

SENATE BILL 466

Introduced by B. Brown, et al.

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3/15	Referred to Taxation
3/19	Hearing
3/21	Fiscal Note Received
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4/02	Tabled in Committee

1 *Senate* BILL NO. *466*  
 2 INTRODUCED BY *Bob Brown Bradley*  
 3 BY REQUEST OF THE GOVERNOR *Thomas J. Lee*  
 4 *State*

5 A BILL FOR AN ACT ENTITLED: "AN ACT RESTRUCTURING STATE AND  
 6 LOCAL GOVERNMENT SEVERANCE TAXES BY EXEMPTING NEW  
 7 PRODUCTION OF OIL AND GAS FROM STATE SEVERANCE TAX FOR A  
 8 PERIOD OF 24 MONTHS; REVISING THE DEFINITION OF STRIPPER  
 9 WELLS; EXEMPTING THE FIRST 5 BARRELS OF STRIPPER WELL DAILY  
 10 PRODUCTION FROM THE STATE SEVERANCE TAX IF THE AVERAGE PRICE  
 11 RECEIVED BY THE PRODUCER FOR THE CRUDE OIL IS LESS THAN \$33  
 12 A BARREL; CONFORMING THE ADMINISTRATION OF THE LOCAL  
 13 GOVERNMENT SEVERANCE TAX TO THAT OF THE STATE SEVERANCE TAX;  
 14 REVISING THE DISTRIBUTION OF LOCAL GOVERNMENT SEVERANCE  
 15 TAXES BASED ON THE PREVIOUS YEAR'S MILL LEVIES; REQUIRING  
 16 PERIODIC REVISIONS TO THE RULES RELATING TO THE ENERGY  
 17 CONSERVATION AND VENTILATION PROVISIONS OF THE STATE  
 18 BUILDING CODE; REQUIRING A BUILDER OF A RESIDENTIAL BUILDING  
 19 TO CERTIFY THAT THE BUILDING MEETS CERTAIN ENERGY  
 20 REQUIREMENTS; ENCOURAGING UTILITIES TO ACQUIRE ENERGY  
 21 CONSERVATION RESOURCES; ESTABLISHING A CLEAN ENERGY SAVINGS  
 22 REBATE PROGRAM FOR UTILITIES; REQUIRING STATE AGENCIES TO  
 23 PURCHASE AND USE GASOHOL IN STATE VEHICLES IF GASOHOL IS  
 24 AVAILABLE AND COMPETITIVELY PRICED; REQUIRING GASOHOL  
 25 PURCHASE RECORDS TO BE KEPT BY STATE AGENCIES; REQUIRING

1 REVIEW OF THE RECORDS BY THE LEGISLATIVE AUDITOR; EXTENDING  
 2 UNTIL 2001 THE TERMINATION OF THE TAX INCENTIVE FOR  
 3 PRODUCTION OF ALCOHOL FOR BLENDING WITH GASOLINE; INCREASING  
 4 THE MAXIMUM ALCOHOL TAX INCENTIVE PAYMENTS; INCREASING THE  
 5 MAXIMUM INCENTIVE PAYMENT TO AN ALCOHOL DISTRIBUTOR;  
 6 AMENDING SECTIONS 15-23-603, 15-32-109, 15-36-101,  
 7 15-36-105, 15-36-107, 15-36-108, 15-36-112, 15-36-113,  
 8 15-36-114, 15-36-121, 15-70-522, 50-60-203, AND 69-3-712,  
 9 MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY  
 10 DATE."

11  
 12 WHEREAS, the energy security of the United States and  
 13 Montana was jeopardized in 1973, 1979, and again in August  
 14 of 1990 when Iraq invaded Kuwait; and

15 WHEREAS, America's excessive dependence on foreign  
 16 energy sources increases economic and social instability;  
 17 and

18 WHEREAS, the United States and Montana have enormous  
 19 potential to increase energy production from the traditional  
 20 energy sources of oil, gas, and coal reserves and from  
 21 alternative agricultural-based energy fuels; and

22 WHEREAS, greater energy security requires a balance of  
 23 both production and conservation; and

24 WHEREAS, many improvements for energy security must be  
 25 implemented at the federal level due to international and

1 interstate constraints; and

2 WHEREAS, Montana, however, can lead the national energy  
3 reform by instituting meaningful changes to unique state  
4 functions that will enhance energy production and  
5 conservation in Montana; and

6 WHEREAS, the provisions of this bill accomplish these  
7 meaningful changes by encouraging new oil and gas production  
8 through tax incentives, by requiring progressive energy  
9 building codes for new homes and retrofitting of existing  
10 homes in order to increase home energy conservation, and by  
11 encouraging the production and use of alcohol-based fuels  
12 through tax incentives and state fuel purchasing  
13 requirements.

14  
15 STATEMENT OF INTENT

16 A statement of intent is required for this bill to  
17 provide guidance to the department of commerce concerning  
18 the revision of rules that set minimum standards for energy  
19 efficiency in new residential buildings. [Section 9] of the  
20 bill directs the department to revise the rules relating to  
21 the state building code by setting minimum standards for  
22 energy efficiency and ventilation for residential buildings.  
23 The legislature intends that these revisions must be based  
24 on model conservation standards contained in the Northwest  
25 Energy Code and adopted by the pacific northwest electric

1 power and conservation planning council and must have as a  
2 goal the adoption of rules that attain comparable energy  
3 efficiency by January 1, 1993, and that maintain  
4 comparability thereafter. The department shall, after [the  
5 effective date of this act], immediately revise the rules  
6 adopted under Rule 8.70.104, Administrative Rules of  
7 Montana, to reduce the excess energy intensity for new homes  
8 from the current 54% beyond model conservation standards to  
9 21% beyond model conservation standards.

