

SENATE BILL 373

Introduced by Gage

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2/14	First Reading
2/14	Referred to Taxation
2/14	Fiscal Note Requested
2/20	Fiscal Note Received
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3/18	Hearing
4/05	Tabled in Committee

1 *Senate* BILL NO. *373*  
 2 INTRODUCED BY *[Signature]*  
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
 6 TAXATION OF OIL AND GAS; EXEMPTING NEW PRODUCTION OF OIL,  
 7 UNDER CERTAIN CONDITIONS, AND GAS FROM THE STATE SEVERANCE  
 8 TAX FOR 24 MONTHS; PROVIDING INCENTIVE STATE SEVERANCE TAX  
 9 RATES AND LOCAL GOVERNMENT SEVERANCE TAX RATES FOR OIL  
 10 PRODUCED FROM APPROVED SECONDARY RECOVERY PROJECTS AND FROM  
 11 WELLS DRILLED HORIZONTALLY; REVISING THE STATE SEVERANCE TAX  
 12 AND LOCAL GOVERNMENT SEVERANCE TAX RATES ON OIL PRODUCED  
 13 FROM TERTIARY RECOVERY PROJECTS; PROVIDING THAT NEW OIL  
 14 PRODUCTION FROM APPROVED SECONDARY AND TERTIARY RECOVERY  
 15 PROJECTS AND FROM APPROVED WELLS DRILLED HORIZONTALLY ARE  
 16 TAXED AT THE SAME RATE FOR STATE AND LOCAL GOVERNMENT  
 17 SEVERANCE TAX PURPOSES AS OTHER OIL IS TAXED IN THE APPROVED  
 18 PROJECT OR APPROVED WELL; REVISING THE DEFINITION OF AN OIL  
 19 STRIPPER WELL; EXEMPTING THE FIRST 5 BARRELS OF STRIPPER  
 20 WELL PRODUCTION, UNDER CERTAIN CONDITIONS, FROM THE STATE  
 21 SEVERANCE TAX; REVISING THE SEVERANCE TAX RATES FOR OTHER  
 22 STRIPPER WELL PRODUCTION; CONFORMING THE ADMINISTRATION OF  
 23 THE LOCAL GOVERNMENT SEVERANCE TAX TO THE STATE SEVERANCE  
 24 TAX; PROVIDING FOR THE ACCELERATED PAYMENT OF THE LOCAL  
 25 GOVERNMENT SEVERANCE TAX ON CERTAIN PRODUCTION; REVISING THE

1 DISTRIBUTION OF LOCAL GOVERNMENT SEVERANCE TAXES BASED ON  
 2 THE PREVIOUS YEAR'S MILL LEVIES; AMENDING SECTIONS  
 3 15-23-601, 15-23-602, 15-23-603, 15-23-607, 15-23-612,  
 4 15-36-101, 15-36-105, 15-36-107, 15-36-108, 15-36-112,  
 5 15-36-113, 15-36-114, 15-36-121, 20-9-141, 20-9-331, AND  
 6 20-9-333, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND  
 7 A RETROACTIVE APPLICABILITY DATE."

8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

1 exclusive use and benefit of local government. Except as  
2 provided in subsection ~~(3)~~ (4), the state severance tax and  
3 the local government severance tax are as follows:

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

19 (b) a 2.65% state severance tax on the total gross  
20 taxable value of all natural gas produced by the person,  
21 plus the local government severance tax of 15.25% on the  
22 ~~total~~ gross taxable value, as defined in subsection  
23 (7)(a)(ii), of all natural gas produced by the person other  
24 than ~~interim-production-or~~ new production, from each lease  
25 or unit; but in determining the amount of the state

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

8 (c) a 4% state severance tax on the total gross taxable  
9 value of all the petroleum and other mineral or crude oil  
10 produced by the person, other than new production that is  
11 exempt from the state severance tax as provided in  
12 15-36-121(2), plus the local government severance tax of 4%  
13 of the gross taxable value, as defined in subsection  
14 (7)(a)(ii), of the petroleum and other mineral or crude oil  
15 produced by the person from each lease or unit in a  
16 secondary recovery project, as described in subsection  
17 (2)(a)(ii), approved by an order of the board of oil and gas  
18 conservation after December 31, 1990, provided that the  
19 person has submitted a copy of the order to the department;

20 (d) a 4% state severance tax on the total gross taxable  
21 value of all the petroleum and other mineral or crude oil  
22 produced by the person other than new production that is  
23 exempt from the state severance tax as provided in  
24 15-36-121(2), plus the local government severance tax of 4%  
25 on the gross taxable value, as defined in subsection

1 (7)(a)(ii), of the petroleum and other mineral or crude oil  
 2 produced by the person from a well that the board of oil and  
 3 gas conservation has permitted after December 31, 1990, to  
 4 be drilled horizontally, provided that the person has  
 5 submitted a copy of the permit to the department;

