of public instruction of the deficiency.  
25 The superintendent of public instruction shall increase the

1 state equalization aid payments to the districts in the  
 2 affected county to offset the deficiency. A payment may not  
 3 be made under this subsection (c) that allows a district to  
 4 receive foundation program funding in excess of the  
 5 foundation program amount of the district.

6 (2) The revenue realized from the county's portion of  
 7 the levy prescribed in this section and the revenue from the  
 8 following sources must be used for the equalization of the  
 9 high school district foundation programs of the county as  
 10 prescribed in 20-9-334, and a separate accounting must be  
 11 kept of the revenue by the county treasurer in accordance  
 12 with 20-9-212(1):

13 (a) any money remaining at the end of the immediately  
 14 preceding school fiscal year in the county treasurer's  
 15 accounts for the various sources of revenue established in  
 16 this section;

17 (b) any federal or state money distributed to the  
 18 county as payment in lieu of property taxation, including  
 19 federal forest reserve funds allocated under the provisions  
 20 of 17-3-213;

21 (c) gross proceeds taxes from coal under 15-23-703;

22 (d) net proceeds taxes for ~~interim-production-and~~ new  
 23 production, as defined in 15-23-601, and local government  
 24 severance taxes on any other production occurring after  
 25 December 31, 1988; and

1 (e) anticipated revenue from property taxes and fees  
 2 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
 3 61-3-537, and 67-3-204."

4 **Section 11.** Section 20-10-144, MCA, is amended to read:

5 "20-10-144. **Computation of revenues and net tax levy**  
 6 **requirements for the transportation fund budget.** Before the  
 7 fourth Monday of July and in accordance with 20-9-123, the  
 8 county superintendent shall compute the revenue available to  
 9 finance the transportation fund budget of each district. The  
 10 county superintendent shall compute the revenue for each  
 11 district on the following basis:

12 (1) The "schedule amount" of the preliminary budget  
 13 expenditures that is derived from the rate schedules in  
 14 20-10-141 and 20-10-142 must be determined by adding the  
 15 following amounts:

16 (a) the sum of the maximum reimbursable expenditures  
 17 for all approved school bus routes maintained by the  
 18 district (to determine the maximum reimbursable expenditure,  
 19 multiply the applicable rate per bus mile by the total  
 20 number of miles to be traveled during the ensuing school  
 21 fiscal year on each bus route approved by the county  
 22 transportation committee and maintained by such district);  
 23 plus

24 (b) the total of all individual transportation per diem  
 25 reimbursement rates for the district as determined from the

1 contracts submitted by the district multiplied by the number  
2 of pupil-instruction days scheduled for the ensuing school  
3 attendance year; plus

4 (c) any estimated costs for supervised home study or  
5 supervised correspondence study for the ensuing school  
6 fiscal year; plus

7 (d) the amount budgeted on the preliminary budget for  
8 the contingency amount permitted in 20-10-143, except if the  
9 amount exceeds 10% of the total of subsections (1)(a),  
10 (1)(b), and (1)(c) or \$100, whichever is larger, the  
11 contingency amount on the preliminary budget must be reduced  
12 to the limitation amount and used in this determination of  
13 the schedule amount.

14 (2) The schedule amount determined in subsection (1) or  
15 the total preliminary transportation fund budget, whichever  
16 is smaller, is divided by 3 and the resulting one-third  
17 amount is used to determine the available state and county  
18 revenue to be budgeted on the following basis:

19 (a) the resulting one-third amount is the budgeted  
20 state transportation reimbursement, except that the state  
21 transportation reimbursement for the transportation of  
22 special education pupils under the provisions of 20-7-442  
23 must be two-thirds of the schedule amount attributed to the  
24 transportation of special education pupils;

25 (b) the resulting one-third amount, except as provided

1 for joint elementary districts in subsection (2)(e), is the  
2 budgeted county transportation reimbursement for elementary  
3 districts and must be financed by the basic county tax under  
4 the provisions of 20-9-334;