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 15-36-101, MCA, is amended to read:

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

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

6 (a) except as provided in subsections (1)(b) ~~-(c)~~  
7 and ~~(3)(d)~~ through (1)(e), a 5% state severance tax on the  
8 total gross taxable value of all the petroleum and other  
9 mineral or crude oil produced by the person, plus the local  
10 government severance tax of 8.4% on the gross taxable value,  
11 as defined in subsection (7)(a)(ii), of all the petroleum  
12 and other mineral or crude oil produced by the person other  
13 than ~~interim-production-and~~ new production, from each lease  
14 or unit; but in determining the amount of the state  
15 severance tax and local government severance tax, there must  
16 be excluded from consideration all petroleum or other crude  
17 or mineral oil produced and used by the person during the  
18 year in connection with his operations in prospecting for,  
19 developing, and producing the petroleum or crude or mineral  
20 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, as defined in subsection  
25 (7)(a)(ii), of all natural gas produced by the person other

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

10 (c) a 2.5% state severance tax on the total gross  
11 taxable value of the incremental petroleum and other mineral  
12 or crude oil produced by the person, plus the local  
13 government severance tax of 5% on the ~~total~~ gross taxable  
14 value, as defined in subsection (7)(a)(ii), of the  
15 incremental petroleum and other mineral or crude oil  
16 produced by the person other than ~~interim-production-and~~ new  
17 production, that is exempt from the state severance tax as  
18 provided in 15-36-121(2), from each lease or unit in a  
19 tertiary recovery project after July 1, 1985. For purposes  
20 of this section, a tertiary recovery project must meet the  
21 following requirements:

22 (i) the project must be approved as a tertiary recovery  
23 project by the ~~department-of-revenue~~ board of oil and gas  
24 conservation. The approval may be extended only after notice  
25 and hearing in accordance with Title 2, chapter 4.

1 (ii) the property to be affected by the project must be  
2 adequately delineated according to the specifications  
3 required by the department board of oil and gas  
4 conservation; and

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

- 13 (A) miscible fluid displacement;
- 14 (B) steam drive injection;
- 15 (C) micellar/emulsion flooding;
- 16 (D) in situ combustion;
- 17 (E) polymer augmented water flooding;
- 18 (F) cyclic steam injection;
- 19 (G) alkaline or caustic flooding;
- 20 (H) carbon dioxide water flooding;
- 21 (I) immiscible carbon dioxide displacement; or
- 22 (J) any other method approved by the department board

23 of oil and gas conservation as a tertiary recovery method.  
24 (d) except as provided in 15-36-121(2) and (3), a 3%  
25 state severance tax on the total gross taxable value of all

1 the petroleum and other mineral or crude oil produced by the  
2 person from a stripper well, as defined in 15-36-121; and

3 (d)(e) a 5% local government severance tax on the total  
4 gross taxable value, as defined in subsection (7)(a)(ii), of  
5 all petroleum and other mineral or crude oil produced by the  
6 person other than ~~interim~~ and new production produced by a  
7 stripper well, as defined in 15-36-121.

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

20 (3) Upon the expiration of the exemption for new  
21 production referred to in 15-36-121 from the state severance  
22 tax, petroleum produced from a tertiary recovery project  
23 referred to in subsection (1)(c) must be taxed as all other  
24 petroleum is taxed for state severance tax purposes in the  
25 tertiary recovery project.

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

9       (i) 12.5% 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 marketable petroleum and  
 12 other mineral or crude oil;

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

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

21       ~~(4)~~(5) Nothing in this part may be construed as  
 22 requiring laborers or employees hired or employed by any  
 23 person to drill any oil or natural gas well or to work in or  
 24 about any oil or natural gas well or prospect or explore for  
 25 or do any work for the purpose of developing any petroleum,

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

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

1 interest, overriding royalty interest, carried working  
 2 interest, net proceeds interest, production payments, and  
 3 all other interest or interests owned or carved out of the  
 4 total gross proceeds in value or in kind of the extracted  
 5 marketable petroleum or other mineral or crude oil or  
 6 natural gas, except that any of the interests that are owned  
 7 by the federal, state, county, or municipal governments,  
 8 lands that are held in trust by the federal government for  
 9 the benefit of an Indian person, and royalties received by  
 10 an Indian tribe with respect to oil and gas production on  
 11 the reservation pursuant to a lease entered into under the  
 12 Indian Mineral Leasing Act of 1938, 25 U.S.C.A. 396a-396g,  
 13 are exempt from taxation under this chapter. Unless  
 14 otherwise provided in a contract or lease, the pro rata  
 15 share of any royalty owner or owners will be deducted from  
 16 any settlements under the lease or leases or division of  
 17 proceeds orders or other contracts.

18 {6}(7) For purposes of this section, the following  
 19 definitions apply:

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

23 (ii) "Gross taxable value", for the purpose of computing  
 24 the local government severance tax, means the gross value of  
 25 the product as determined in 15-36-103 less the gross value

1 paid in cash or apportioned in kind to a nonworking interest  
 2 owner by the operator or producer of extracted marketable  
 3 petroleum, other mineral or crude oil, or natural gas.