6 (c)(e) a 2.5% 3% state severance tax on the total gross  
 7 taxable value of the incremental petroleum and other mineral  
 8 or crude oil produced by the person, other than new  
 9 production that is exempt from the state severance tax as  
 10 provided in 15-36-121(2), plus the local government  
 11 severance tax of 5% 3% on the total gross taxable value, as  
 12 defined in subsection (7)(a)(ii), of the incremental  
 13 petroleum and other mineral or crude oil produced by the  
 14 person other than interim--production--and new production,  
 15 from each lease or unit in a tertiary recovery project, as  
 16 provided in subsection (2)(c)(iii), after July 1, 1985; For  
 17 purposes of this section, a tertiary recovery project must  
 18 meet the 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 27, 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 (f) except as provided in 15-36-121(2), a 3% state  
 20 severance tax on the total gross taxable value of all the  
 21 petroleum and other mineral or crude oil produced by the  
 22 person after the first 5 barrels from a stripper well as  
 23 defined in 15-36-121(3); and

24 (d)(g) a 5% local government severance tax on the total  
 25 gross taxable value, as defined in subsection (7)(a)(ii), of

1 all petroleum and other mineral or crude oil produced by the  
2 person other than ~~interim~~ and new production produced by a  
3 stripper well, as defined in 15-36-121.

4 (2) (a) (i) Upon the expiration of the exemption for  
5 new production referred to in 15-36-121 from the state  
6 severance tax, petroleum produced in a secondary recovery  
7 project referred to in subsection (1)(c) must be taxed as  
8 all other petroleum is taxed for state severance tax  
9 purposes in the secondary recovery project.

10 (ii) For the purposes of this section, a secondary  
11 recovery project is a project that meets the following  
12 requirements:

13 (A) the project must be delineated and approved as a  
14 secondary recovery project by the board of oil and gas  
15 conservation; and

16 (B) the project must involve the application of one or  
17 more secondary recovery methods determined by the board of  
18 oil and gas conservation to have an effect, in light of all  
19 the facts and circumstances, on the amount of crude oil that  
20 may potentially be recovered.

21 (b) Upon the expiration of the exemption for new  
22 production referred to in 15-36-121 from the state severance  
23 tax, all produced petroleum must be taxed for state  
24 severance tax purposes as provided in subsection (1)(d).

25 (c) (i) Upon the expiration of the exemption for new

1 production referred to 15-36-121 from the state severance  
2 tax, petroleum produced from a tertiary recovery project  
3 referred to in subsection (1)(e) must be taxed as all other  
4 petroleum is taxed for state severance tax purposes in the  
5 tertiary recovery project.

6 (ii) For purposes of this section, a tertiary recovery  
7 project must meet the following requirements:

8 (A) the project must be delineated and approved as a  
9 tertiary recovery project by the board of oil and gas  
10 conservation; and

11 (B) the project must involve the application of one or  
12 more tertiary recovery methods determined by the board of  
13 oil and gas conservation to have an effect, in light of all  
14 the facts and circumstances, on the amount of crude oil that  
15 may potentially be recovered.

16 (iii) For purposes of this section, tertiary recovery  
17 methods include but are not limited to:

18 (A) miscible fluid displacement;

19 (B) steam drive injection;

20 (C) micellar/emulsion flooding;

21 (D) in situ combustion;

22 (E) polymer augmented water flooding;

23 (F) cyclic steam injection;

24 (G) alkaline or caustic flooding;

25 (H) carbon dioxide water flooding;

1 (I) immiscible carbon dioxide displacement; or  
2 (J) any other method approved by the department as a  
3 tertiary recovery method.

4 ~~(2)(3)~~ For purposes of this section, the--term  
5 ~~"incremental-petroleum-and-other-mineral-or-crude-oil"~~ means  
6 ~~the-amount-of-oil;--as--determined--by--the--department--of~~  
7 ~~revenue;--to-be-in-excess-of-what-would-have-been-produced-by~~  
8 ~~primary--and-secondary-methods--The-determination-arrived-at~~  
9 ~~by-the-department-must-be-made-only-after-notice-and-hearing~~  
10 ~~and-shall-specify-through-the-life-of-a--tertiary--project;~~  
11 ~~calendar--year--by--calendar--year;--the--combined-amount-of~~  
12 ~~primary-and--secondary--production--that--must--be--used--to~~  
13 ~~establish-the-incremental-production-from-each-lease-or-unit~~  
14 ~~in--a-tertiary-recovery-project; if the board of oil and gas~~  
15 ~~conservation approves an expansion to:~~

16 (a) a secondary recovery project existing before  
17 January 1, 1991, the provisions of subsection (1)(c) apply  
18 only to production occurring in the expansion; or

19 (b) a tertiary recovery project existing before January  
20 1, 1991, the provisions of subsection (1)(e) apply only to  
21 production occurring in the expansion.

22 ~~(3)(4)~~ (a) A local government severance tax is imposed  
23 on the gross value paid in cash or apportioned in kind to a  
24 nonworking interest owner by the operator or producer of  
25 extracted marketable petroleum, other mineral or crude oil,

1 or natural gas subject to local government severance taxes  
2 imposed under this chapter. The local government severance  
3 tax on nonworking interest owners is computed at the  
4 following rates:

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

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

12 (b) The amounts paid or apportioned in kind to  
13 nonworking interest owners are exempt from the local  
14 government severance taxes imposed under 15-36-121~~(2)~~(4)(b)  
15 and under subsections (1)(a) through (1)~~(d)~~(g) of this  
16 section.