5 (c) the resulting one-third amount multiplied by 2 is  
6 the budgeted county transportation reimbursement amount for  
7 high school districts financed under the provisions of  
8 subsection (5), except as provided for joint high school  
9 districts in subsection (2)(e), and except that the county  
10 transportation reimbursement for the transportation of  
11 special education pupils under the provisions of 20-7-442  
12 must be one-third of the schedule amount attributed to the  
13 transportation of special education pupils;

14 (d) when the district has a sufficient amount of cash  
15 for reappropriation and other sources of district revenue,  
16 as determined in subsection (3), to reduce the total  
17 district obligation for financing to zero, any remaining  
18 amount of district revenue and cash reappropriated must be  
19 used to reduce the county financing obligation in subsection  
20 (2)(b) or (2)(c) and, if the county financing obligations  
21 are reduced to zero, to reduce the state financial  
22 obligation in subsection (2)(a); and

23 (e) the county revenue requirement for a joint  
24 district, after the application of any district money under  
25 subsection (2)(d), must be prorated to each county

1 incorporated by the joint district in the same proportion as  
2 the ANB of the joint district is distributed by pupil  
3 residence in each county.

4 (3) The total of the money available for the reduction  
5 of property tax on the district for the transportation fund  
6 must be determined by totaling:

7 (a) anticipated federal money received under the  
8 provisions of Title I of Public Law 81-874 or other  
9 anticipated federal money received in lieu of that federal  
10 act; plus

11 (b) anticipated payments from other districts for  
12 providing school bus transportation services for the  
13 district; plus

14 (c) anticipated payments from a parent or guardian for  
15 providing school bus transportation services for his child;  
16 plus

17 (d) anticipated or reappropriated interest to be earned  
18 by the investment of transportation fund cash in accordance  
19 with the provisions of 20-9-213(4); plus

20 (e) anticipated or reappropriated revenue from property  
21 taxes and fees imposed under 23-2-517, 23-2-803,  
22 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204; plus

23 (f) gross proceeds taxes from coal under 15-23-703;  
24 plus

25 (g) net proceeds taxes for ~~interim-production-and~~ new

1 production, as defined in 15-23-601, and local government  
2 severance taxes on any other production occurring after  
3 December 31, 1988; plus

4 (h) any other revenue anticipated by the trustees to be  
5 earned during the ensuing school fiscal year which may be  
6 used to finance the transportation fund; plus

7 (i) any cash available for reappropriation as  
8 determined by subtracting the amount of the end-of-the-year  
9 cash balance earmarked as the transportation fund cash  
10 reserve for the ensuing school fiscal year by the trustees  
11 from the end-of-the-year cash balance in the transportation  
12 fund. The cash reserve may not be more than 20% of the final  
13 transportation fund budget for the ensuing school fiscal  
14 year and is for the purpose of paying transportation fund  
15 warrants issued by the district under the final  
16 transportation fund budget.

17 (4) The district levy requirement for each district's  
18 transportation fund must be computed by:

19 (a) subtracting the schedule amount calculated in  
20 subsection (1) from the total preliminary transportation  
21 budget amount and, for an elementary district, adding the  
22 difference to the district obligation to finance one-third  
23 of the schedule amount as determined in subsection (2); and

24 (b) subtracting the amount of money available to reduce  
25 the property tax on the district, as determined in

1 subsection (3), from the amount determined in subsection  
2 (4)(a).

3 (5) The county levy requirement for the financing of  
4 the county transportation reimbursement to high school  
5 districts is computed by adding all requirements for all the  
6 high school districts of the county, including the county's  
7 obligation for reimbursements in joint high school  
8 districts.

9 (6) The transportation fund levy requirements  
10 determined in subsection (4) for each district and in  
11 subsection (5) for the county must be reported to the county  
12 commissioners on the second Monday of August by the county  
13 superintendent as the transportation fund levy requirements  
14 for the district and for the county, and the levies must be  
15 made by the county commissioners in accordance with  
16 20-9-142."

17 NEW SECTION. **Section 12.** Effective date. [This act] is  
18 effective on passage and approval.

-End-