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

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

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

1 vice-president, treasurer, assistant treasurer, or managing  
 2 agent in this state of the association, corporation,  
 3 joint-stock company, or syndicate making the statement. Any  
 4 person engaged in carrying on business at more than one  
 5 place in this state or owning, leasing, controlling, or  
 6 operating more than one oil or gas well in this state may  
 7 include all operations in one statement. The department  
 8 shall receive and file all statements and collect and  
 9 receive from the person making and filing a statement the  
 10 amount of tax payable by the person, if any, as appears in  
 11 the statement.

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

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

1 liability.

2 (c) If the local government severance tax found to be  
 3 due is greater than the amount paid, the excess is due at  
 4 the time for payment, as provided in 15-36-102(2). If the  
 5 local government severance tax imposed is less than the  
 6 amount paid, the difference must be applied as a credit  
 7 against tax liability for subsequent quarters or refunded if  
 8 there is no subsequent tax liability.

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

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

21 "15-36-107. Procedure to compute tax in absence of  
 22 statement -- penalty and interest. If any such a person  
 23 ~~shall fail~~ fails ~~neglect~~ or refuse to file any statement  
 24 required by 15-36-105 within the time therein required, the  
 25 department of revenue shall, immediately after such the time



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

1 department."

2 **Section 4.** Section 15-36-108, MCA, is amended to read:  
 3 "15-36-108. Warrant for distraint. If all or part of  
 4 the state severance tax or the local government severance  
 5 tax imposed by this part is not paid when due, the  
 6 department of revenue may issue a warrant for distraint as  
 7 provided in Title 15, chapter 1, part 7. The resulting lien  
 8 has precedence over any other claim, lien, or demand  
 9 thereafter filed and recorded."

10 **Section 5.** Section 15-36-112, MCA, is amended to read:  
 11 "15-36-112. Disposition of oil and gas state and local  
 12 government severance taxes -- calculation of unit value for  
 13 local government severance tax. (1) Each year the department  
 14 of revenue shall determine the amount of tax collected under  
 15 this chapter from within each taxing unit.

16 (2) For purposes of the distribution of local  
 17 government severance taxes collected under this chapter, the  
 18 department shall determine the unit value of oil and gas for  
 19 each taxing unit as follows:

20 (a) The unit value for petroleum and other mineral or  
 21 crude oil for each taxing unit is the quotient obtained by  
 22 dividing the net proceeds taxes calculated on petroleum or  
 23 mineral or crude oil produced in that taxing unit in  
 24 calendar year 1988 by the number of barrels of petroleum or  
 25 other mineral or crude oil produced in that taxing unit

1 during 1988, excluding new and interim production.

2 (b) The unit value for natural gas is the quotient  
3 obtained by dividing the net proceeds taxes calculated on  
4 natural gas produced in that taxing unit in calendar year  
5 1988 by the number of cubic feet of natural gas produced in  
6 that taxing unit during 1988, excluding new and interim  
7 production.

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

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

13 (b) The state severance tax is allocated to the state  
14 general fund.

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

25 (i) By November 30 of each year, the department shall

1 calculate and distribute to each eligible county the amount  
2 of local government severance tax, determined by multiplying  
3 unit value as adjusted in this subsection (4)(a) times the  
4 units of production on which the local government severance  
5 tax was owed during the calendar quarters ending March 31  
6 and June 30 of the preceding calendar year.

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

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

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

22 (ii) The excess percentage must be multiplied by the  
23 distribution to each taxing unit, and this amount must be  
24 added to the distribution to each respective taxing unit.

25 (iii) The shortage percentage must be multiplied by the

1 distribution to each taxing unit, and this amount must be  
2 subtracted from the distribution to each respective taxing  
3 unit.

4 (5) The (a) Except as provided in subsections (5)(b)  
5 and (5)(c), the county treasurer shall distribute the money  
6 received under subsection (4) to the taxing units that  
7 levied mills in fiscal year 1990 against calendar year 1988  
8 production in the same manner proportion that all other  
9 property tax proceeds were distributed during the preceding  
10 fiscal year 1990 in the taxing unit, except that no  
11 distribution may be made to a municipal taxing unit.

12 (b) The mill levies in effect for county elementary and  
13 high school equalization in fiscal year 1990 must be used in  
14 computing the distribution to county elementary and high  
15 school equalization.

16 (c) The distribution provided for in subsection (5)(a)  
17 may not include mills levied for state equalization aid  
18 pursuant to 20-9-360."

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

20 "15-36-113. Deficiency assessment -- hearing --  
21 interest. (1) When the department of revenue determines that  
22 the amount of the state severance tax or local government  
23 severance tax due is greater than the amount disclosed by a  
24 return, it shall mail to the taxpayer a notice of the  
25 additional state severance tax or local government severance

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

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

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

1       "15-36-114. Credit for overpayment -- interest on  
2 overpayment. (1) If the department of revenue determines  
3 that the amount of state severance tax or local government  
4 severance tax, penalty, or interest due for any year taxable  
5 period is less than the amount paid, the amount of the  
6 overpayment shall be credited against any state severance  
7 tax or local government severance tax, penalty, or interest  
8 then due from the taxpayer and the balance refunded to the  
9 taxpayer or its successor through reorganization, merger, or  
10 consolidation or to its shareholders upon dissolution.

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

18       (3) (a) Interest shall not accrue during any period the  
19 processing of a claim for refund is delayed more than 30  
20 days by reason of failure of the taxpayer to furnish  
21 information requested by the department for the purpose of  
22 verifying the amount of the overpayment.