17 ~~(4)(5)~~ Nothing in this part may be construed as  
18 requiring laborers or employees hired or employed by any  
19 person to drill any oil or natural gas well or to work in or  
20 about any oil or natural gas well or prospect or explore for  
21 or do any work for the purpose of developing any petroleum,  
22 other mineral or crude oil, or natural gas to pay the  
23 severance tax, nor may work done or the drilling of a well  
24 or wells for the purpose of prospecting or exploring for  
25 petroleum, other mineral or crude oil, or natural gas or for

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

15 ~~(5)~~(6) Every person required to pay the state or local  
 16 government severance tax under this section shall pay the  
 17 tax in full for his own account and for the account of each  
 18 of the other owner or owners of the gross proceeds in value  
 19 or in kind of all the marketable petroleum or other mineral  
 20 or crude oil or natural gas extracted and produced,  
 21 including owner or owners of working interest, royalty  
 22 interest, overriding royalty interest, carried working  
 23 interest, net proceeds interest, production payments, and  
 24 all other interest or interests owned or carved out of the  
 25 total gross proceeds in value or in kind of the extracted

1 marketable petroleum or other mineral or crude oil or  
 2 natural gas, except that any of the interests that are owned  
 3 by the federal, state, county, or municipal governments,  
 4 lands that are held in trust by the federal government for  
 5 the benefit of an Indian person, and royalties received by  
 6 an Indian tribe with respect to oil and gas production on  
 7 the reservation pursuant to a lease entered into under  
 8 Indian mineral leasing laws in 25 U.S.C. 396 are exempt from  
 9 taxation under this chapter. Unless otherwise provided in a  
 10 contract or lease, the pro rata share of any royalty owner  
 11 or owners will be deducted from any settlements under the  
 12 lease or leases or division of proceeds orders or other  
 13 contracts.

14 ~~(6)~~(7) For purposes of this section, the following  
 15 definitions apply:

16 (a) (i) "Gross taxable value", for the purpose of  
 17 computing the state severance tax, means the gross value of  
 18 the product as determined in 15-36-103.

19 (ii) "Gross taxable value", for the purpose of computing  
 20 the local government severance tax, means the gross value of  
 21 the product as determined in 15-36-103 less the gross value  
 22 paid in cash or apportioned in kind to a nonworking interest  
 23 owner by the operator or producer of extracted marketable  
 24 petroleum, other mineral or crude oil, or natural gas.

25 (b) "Nonworking interest owner" means any interest

1 owner who does not share in the development and operation  
2 costs of the lease or unit."

3 **Section 2.** Section 15-36-105, MCA, is amended to read:

4 "15-36-105. Statement to accompany payment -- records  
5 -- collection of tax -- refunds. (1) Each person shall,  
6 within 60 days after the end of each following quarter,  
7 complete on forms prescribed by the department of revenue a  
8 statement showing the total number of barrels of  
9 merchantable or marketable petroleum and other mineral or  
10 crude oil or cubic feet of natural gas produced or extracted  
11 by the person in the state during each month of the quarter  
12 and during the whole quarter, the average value of the  
13 production during each month, and the total value of the  
14 production for the whole quarter, together with the total  
15 amount due to the state as severance taxes and local  
16 government severance taxes for the quarter, and shall within  
17 such 60 days deliver the statement and, except as provided  
18 in 15-36-102(2) and 15-36-121, pay to the department the  
19 amount of the taxes shown by the statement to be due to the  
20 state for the quarter for which the statement is made. The  
21 statement must be signed by the individual or the president,  
22 vice-president, treasurer, assistant treasurer, or managing  
23 agent in this state of the association, corporation,  
24 joint-stock company, or syndicate making the statement. Any  
25 person engaged in carrying on business at more than one

1 place in this state or owning, leasing, controlling, or  
2 operating more than one oil or gas well in this state may  
3 include all operations in one statement. The department  
4 shall receive and file all statements and collect and  
5 receive from the person making and filing a statement the  
6 amount of tax payable by the person, if any, as appears in  
7 the statement.

8 (2) (a) It is the duty of the department to examine  
9 each of the statements and compute the taxes thereon imposed  
10 under this chapter, and the amount computed by the  
11 department is the tax imposed, assessed against, and payable  
12 by the taxpayer making the statement for the quarter for  
13 which the statement is filed.

14 (b) If the state severance tax found to be due is  
15 greater than the amount paid, the excess must be paid by the  
16 taxpayer to the department within 10 days after written  
17 notice of the amount of the deficiency is mailed by the  
18 department to the taxpayer. If the state severance tax  
19 imposed is less than the amount paid, the difference must be  
20 applied as a credit against tax liability for subsequent  
21 quarters or refunded if there is no subsequent tax  
22 liability.

23 (c) If the local government severance tax found to be  
24 due is greater than the amount shown, the excess is due at  
25 the time for payment as provided in 15-36-102(2). If the



1 local government severance tax imposed is less than the  
 2 amount paid, the difference must be applied as a credit  
 3 against tax liability for subsequent quarters or refunded if  
 4 there is no subsequent tax liability.

5 (3) If the state severance tax or the local government  
 6 severance tax is not paid on or before the due date, there  
 7 must be assessed a penalty of 10% of the amount of the tax  
 8 not paid, unless it is shown that the failure was due to  
 9 reasonable cause and not due to neglect. If any the state  
 10 severance tax under this chapter or the local government  
 11 severance tax is not paid when due, interest must be added  
 12 to the tax at the rate of 1% a month or fraction thereof,  
 13 computed on the total amount of the state severance tax or  
 14 local government severance and penalty from the due date  
 15 until paid."

16 **Section 3.** Section 15-36-107, MCA, is amended to read:

17 "15-36-107. Procedure to compute tax in absence of  
 18 statement -- penalty and interest. If any--such a person  
 19 shall--fail fails, neglect, or refuse to file any statement  
 20 required by 15-36-105 within the time therein required, the  
 21 department of revenue shall, immediately after such time has  
 22 expired, proceed--to-inform-itself-as-best-it-may-regarding  
 23 ascertain the number of barrels of petroleum and other  
 24 mineral or crude oil or cubic feet of gas extracted and  
 25 produced by such the person in this state during such the

1 quarter and during each month thereof of the quarter and the  
 2 average value thereof of the barrels produced during each  
 3 such month and ~~shall-determine-and~~ fix the amount of the  
 4 state severance taxes due to the state or the amount of  
 5 local government severance taxes due from such the person  
 6 for such the quarter ~~and-shall-add-to-the-amount-of-such~~  
 7 ~~severance-taxes~~ plus a penalty of 10% thereof of the tax due  
 8 plus interest at the rate of 1% per month or fraction  
 9 thereof of a month computed on the total amount of state or  
 10 local severance taxes and penalty. Interest ~~shall~~ must be  
 11 computed from the date the severance taxes were due to the  
 12 date of payment. The department shall mail to the person  
 13 required to file a quarterly statement and pay any severance  
 14 tax taxes, a letter setting forth the amount of state or  
 15 local government severance tax taxes, penalty, and interest  
 16 ~~due--and~~ the The letter ~~shall--further~~ must contain a  
 17 statement that if payment is not made, a warrant for  
 18 distraint may be filed. The department may waive the 10%  
 19 penalty herein-provided-may-be-waived-by-the--department if  
 20 reasonable cause for the failure ~~and-neglect~~ to file the  
 21 statement required by 15-36-105 is provided to the  
 22 department."

23 **Section 4.** Section 15-36-108, MCA, is amended to read:

24 "15-36-108. Warrant for distraint. If all or part of  
 25 the state severance or the local government severance tax

1 imposed by this part is not paid when due, the department of  
2 revenue may issue a warrant for distraint as provided in  
3 Title 15, chapter 1, part 7. The resulting lien has  
4 precedence over any other claim, lien, or demand thereafter  
5 filed and recorded."

6 **Section 5.** Section 15-36-112, MCA, is amended to read:

7 "15-36-112. **Disposition of oil and gas state and local**  
8 **government severance taxes -- calculation of unit value for**  
9 **local government severance tax.** (1) Each year the department  
10 of revenue shall determine the amount of tax collected under  
11 this chapter from within each taxing unit.

12 (2) For purposes of the distribution of local  
13 government severance taxes collected under this chapter, the  
14 department shall determine the unit value of oil and gas for  
15 each taxing unit as follows:

16 (a) The unit value for petroleum and other mineral or  
17 crude oil for each taxing unit is the quotient obtained by  
18 dividing the net proceeds taxes calculated on petroleum or  
19 mineral or crude oil produced in that taxing unit in  
20 calendar year 1988 by the number of barrels of petroleum or  
21 other mineral or crude oil produced in that taxing unit  
22 during 1988, excluding new and interim production.

23 (b) The unit value for natural gas is the quotient  
24 obtained by dividing the net proceeds taxes calculated on  
25 natural gas produced in that taxing unit in calendar year

1 1988 by the number of cubic feet of natural gas produced in  
2 that taxing unit during 1988, excluding new and interim  
3 production.

4 (3) The state and local government severance taxes  
5 collected under this chapter are allocated as follows:

6 (a) The local government severance tax is statutorily  
7 appropriated, as provided in 17-7-502, for allocation to the  
8 county for distribution as provided in subsection (4)7.

9 (b) The state severance tax is allocated to the state  
10 general fund.

11 (4) (a) For the purpose of distribution of the local  
12 government severance tax, the department shall adjust the  
13 unit value determined under this section according to the  
14 ratio that the local government severance taxes collected  
15 during the quarters to be distributed plus accumulated  
16 interest earned by the state and penalties and interest on  
17 delinquent local government severance taxes bears to the  
18 total liability for local government severance taxes for the  
19 quarters to be distributed. The taxes must be calculated and  
20 distributed as follows:

21 (i) By November 30 of each year, the department shall  
22 calculate and distribute to each eligible county the amount  
23 of local government severance tax, determined by multiplying  
24 unit value as adjusted in this subsection (4)(a) times the  
25 units of production on which the local government severance

1 tax was owed during the calendar quarters ending March 31  
2 and June 30 of the preceding calendar year.

3 (ii) By May 31 of each year, the department shall  
4 calculate and distribute to each eligible county the amount  
5 of local government severance tax, determined by multiplying  
6 unit value as adjusted in this subsection (4)(a) times the  
7 units of production on which the local government severance  
8 tax was owed during the 2 calendar quarters immediately  
9 following those quarters referred to in subsection  
10 (4)(a)(i).

11 (b) Any amount by which the total tax liability exceeds  
12 or is less than the total distributions determined in  
13 subsections (4)(a)(i) and (4)(a)(ii) must be calculated and  
14 distributed in the following manner:

15 (i) The excess amount or shortage must be divided by  
16 the total distribution determined for that period to obtain  
17 an excess or shortage percentage.