23       (b) No interest shall be allowed:

24       (i) if the overpayment is refunded within 6 months from  
25 the date the return is due or from the date the return is

1 filed, whichever is later; or

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

3       (c) A payment not made incident to a bona fide and  
4 orderly discharge of an actual tax liability or one  
5 reasonably assumed to be imposed by this law shall not be  
6 considered an overpayment with respect to which interest is  
7 allowable."

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

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

17       (2) (a) Except as provided in subsection (2)(b), all  
18 new production, as defined in 15-23-601, from a well during  
19 the 24 months immediately following the date of notification  
20 to the department of revenue that an oil well is flowing or  
21 being pumped is exempt from all of the state severance tax  
22 imposed by 15-36-101 if notification was made after July 1,  
23 1991.

24       (b) The exemption provided in subsection (2)(a) applies  
25 only to the petroleum or other mineral or crude oil produced

1 in this state in any quarter and sold if the average price  
 2 per barrel for petroleum or other mineral or crude oil  
 3 received in the quarter by the person required to pay the  
 4 severance tax is less than \$33 a barrel.

5 (c) The average price per barrel must be computed by  
 6 dividing the total revenue received from all the petroleum  
 7 and other mineral or crude oil sold in the quarter from the  
 8 lease or unitized area in which new production occurs by the  
 9 number of barrels sold in the quarter from the lease or  
 10 unitized area in which new production occurs.

11 (3) (a) The first 5 barrels of average daily production  
 12 from a stripper well are exempt from the state severance tax  
 13 imposed by 15-36-101, but not from the local government  
 14 severance tax, if the average price per barrel received  
 15 during any quarter is less than \$33 a barrel.

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

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

1 distribution system is exempt from all of the state  
 2 severance tax imposed by 15-36-101 if the notification was  
 3 made after July 1, 1991.

4 (2)(b) All the natural gas produced from any well that  
 5 has produced 60,000 cubic feet or less of natural gas a day  
 6 for the calendar year prior to the current year shall be  
 7 taxed as provided in this section. Production must be  
 8 determined by dividing the amount of production from a lease  
 9 or 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 15-36-101(7)(a)(ii). Everything over 30,000 cubic feet of  
 18 gas produced is taxed at 1.59% plus a local government  
 19 severance tax of 10% on the gross taxable value, as defined  
 20 in 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 or  
 23 less per day, determined by dividing the amount of  
 24 production from a lease or unitized area for the year prior  
 25 to the current calendar year by the number of producing

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

3 ~~(4)~~(5) 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 50-60-203, MCA, is amended to read:

7 **"50-60-203. Department to adopt state building code by**  
8 **rule.** (1) The department shall adopt rules relating to the  
9 construction of, the installation of equipment in, and  
10 standards for materials to be used in all buildings or  
11 classes of buildings, including provisions dealing with  
12 safety, sanitation, and conservation of energy. The  
13 department may amend or repeal such rules.

14 (2) The department may adopt by reference nationally  
15 recognized building codes in whole or in part, but this does  
16 not prevent the department from adopting rules more  
17 stringent than those contained in such codes.

18 (3) The rules, when adopted as provided in parts 1  
19 through 4, constitute the "state building code" and are  
20 acceptable for the buildings to which they are applicable.

21 (4) The department shall periodically revise the rules  
22 relating to the energy conservation and ventilation  
23 provisions of the state building code. These revisions must  
24 be based on model conservation standards contained in the  
25 Northwest Energy Code and adopted by the pacific northwest

1 electric power and conservation planning council and must  
2 have as a goal the adoption of rules that attain comparable  
3 energy efficiency by January 1, 1993, and maintain  
4 comparability thereafter."

5 **NEW SECTION. Section 10. Builder certification of**  
6 **compliance required for utility service -- penalty.** (1)  
7 Prior to obtaining permanent service from a utility, the  
8 builder of a residential building shall certify to the  
9 utility in writing that the building complies with rules  
10 adopted under Rule 8.70.104, Administrative Rules of  
11 Montana. The utility may not furnish permanent service to  
12 the building until it receives the certification.

13 (2) The department of commerce may inspect  
14 certifications received by the utility. The department shall  
15 provide by rule for the manner in which the certificates are  
16 retained and for the length of time they are to be retained.

17 (3) Upon receiving from the builder a notice of intent  
18 to construct a residential building, the utility shall  
19 inform the builder in writing that the builder is required  
20 to certify compliance with the rules adopted under Rule  
21 8.70.104, Administrative Rules of Montana, before the  
22 utility may furnish permanent service to the building.

23 (4) Nothing in this section requires a utility to  
24 inspect a building to determine whether the building is in  
25 compliance with the rules adopted under Rule 8.70.104,

1 Administrative Rules of Montana.

2 (5) A builder who falsely certifies that a new building  
3 complies with the rules adopted under Rule 8.70.104,  
4 Administrative Rules of Montana, or builds a building that  
5 is not in compliance with the rules adopted under Rule  
6 8.70.104, Administrative Rules of Montana, is subject to a  
7 civil penalty of \$7500 for each building. A utility is not  
8 liable for furnishing permanent service to a building  
9 subject to the rules adopted under Rule 8.70.104,  
10 Administrative Rules of Montana, if the utility has obtained  
11 a false certification of compliance from the builder.

12 (6) Funds received from civil penalties must be  
13 earmarked to fund energy inspections of new residential  
14 buildings.

15 **NEW SECTION. Section 11. Applicability and**  
16 **enforcement.** (1) Notwithstanding the provisions of sections  
17 50-60-102 and 50-60-205, the rules adopted under Rule  
18 8.70.104, Administrative Rules of Montana, apply to all  
19 residential buildings located within the state that receive  
20 service from an electrical utility except those buildings  
21 for which the state building code is preempted by operation  
22 of federal law.

23 (2) A municipality or county may adopt and enforce the  
24 rules adopted under Rule 8.70.104, Administrative Rules of  
25 Montana, as provided by 50-60-301.

1 (3) The department of commerce shall enforce the rules  
2 adopted under Rule 8.70.104, Administrative Rules of  
3 Montana, in conjunction with the other applicable portions  
4 of the state building code, in the manner provided for the  
5 enforcement of those other applicable portions of the state  
6 building code.

7 (4) Except as provided in subsections (2) and (3),  
8 including those instances in which the rules adopted under  
9 Rule 8.70.104, Administrative Rules of Montana, are  
10 applicable but the other portions of the state building code  
11 are not applicable, the enforcement of the rules adopted  
12 under Rule 8.70.104, Administrative Rules of Montana, is  
13 limited to a determination by the department of whether the  
14 builder has certified to the electrical utility compliance  
15 with the rules adopted under Rule 8.70.104, Administrative  
16 Rules of Montana.

17 (5) In all instances, it is the builder's  
18 responsibility to ensure that the residential building  
19 conforms to all standards of construction subject to the  
20 rules adopted under Rule 8.70.104, Administrative Rules of  
21 Montana. This section may not be construed to make the  
22 state, municipality, or county responsible for or a  
23 guarantor of compliance of the building with the rules  
24 adopted under Rule 8.70.104, Administrative Rules of  
25 Montana.

1 **NEW SECTION. Section 12. Energy conservation program.**  
 2 Each utility that serves customers in Montana is encouraged  
 3 to acquire cost-effective energy conservation resources  
 4 through retrofits, through improvements to the design and  
 5 construction of new facilities, or through the dissemination  
 6 of energy conservation information to their customers. These  
 7 activities must be in accordance with the utility's  
 8 integrated resource planning and acquisition process. The  
 9 commission shall ensure that the energy conservation  
 10 investments by utilities are included in the utility's rate  
 11 base.

12 **Section 13.** Section 69-3-712, MCA, is amended to read:  
 13 **"69-3-712. Commission to include conservation in rate**  
 14 **base -- rate of return.** (1) In order to encourage the  
 15 purchase of or investment in conservation by a utility, the  
 16 commission shall include in a utility's rate base  
 17 conservation purchases or investments eligible under  
 18 69-3-702 or [section 12] and in compliance with criteria  
 19 adopted under 69-3-711 ~~in-a-utility's-rate-base.~~

20 (2) In establishing such the rate of return, the  
 21 commission ~~may~~ shall allow an increment of up to 2% added to  
 22 the rate of return on common equity permitted on the  
 23 utility's other investments.

24 (3) The commission shall allow the rate of return  
 25 increment provided for in subsection (2) for a period not to

1 exceed 30. years after the conservation is first placed in  
 2 the rate base.

3 (4) The commission shall prescribe reasonable  
 4 amortization periods and appropriate cost recovery  
 5 mechanisms that account for demonstrated lost revenues for  
 6 conservation that is included in a utility's rate base."

7 **Section 14.** Section 15-32-109, MCA, is amended to read:

8 **"15-32-109. Credit for energy-conserving expenditures.**

9 (1) Subject to the restrictions of subsections (2) and (3),  
 10 a resident individual taxpayer may take as a credit against  
 11 the taxpayer's tax liability under chapter 30 a portion of  
 12 his expenditure for a capital investment in a building for  
 13 an energy conservation purpose, determined as follows:

14 (a) in the case of an expenditure for a residential  
 15 building, for each building size, the lesser of a percentage  
 16 deduction of the expenditure or a maximum deduction  
 17 according to the following schedule:

18 ~~(i)--\$150,-or~~  
 19 ~~(ii)-5%-of-the-expenditure,-and~~

20 <u>Building Size</u>	<u>Expenditure</u>	<u>or</u>	<u>Maximum</u>
21 <u>(Square Feet)</u>	<u>Percentage</u>		<u>Credit</u>
22 <u>Under 1,000</u>	<u>15.0%</u>		<u>\$600</u>
23 <u>1,000 to 1,499</u>	<u>12.5%</u>		<u>500</u>
24 <u>1,500 to 1,999</u>	<u>10.0%</u>		<u>400</u>
25 <u>2,000 to 2,499</u>	<u>7.5%</u>		<u>300</u>



1     2,500 and over                 5.0%                         150  
 2           (b) in the case of an expenditure for a building not  
 3 used as a residence, the lesser of:  
 4           (i) \$300; or  
 5           (ii) 5% of the expenditure.  
 6           (2) The credit or the sum of the credits under  
 7 subsection (1):  
 8           (a) may not exceed the taxpayer's tax liability; and  
 9           (b) is subject to the provisions of 15-32-104; and  
 10           (c) may be used only for expenditures for energy-saving  
 11 measures that exceed the building code standards that have  
 12 been adopted by the department of commerce under 50-60-203  
 13 and that are in effect at the time of the completion of the  
 14 improvement.  
 15           (3) There is no carryback or carry-forward of the  
 16 credit permitted under this section, and the credit must be  
 17 applied in the year the expenditure is incurred, as  
 18 determined by the taxpayer's accounting method.  
 19           (4) For the purposes of subsection (1)(a), "building  
 20 size" means usable living space.  
 21     **NEW SECTION. Section 15.** State vehicles to use gasohol  
 22 -- definition -- records -- audit -- exception. (1) Each  
 23 department, agency, institution, office, board, and  
 24 commission of the executive, legislative, and judicial  
 25 branches of state government and each state institution of