18 (ii) The excess percentage must be multiplied by the  
19 distribution to each taxing unit, and this amount must be  
20 added to the distribution to each respective taxing unit.

21 (iii) The shortage percentage must be multiplied by the  
22 distribution to each taxing unit, and this amount must be  
23 subtracted from the distribution to each respective taxing  
24 unit.

25 (5) (a) Except as provided in subsection (5)(b) and

1 (5)(c), The the county treasurer shall distribute the money  
2 received under subsection (4) to the taxing units that  
3 levied mills in fiscal year 1990 against calendar year 1988  
4 production in the same manner proportion that all other  
5 property tax proceeds were distributed during the preceding  
6 fiscal year 1990 in the taxing unit, except that no  
7 distribution may be made to a municipal taxing un'

8 (b) The mill levies in effect for county elementary and  
9 high school equalization in fiscal year 1990 must be used in  
10 computing the distribution to county elementary and high  
11 school equalization.

12 (c) The distribution may not include mills levied for  
13 state equalization aid pursuant to 20-9-360."

14 **Section 6.** Section 15-36-113, MCA, is amended to read:

15 "15-36-113. Deficiency assessment -- hearing --  
16 interest. (1) When the department of revenue determines that  
17 the amount of the state severance tax or local government  
18 severance tax due is greater than the amount disclosed by a  
19 return, it shall mail to the taxpayer a notice of the  
20 additional state severance tax or local government severance  
21 tax proposed to be assessed. Within 30 days after mailing of  
22 the notice, the taxpayer may file with the department a  
23 written protest against the proposed additional state  
24 severance tax or local government severance tax, setting  
25 forth the grounds upon which the protest is based, and may

1 request in his protest an oral hearing or an opportunity to  
 2 present additional evidence relating to his tax liability.  
 3 If no protest is filed, the amount of the additional state  
 4 severance tax or local government severance tax proposed to  
 5 be assessed becomes final upon the expiration of the 30-day  
 6 period. If a protest is filed, the department must  
 7 reconsider the proposed assessment and, if the taxpayer has  
 8 so requested, must grant the taxpayer an oral hearing. After  
 9 consideration of the protest and the evidence presented at  
 10 any oral hearing, the department's action upon the protest  
 11 is final when it mails notice of its action to the taxpayer.

12 (2) When a deficiency is determined and the state  
 13 severance tax or local government severance tax becomes  
 14 final, the department shall mail a notice and demand for  
 15 payment to the taxpayer. The tax is due and payable at the  
 16 expiration of 10 days from the date of such notice and  
 17 demand. Interest on any deficiency assessment shall bear  
 18 interest until paid at the rate of 1% a month or fraction  
 19 thereof, computed from the original due date of the return."

20 **Section 7.** Section 15-36-114, MCA, is amended to read:

21 "15-36-114. Credit for overpayment -- interest on  
 22 overpayment. (1) If the department of revenue determines  
 23 that the amount of state severance tax or local government  
 24 severance tax, penalty, or interest due for any year taxable  
 25 period is less than the amount paid, the amount of the

1 overpayment shall be credited against any state severance  
 2 tax or local government severance tax, penalty, or interest  
 3 then due from the taxpayer and the balance refunded to the  
 4 taxpayer or its successor through reorganization, merger, or  
 5 consolidation or to its shareholders upon dissolution.

6 (2) Except as provided in subsection (3), interest  
 7 shall be allowed on overpayments at the same rate as is  
 8 charged on deficiency assessments provided in 15-36-113 due  
 9 from the due date of the return or from the date of  
 10 overpayment (whichever date is later) to the date the  
 11 department approves refunding or crediting of the  
 12 overpayment.

13 (3) (a) Interest shall not accrue during any period the  
 14 processing of a claim for refund is delayed more than 30  
 15 days by reason of failure of the taxpayer to furnish  
 16 information requested by the department for the purpose of  
 17 verifying the amount of the overpayment.

18 (b) No interest shall be allowed:

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

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

23 (c) A payment not made incident to a bona fide and  
 24 orderly discharge of an actual tax liability or one  
 25 reasonably assumed to be imposed by this law shall not be

1 considered an overpayment with respect to which interest is  
2 allowable."

3 **Section 8.** Section 15-36-121, MCA, is amended to read:

4 "15-36-121. Exemption from state severance tax --  
5 imposition of local government severance tax. (1) It is the  
6 public policy of this state to promote a sufficient supply  
7 of natural gas to provide for the residents of this state,  
8 to lessen Montana's dependence on imported natural gas, and  
9 to encourage the exploration for and development and  
10 production of natural gas, petroleum, and other mineral and  
11 crude oil within the state.

12 (2) (a) All new production, as defined in 15-23-601,  
13 from an oil well during the 24 months immediately following  
14 the date of notification to the department of revenue that  
15 an oil well is flowing or being pumped is exempt from all of  
16 the state severance tax imposed by 15-36-101, provided the  
17 notification was made after [the effective date of this  
18 act].

19 (b) The exemption provided in subsection (2)(a) applies  
20 only to the petroleum or other mineral or crude oil produced  
21 in this state and sold during any quarter if the average  
22 price per barrel for petroleum or other crude or mineral oil  
23 received in the quarter by the person engaging in or  
24 carrying on the business of producing petroleum or other  
25 mineral or crude oil is less than \$33 per barrel.