1 higher education that owns or operates a motor vehicle  
 2 capable of burning gasohol shall purchase gasohol and  
 3 instruct the operators of those vehicles to use gasohol in  
 4 the vehicles if gasohol is commercially available within the  
 5 operating area of the vehicle and is priced competitively  
 6 with the motor vehicle fuel otherwise used by the vehicle.  
 7           (2) For purposes of this section, "gasohol" means  
 8 gasoline blended with at least 10% ethanol for use in  
 9 internal combustion engines.  
 10           (3) An entity subject to the requirements of subsection  
 11 (1) shall require that each purchase of gasohol by the  
 12 operator of a state motor vehicle is reported to that entity  
 13 by the motor vehicle operator.  
 14           (4) An entity subject to the requirements of subsection  
 15 (1) may not take any disciplinary, judicial, administrative,  
 16 or other adverse action against the operator of a motor  
 17 vehicle for failing to purchase gasohol for the operation of  
 18 the motor vehicle.  
 19           (5) An entity subject to the requirements of subsection  
 20 (1) shall retain for the period of time required by law the  
 21 record of the purchase of gasohol for each state motor  
 22 vehicle in which gasohol is used. The purchase records must  
 23 be reviewed by the legislative auditor during each financial  
 24 audit of the entity.  
 25           **Section 16.** Section 15-70-522, MCA, is amended to read:

1       "15-70-522. Tax incentive for production of alcohol.

2       (1) (a) Provided If the alcohol was produced in Montana from  
3       Montana agricultural products, including Montana wood or  
4       wood products, there is a tax incentive payable to alcohol  
5       distributors for distilling alcohol that:

6           (i) was blended with gasoline for sale as gasohol in  
7       Montana; or

8           (ii) was exported from Montana and has been blended with  
9       gasoline for sale as gasohol.

10       (b) Payment ~~shall~~ must be made by the department of  
11       revenue out of the amount collected under 15-70-204.

12       (2) Except as provided in subsections (3) through (5),  
13       the tax incentive on each gallon of alcohol distilled in  
14       accordance with subsection (1) is:

15           (a) beginning July 1, 1983, 70 cents per gallon;

16           (b) beginning April 1, 1985, 50 cents per gallon;

17           (c) beginning April 1, 1987, 30 cents per gallon; and

18           (d) beginning July 1, ~~1993~~ 2001, and thereafter, there  
19       is no tax incentive.

20       ~~{3}--The incentive schedule provided for in subsection~~  
21       ~~{2}--shall be modified in response to market conditions as~~  
22       ~~follows:~~

23           ~~{a}--If for any 2 consecutive calendar quarters ending~~  
24       ~~on or before September 30, 1984, the gallons of gasohol sold~~  
25       ~~or that have received the benefit of the tax incentive~~

1       ~~during those quarters comprise 8% or more but less than 11%~~  
2       ~~of the total gallons of nonaviation gasoline and gasohol~~  
3       ~~sold in Montana, the tax incentive for alcohol shall be 50~~  
4       ~~cents per gallon, effective beginning the second calendar~~  
5       ~~quarter after the 2 consecutive calendar quarters during~~  
6       ~~which the gallons of gasohol sold or that have received the~~  
7       ~~benefit of the tax incentive during those quarters comprised~~  
8       ~~8% or more but less than 11% of the total gallons of~~  
9       ~~nonaviation gasoline and gasohol sold in Montana;~~

10           ~~{b}--If for any 2 consecutive calendar quarters ending~~  
11       ~~on or before September 30, 1986, the gallons of gasohol sold~~  
12       ~~or that have received the benefit of the tax incentive~~  
13       ~~during those quarters comprise 11% or more but less than 18%~~  
14       ~~of the total gallons of nonaviation gasoline and gasohol~~  
15       ~~sold in Montana, the tax incentive for alcohol shall be 30~~  
16       ~~cents per gallon effective beginning the second calendar~~  
17       ~~quarter after the 2 consecutive calendar quarters during~~  
18       ~~which the gallons of gasohol sold or that have received the~~  
19       ~~benefit of the tax incentive during those quarters comprised~~  
20       ~~11% or more but less than 18% of the total gallons of~~  
21       ~~nonaviation gasoline and gasohol sold in Montana;~~

22           ~~{c}--If for any 2 consecutive calendar quarters ending~~  
23       ~~on or before September 30, 1988, the gallons of gasohol sold~~  
24       ~~or that have received the benefit of the tax incentive~~  
25       ~~during those quarters comprise 18% or more of the total~~

gallons of nonaviation gasoline and gasohol sold in Montana, the tax incentive for alcohol shall be eliminated effective beginning the second calendar quarter after the two consecutive quarters during which the gallons of gasohol sold or that have received the benefit of the tax incentive during those quarters comprised 10% or more of the total gallons of nonaviation gasoline and gasohol sold in Montana.

(d) Each quarter, the department shall compute the share of the total nonaviation gasoline and gasohol market that is represented by gasohol, according to the information contained in gasoline distributors' returns and the applications for payment of the alcohol production tax incentive. Alcohol that is exported from Montana and eligible for the tax incentive must be included in the computations.

(4)(3) Regardless of the alcohol tax incentive provided in subsection (2) or (3), the total payments made for the incentive under this part may not exceed \$1,250,000 \$6 million in any consecutive 12-month period beginning April 1, 1985.