1 (c) The average price per barrel of oil must be  
2 computed by dividing the total gross value of product  
3 received by the person from all petroleum and other mineral  
4 or crude oil sold in the quarter from the lease or unitized  
5 area in which new production occurs by the number of barrels  
6 sold by the person in the quarter from the lease or unitized  
7 area in which new production occurs.

8 (3) (a) The first 5 barrels of average daily production  
9 from a stripper well are exempt from the state severance tax  
10 imposed by 15-36-101 if the price per barrel received during  
11 a quarter by a person engaging in or carrying on the  
12 business of producing petroleum or other mineral or crude  
13 oil from a lease or unitized area located in this state is  
14 less than \$33 per barrel.

15 (b) The average price per barrel must be computed by  
16 dividing the total gross value of product received by the  
17 person from all petroleum and other mineral or crude oil  
18 sold in the quarter from the lease or unitized area in which  
19 stripper production occurs by the number of barrels sold by  
20 the person in the quarter from the lease or unitized area in  
21 which stripper production occurs.

22 (2)(4) (a) All new production, as defined in 15-23-601,  
23 from a gas well during the 24 months immediately following  
24 the date of notification to the department that a gas well  
25 has been connected to a gathering or distribution system is

1 exempt from all of the state severance tax imposed by  
 2 15-36-101, provided the notification was made after December  
 3 31, 1990.

4 (b) All the natural gas produced from any well that has  
 5 produced 60,000 cubic feet or less of natural gas a day for  
 6 the calendar year prior to the current year shall be taxed  
 7 as provided in this section. Production must be determined  
 8 by dividing the amount of production from a lease or  
 9 unitized area for the year prior to the current calendar  
 10 year by the number of producing wells in the lease or  
 11 unitized area and by dividing the resulting quotient by 365.  
 12 The first 30,000 cubic feet of average daily production per  
 13 well is exempt from all of the state severance tax imposed  
 14 by 15-36-101. The first 30,000 cubic feet of average daily  
 15 production per well is subject to a local government  
 16 severance tax of 10% on the gross taxable value, as defined  
 17 in section 15-36-101(7)(a)(ii). Everything over 30,000 cubic  
 18 feet of gas produced is taxed at 1.59% plus a local  
 19 government severance tax of 10% on the gross taxable value,  
 20 as defined in section 15-36-101(7)(a)(ii).

21 (3)(5) For the purposes of this section, "stripper  
 22 well" means a well that produces less than 10 barrels per  
 23 day, determined by dividing the amount of production from a  
 24 lease or unitized area for the year prior to the current  
 25 calendar year by the number of producing wells in the lease

1 or unitized area located in the state, and by dividing the  
 2 resulting quotient by 365.

3 (4)(6) Notwithstanding the provisions of subsection  
 4 subsections (2) through (4), all reporting requirements  
 5 under the state severance tax remain in effect."

6 **Section 9.** Section 15-23-601, MCA, is amended to read:

7 "15-23-601. **Definitions.** As used in this part, the  
 8 following definitions apply:

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

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

16 (a) ~~has not produced natural gas, petroleum, or other~~  
 17 ~~crude or mineral oil during the 5 years immediately~~  
 18 ~~preceding the first month of interim production; and~~

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

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

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

1 preceding the first month of qualified new production or  
 2 began new production after June 30, 1985; and

3 (b) on which the notification required in  
 4 15-36-121(2)(a) or (4)(a) was given.

5 †4†(3) The terms "operator" and "producer" mean any  
 6 person who engages in the business of drilling for,  
 7 extracting, or producing any natural gas, petroleum, or  
 8 other crude or mineral oil.

9 †5†(4) The term "well" includes each single well or  
 10 group of wells, including dry wells, in one field or  
 11 production unit and under the control of one operator or  
 12 producer."

13 **Section 10.** 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~~ board

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

6 **Section 11.** 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--er~~ 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 new production of petroleum or other mineral or  
 25 crude oil produced from a stripper well, as defined in

1 15-36-121(5), 5% of net proceeds, as described in  
 2 15-23-603(2);

3 (c) for new production of petroleum or other mineral or  
 4 crude oil produced by the person from a well that the board  
 5 of oil and gas conservation has permitted after December 31,  
 6 1990, to be drilled horizontally, 4% of net proceeds, as  
 7 described in 15-23-603(2), provided that the person has  
 8 submitted a copy of the permit to the department of revenue;

9 (d) for new production of petroleum or other mineral or  
 10 crude oil produced by the person from each lease or unit in  
 11 a secondary recovery project approved by an order of the  
 12 board of oil and gas conservation after December 31, 1990,  
 13 4% of net proceeds, as described in 15-23-603(2), provided  
 14 that the person has submitted a copy of the order to the  
 15 department;

16 (e) for new production of petroleum or other mineral or  
 17 crude oil produced by the person from each lease or unit in  
 18 a tertiary recovery project after July 31, 1985, 3% of net  
 19 proceeds, as described in 15-23-603(2), provided that the  
 20 project is delineated and approved as a tertiary recovery  
 21 project by the board of oil and gas conservation;

22 (f) for the royalty or royalty interest for new  
 23 production of petroleum or other mineral or crude oil  
 24 produced by the person, 7% of net proceeds, as described in  
 25 15-23-603(2);



1        ~~(b)(g)~~ for ~~interim--production--or~~ new production of  
2 natural gas, 12% of net proceeds, as described in  
3 15-23-603(2).

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

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

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

1 proceeds of royalty interests."

2        **Section 12.** Section 15-23-612, MCA, is amended to read:

3        "15-23-612. Certain natural gas, petroleum, or other  
4 crude or mineral oil exempt. (1) New production, as defined  
5 in 15-23-601, is exempt from the net proceeds tax imposed by  
6 this part for the first 12 months following the last day of  
7 the calendar month immediately preceding the month in which:

8        (a) natural gas is placed into a natural gas  
9 distribution system; or

10        (b) production for sale from a crude oil or mineral oil  
11 well is pumped or flows.

12        (2) After Except as provided in 15-36-101(2)(a)(i),  
13 (2)(b), and (2)(c)(i), after the expiration of the 12-month  
14 exemption period provided in subsection (1), new production  
15 of natural gas, petroleum, or other crude or mineral oil is  
16 subject to net proceeds tax imposed by this part.

17        (3) Notwithstanding the provisions of subsections (1)  
18 and (2), all reporting requirements under the net proceeds  
19 tax remain in effect."

20        **Section 13.** Section 15-23-602, MCA, is amended to read:

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

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

14 "20-9-141. Computation of general fund net levy  
 15 requirement by county superintendent. (1) The county  
 16 superintendent shall compute the levy requirement for each  
 17 district's general fund on the basis of the following  
 18 procedure:

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

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

25 (ii) any additional general fund budget amount adopted

1 by the trustees of the district under the provisions of  
2 20-9-353, including any additional levies authorized by the  
3 electors of the district.

4 (b) Determine the money available for the reduction of  
5 the property tax on the district for the general fund by  
6 totaling:

7 (i) 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;

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

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

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

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

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

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

25 (viii) anticipated revenue from coal gross proceeds

1 under 15-23-703;

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

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

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

11 (c) Subtract the money available to reduce the property  
12 tax required to finance the general fund that has been  
13 determined in subsection (1)(b) from the total requirement  
14 determined in subsection (1)(a).

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

21 **Section 15.** Section 20-9-331, MCA, is amended to read:  
22 "20-9-331. Basic county tax and other revenues for  
23 county equalization of the elementary district foundation  
24 program. (1) The county commissioners of each county shall  
25 levy an annual basic tax of 33 mills on the dollar of the

1 taxable value of all taxable property within the county,  
 2 except for property subject to a tax or fee under 23-2-517,  
 3 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for  
 4 the purposes of local and state foundation program support.  
 5 The revenue collected from this levy must be apportioned to  
 6 the support of the foundation programs of the elementary  
 7 school districts in the county and to the state special  
 8 revenue fund, state equalization aid account, in the  
 9 following manner:

10 (a) In order to determine the amount of revenue raised  
 11 by this levy which is retained by the county, the sum of the  
 12 estimated revenue identified in subsection (2) must be  
 13 subtracted from the total of the foundation programs of all  
 14 elementary districts of the county.

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

24 (c) If revenue from the basic levy prescribed by this  
 25 section when combined with the other revenue from subsection

1 (2) is insufficient to fully fund the percentage determined  
 2 in 20-9-347(1)(b) and the county is eligible for an  
 3 apportionment of state equalization aid under the provisions  
 4 of 20-9-347(1)(c), the county superintendent shall notify  
 5 the superintendent of public instruction of the deficiency.  
 6 The superintendent of public instruction shall increase the  
 7 state equalization aid payments to the districts in the  
 8 affected county to offset the deficiency. A payment may not  
 9 be made under this subsection (c) that allows a district to  
 10 receive foundation program funding in excess of the  
 11 foundation program amount of the district.

12 (2) The revenue realized from the county's portion of  
 13 the levy prescribed by this section and the revenue from the  
 14 following sources must be used for the equalization of the  
 15 elementary district foundation programs of the county as  
 16 prescribed in 20-9-334, and a separate accounting must be  
 17 kept of the revenue by the county treasurer in accordance  
 18 with 20-9-212(1):

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

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

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

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

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

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

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

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

21 **Section 16.** Section 20-9-333, MCA, is amended to read:

22 **"20-9-333. Basic special levy and other revenues for**  
23 **county equalization of high school district foundation**  
24 **program.** (1) The county commissioners of each county shall  
25 levy an annual basic special tax for high schools of 22

1 mills on the dollar of the taxable value of all taxable  
2 property within the county, except for property subject to a  
3 tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
4 61-3-537, and 67-3-204, for the purposes of local and state  
5 foundation program support. The revenue collected from this  
6 levy must be apportioned to the support of the foundation  
7 programs of high school districts in the county and to the  
8 state special revenue fund, state equalization aid account,  
9 in the following manner:

10 (a) In order to determine the amount of revenue raised  
11 by this levy which is retained by the county, the sum of the  
12 estimated revenue identified in subsection (2) must be  
13 subtracted from the sum of the county's high school tuition  
14 obligation and the total of the foundation programs of all  
15 high school districts of the county.