(5)(4) No An alcohol distributor may receive tax incentive payments under subsection (2) that exceed \$1,000,000 \$1.5 million in any consecutive 12-month period beginning April 1, 1985, except as follows. If total tax incentive payments to all eligible alcohol distributors in

any consecutive 12-month period beginning April 1, 1985, do not reach the percentage of production maximums in subsection (3) or the maximum dollar amount in subsection (4) (3), an alcohol distributor who has received the maximum payment of \$1,000,000 \$1.5 million as herein provided in this section may receive additional tax incentive payments subject to the percentage of production maximums in subsection (3) or the maximum dollar amount in subsection (4) (3).

(5) An alcohol distributor who begins production after July 1, 1991, may not receive tax incentive payments under subsection (2) unless he has provided written notice of anticipated time, quantity, and duration of production to the department of revenue and the department of highways at least 2 years before his anticipated collection of the tax incentives."

**Section 17.** Section 15-23-603, MCA, is amended to read:

"15-23-603. Net proceeds -- how computed. (1) As provided in subsection (2), the department of revenue shall calculate and compute from the returns the gross sales proceeds of the product yielded from the well for the year covered by the statement and shall calculate the net proceeds of the well yielded to the producer, which net proceeds are determined by subtracting from the gross sales proceeds of the well all royalty paid in cash by the

1 operator or producer and the gross value of all royalty  
 2 apportioned in kind by the operator or producer determined  
 3 by using as the value of a barrel of oil or a cubic foot of  
 4 gas the average selling price for the calendar year of a  
 5 barrel of oil or a cubic foot of gas from the well out of  
 6 which the royalty was paid.

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

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

1 production of gas.

2 (4) In calculating the deduction for money expended for  
 3 necessary chemical supplies needed and used in a tertiary  
 4 recovery project approved by the ~~department-of-revenue board~~  
 5 of oil and gas conservation, as provided in 15-36-101, the  
 6 department shall require that the necessary chemical  
 7 supplies, which include but are not limited to carbon  
 8 dioxide supplies, be amortized over a 10-year period  
 9 beginning with the year in which the money was expended."

10 NEW SECTION. Section 18. Extraordinary vote --  
 11 severability. (1) Because [section 16] diverts highway  
 12 revenue for nonhighway purposes, a vote of three-fifths of  
 13 the members of each house of the legislature is required for  
 14 the passage of [section 16].

15 (2) If [this act] is not passed by the required vote,  
 16 [section 16] is void. The remaining sections of [this act]  
 17 are valid and remain in effect in all valid applications  
 18 upon enactment.

19 NEW SECTION. Section 19. Effective date --  
 20 applicability. (1) [This act] is effective July 1, 1991.

21 (2) [Sections 1 through 8] apply to all oil and gas  
 22 produced during the quarters beginning on or after July 1,  
 23 1991.

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0466, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act restructuring state and local government severance taxes by exempting new production of oil and gas from state severance tax for a period of 24 months; revising the definition of stripper wells; exempting the first 5 barrels of stripper well daily production from the state severance tax if the average price received by the producer for the crude oil is less than \$33 a barrel; conforming the administration of the local government severance tax to that of the state severance tax; revising the distribution of local government severance taxes based on the previous year's mill levies; requiring periodic revisions to the rules relating to the energy conservation and ventilation provisions of the state building code; requiring a builder of a residential building to certify that the building meets certain energy requirements; encouraging utilities to acquire energy conservation resources; establishing a clean energy savings rebate program for utilities; requiring state agencies to purchase and use gasohol in state vehicles if gasohol is available and competitively priced; requiring gasohol purchase records to be kept by state agencies; requiring review of the records by the Legislative Auditor; extending until 2001 the termination of the tax incentive for production of alcohol for blending with gasoline; increasing the maximum alcohol tax incentive payments; increasing the maximum incentive payment to an alcohol distributor.

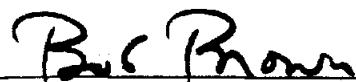
ASSUMPTIONS:

Department of Revenue:

1. Total oil severance tax collections are \$20,947,000 in FY92 and \$17,476,000 in FY93 (OBPP).
2. Total gas severance tax collections are \$1,740,000 in FY92 and \$2,019,000 in FY93 (OBPP).
3. The first 5 barrels of production from stripper wells constitutes 90.0365 percent of total stripper production (OBPP).
4. Total stripper production is 1,476,000 barrels in FY92 and 1,388,000 barrels in FY93 (OBPP).
5. The price of oil per barrel is \$24.11 in FY92 and \$21.40 in FY93 (OBPP).
6. Under current law all stripper production is taxed at a rate of 5 percent; under the proposal, the first 5 barrels of stripper production is exempt and production over 5 barrels is taxed at 3 percent.
7. Under the proposal, "new" production of oil and gas is exempt for the first 24 months following the start of production. This reduces oil severance tax revenues \$1,250,000 in FY92 and \$2,292,000 in FY93; and reduces natural gas severance tax revenues \$442,000 in FY92 and \$955,000 in FY93 (OBPP).
8. Individual income tax collections under current law are \$311,176,000 in FY92 and \$327,201,000 in FY93 (OBPP).
9. Energy Conservation Tax Credits under current law are \$100,000 in calendar year 1991 (FY92) and calendar year 1992 (FY93) (DOR).
10. Under the proposal, 750 homes will claim an average energy conservation credit of \$273.38 for calendar year 1991 (FY92) and 225 homes will claim an average energy conservation credit of \$30.38 for calendar year 1992 (FY93).