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

25 (c) If revenue from the basic levy prescribed by this

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

13 (2) The revenue realized from the county's portion of  
 14 the levy prescribed in this section and the revenue from the  
 15 following sources must be used for the equalization of the  
 16 high school district foundation programs of the county as  
 17 prescribed in 20-9-334, and a separate accounting must be  
 18 kept of the revenue by the county treasurer in accordance  
 19 with 20-9-212(1):

20 (a) any money remaining at the end of the immediately  
 21 preceding school fiscal year in the county treasurer's  
 22 accounts for the various sources of revenue established in  
 23 this section;

24 (b) any federal or state money distributed to the  
 25 county as payment in lieu of property taxation, including

1 federal forest reserve funds allocated under the provisions  
 2 of 17-3-213;

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

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

8 (e) anticipated revenue from property taxes and fees  
 9 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
 10 61-3-537, and 67-3-204."

11 NEW SECTION. Section 17. Retroactive applicability.  
 12 [This act] applies retroactively, within the meaning of  
 13 1-2-109, to oil and gas production during quarters beginning  
 14 after December 31, 1990.

15 NEW SECTION. Section 18. Effective date. [This act] is  
 16 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0373, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act to generally revise the taxation of oil and gas; exempting new production of oil, under certain conditions, and gas from the state severance tax for 24 months; providing incentive state severance tax rates and local government severance tax rates for oil produced from approved secondary recovery projects and from wells drilled horizontally; revising the state severance tax and local government severance tax rates on oil produced from tertiary recovery projects; providing that new oil production from approved secondary and tertiary recovery projects and from approved wells drilled horizontally are taxed at the same rate for state and local government severance tax purposes as other oil is taxed in the approved project or approved well; revising the definition of an oil stripper well; exempting the first 5 barrels of stripper well production, under certain conditions, from the state severance tax; revising the severance tax rates for other stripper well production; conforming the administration of the local government severance tax to the state severance tax; providing for the accelerated payment of the local government severance tax on certain production; revising the distribution of local government severance taxes based on the previous year's mill levies; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. Oil production will be 17,375,000 barrels in FY92 and 16,332,000 FY93. (OBPP)
2. Net Proceeds (post-1985) oil production will be 4,968,000 barrels in FY92 and 5,898,000 barrels in FY93. (OBPP)
3. The price of oil will be \$24.11 per barrel in FY92 and \$21.40 per barrel in FY93. (OBPP)
4. Stripper oil production will be 8.4977% of total production in FY92 and FY93. (OBPP)
5. Of the stripper oil, 90.0365% will be exempt from the State Severance Tax in FY92 and FY93. (OBPP)
6. Of total oil production, 5.9653% will be exempt from the State Severance Tax under the new production (first 24 month exemption). (OBPP)
7. Of the Net Proceeds (post-1985) oil production, 3.809% will be Stripper production in FY92 and FY93. (DOR)
8. Current law LGST oil revenues will be \$29,597,000 in FY92 and \$29,994,000 in FY93. (OBPP)
9. Natural gas production will be 44,913,000 MCFs in FY92 and 45,270,000 MCFs in FY93. (OBPP)
10. The price of gas will be \$2.08 per MCF in FY92 and \$2.39 per MCF in FY93. (OBPP)
11. Stripper gas production will be 33.4290% of total production in FY92 and FY93. (OBPP)
12. Of the stripper gas, 81.213% will be exempt from the State Severance Tax in FY92 and FY93. (OBPP)
13. Of total gas production, 17.864% will be exempt from the State Severance Tax under the new production (first 24 month exemption). (OBPP)
14. Production from horizontal wells, and secondary & tertiary recovery techniques will be insignificant in the biennium (amount in excess of stripper).

FISCAL IMPACT:

see next page

  
ROD SUNDSTED, BUDGET DIRECTOR  
Office of Budget and Program Planning

2-20-91  
DATE

  
DELWYN GAGE, PRIMARY SPONSOR

Fiscal Note for SB0373, as introduced

2/21/91  
DATE

SB 373

FISCAL IMPACT:

Expenditures:

The proposal will not impact department expenditures.

Revenues:

	FY '92			FY '93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Oil Severance Tax	20,947,000	18,024,000	(2,923,000)	17,476,000	13,788,000	(3,688,000)
Gas Severance Tax	<u>1,740,000</u>	<u>1,298,000</u>	<u>(442,000)</u>	<u>2,019,000</u>	<u>1,065,000</u>	<u>(954,000)</u>
Total	22,687,000	19,322,000	(3,365,000)	19,495,000	14,853,000	(4,642,000)
General Fund Distribution	22,687,000	19,322,000	(3,365,000)	19,495,000	14,853,000	(4,642,000)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

	FY '92			FY '93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Oil Net Proceeds	8,384,000	8,293,000	(91,000)	8,835,000	8,739,000	(96,000)

University mills, state equalization mills, county mills, city mills, and miscellaneous district mills remain fairly constant from year to year. However local school district mills have been reduced in most oil\gas counties after HB28. As a result, requiring LGST revenues to be distributed on the basis of relative mill distribution in the previous year (proposal), as opposed to the relative distribution based on 1989 levies, will result in a shifting of LGST revenue from school districts to other taxing jurisdictions.

TECHNICAL NOTES:

1. The title of the proposal includes the words "providing for the accelerated payment of the local government severance tax on certain production," but no such language exists in the body of the proposal.
2. The title of the proposal includes the words "revising the definition of an oil stripper well," but no such language exists in the body of the proposal.