(continued on next page)

  
ROD SUNDESTED, BUDGET DIRECTOR      3-21-91      DATE  
Office of Budget and Program Planning

  
ROBERT (BOB) BROWN, PRIMARY SPONSOR      3-21-91      DATE  
Fiscal Note for SB0466, as introduced      SB 466-1

ASSUMPTIONS (Contd.):

11. The effective date of the proposal is July 1, 1991; but the energy conservation credit will apply to tax year 1991 and all new qualifying homes built in that year (only new homes qualify for the credit).
12. Oil and gas severance tax and individual income taxes are deposited 100% in the state general fund under current law.

Public Service Commission

13. Section 12 of the proposal requires conservation expenditures to be in accordance with utility integrated resource planning. In order to determine whether such expenditures are cost effective for rate payers, the Public Service Commission will need to be knowledgeable about utility integrated resource planning. This activity will require 1.00 FTE rate analyst (grade 16) and a 0.50 FTE clerical person (Grade 8). Operating expenses will be \$54,000 in FY92, which would include funds for consultant fees and \$3,000 in FY93. Equipment expenses would be \$8,500 in FY92 and \$500 in FY93.

Department of Commerce

14. No fiscal impact since the department is already involved in an energy code program and has the applicable costs included in the existing budget.

FISCAL IMPACT:Public Service Commission:

	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
F.T.E.	0	1.50	1.50	0	1.50	1.50
Personal Services	0	39,589	39,589	0	41,474	41,474
Operating Expenses	0	54,000	54,000	0	3,000	3,000
Equipment	0	8,500	8,500	0	500	500
Total	0	102,089	102,089	0	44,974	44,974
<u>Funding:</u>						
General Fund			102,089			44,974
<u>Revenues:</u>						
Individual Income Tax (01)	311,176,000	311,071,000	(105,000)	327,201,000	327,278,000	77,000
Oil Severance Tax (01)	20,947,000	18,024,000	(2,923,000)	17,476,000	13,788,000	(3,688,000)
Natural Gas Sever. Tax (01)	<u>1,740,000</u>	<u>1,298,000</u>	<u>(442,000)</u>	<u>2,019,000</u>	<u>1,064,000</u>	<u>(955,000)</u>
Total	333,863,000	330,393,000	(3,470,000)	346,696,000	342,130,000	(4,566,000)
General Fund Impact (decrease)			(3,572,089)			(4,610,974)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Section 5 of the proposal provides that local government severance taxes must be distributed on the basis of the preceding fiscal year's mill, rather than on FY90 mills. However, county equalization mills are to remain the same as in FY90, and the 40-mill state equalization aid levy cannot be included in the distribution. This part of the proposal has no impact on total revenue from LGST, but will change the distribution of revenue within taxing jurisdictions where "old" (pre-1985) oil and gas is produced. While all other mill levies have remained fairly constant, local school district mills have generally decreased in oil and gas counties; consequently, a smaller portion of LGST revenue would be distributed to local school districts under this proposal.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The proposal provides that lands held in trust by the federal government for the benefit of an Indian person, and royalties received by an Indian tribe with respect to oil and gas production on the reservation pursuant to a lease entered into under the Indian Minerals Leasing Act of 1938 are exempt from the local government severance tax and state severance tax. This exemption will act to reduce revenues from production on these lands, but data is not available to provide an accurate estimate of this impact.

Similarly, the department has no relevant data with which to calculate the revenue impact from the requirement that state agencies use competitively-priced, commercially-available gasohol; or the impact of the changes to incentive for alcohol production.

Energy Conservation Credit - SB466

A. Calendar Year 1991.

Building Size (sq. ft.)	% of New Homes	Total No. of New Home Starts	% of New homes Qualifying	Average Expenditure Beyond Code	Average Credit	Total Credit
Under 1,000	15%	225	50%	2700	405	45,563
1,000 - 1,499	20%	300	50%	2700	338	50,625
1,500 - 1,999	30%	450	50%	2700	270	60,750
2,000 - 2,499	25%	375	50%	2700	203	37,969
2,500 and over	10%	150	50%	2700	135	10,125
Totals	100%	1,500	50%	2700	273.38	205,031

750 Homes

B. Calendar Year 1992.

Building Size (sq. ft.)	% of New Homes	Total No. of New Home Starts	% of New homes Qualifying	Average Expenditure Beyond Code	Average Credit	Total Credit
Under 1,000	15%	225	15%	1000	150	5,063
1,000 - 1,499	20%	300	15%	1000	125	5,625
1,500 - 1,999	30%	450	15%	1000	100	6,750
2,000 - 2,499	25%	375	15%	1000	75	4,219
2,500 and over	10%	150	15%	1000	50	1,125
Totals	100%	1,500	15%	1000	30.38	22,781

225 Homes

C. Calendar Year 1993.

Building Size (sq. ft.)	% of New Homes	Total No. of New Home Starts	% of New homes Qualifying	Average Expenditure Beyond Code	Average Credit	Total Credit
Under 1,000	15%	225	5%	1000	150	1,688
1,000 - 1,499	20%	300	5%	1000	125	1,875
1,500 - 1,999	30%	450	5%	1000	100	2,250
2,000 - 2,499	25%	375	5%	1000	75	1,406
2,500 and over	10%	150	5%	1000	50	375
Totals	100%	1,500	5%	1000	10.13	7,594

SB466-1