MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON INCOME/SEVERANCE TAX

Call to Order: By **CHAIR BOB REAM**, on January 24, 1991, at 9:00 am.

ROLL CALL

Members Present:
- Rep. Bob Ream, Chair (D)
- Rep. Jim Elliott (D)
- Rep. Mike Foster (R)
- Rep. Bob Gilbert (R)
- Rep. Marian Hanson (R)
- Rep. Jim Madison (D)
- Rep. Bea McCarthy (D)
- Rep. Tom Nelson (R)
- Rep. Bob Raney (D)
- Rep. Barry Stang (D)

Staff Present: Lisa Fairman, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion:

CHAIR REAM announced the Department of Revenue (DOR) will present an informational overview on oil, gas, and coal taxes. The full Taxation Committee will not meet today.

Informational Presentation:

Denis Adams - Director, Don Hoffman - Solid Minerals, Oil, Gas, and Royalties Bureau Chief, and Van Charlton - Revenue Agent, all from DOR, presented an informational overview on oil and gas taxes and coal severance tax . **EXHIBITS 1 & 2.** They distributed copies of tax forms. **EXHIBITS 3 & 4.**

ADJOURNMENT

Adjournment: 11:00 am.

Bob Ream

BOB REAM, Chair

Lisa Fairman

LISA FAIRMAN, Secretary

BR/lf

HOUSE OF REPRESENTATIVES

INCOME/SEVERANCE TAX SUBCOMMITTEE

ROLL CALL **DATE** 1-24-91

NAME	PRESENT	ABSENT	EXCUSED
REP. JIM ELLIOTT	X		
REP. MIKE FOSTER	X		
REP. BOB GILBERT	X		
REP. MARIAN HANSON	X		
REP. BEA MCCARTHY	X		
REP. JIM MADISON	X		
REP. TOM NELSON	X		
REP. BOB RANEY	X		
REP. BOB REAM, VICE-CHAIR	X		
REP. BARRY STANG	X		
~~REP. DAN HARRINGTON, CHAIR~~			

EXHIBIT 1
DATE 1-24-91
HB informational presentation

Report to House Taxation Subcommittee on Natural Resource Taxes
Information on Montana Oil and Gas Production Taxes
Prepared by the Department of Revenue

DEFINITIONS

Associated Gas - technically is defined as an accumulation of gas in the highest part of the reservoir, overlaying an accumulation of crude oil, but not in solution with the oil. For the purposes of the Department, associated gas describes gas that is produced simultaneously with oil, and in most cases the oil cannot be produced without the gas being produced.

Posted field price - means the price paid for oil by purchasers to producers specified in publicly available price bulletins or other price notices. The price will be net of all adjustments for quality (e.g. api gravity, sulphur content, etc.) and location for oil in marketable condition, when applicable.

Stripper Well - Oil - describes a well that produces an average of 10 barrels of oil or less per day. This definition was adopted from the Windfall Profits Tax Act.

Stripper Well - Gas - describe a well that produces an average of 60,000 cubic feet of gas or less per day. This definition was adopted from the Natural Gas Policy Act.

Sweet Crude - crude oil containing only small quantities of hydrogen sulphide gas and carbon dioxide.

Sour Crude - crude oil significant quantities of hydrogen sulfide. This type of crude usually requires additional processing to remove the impurities.

Sour Gas - natural gas contaminated with chemical impurities, notably hydrogen sulphide or other sulfur compounds, which impart to the gas a foul odor. Such compounds must be removed before the gas can be used for commercial and domestic purposes.

Old Production - as used by the Department of Revenue means wells that were drilled and began producing oil and/or gas prior to July 1, 1985 (i.e. pre 1985 production)

New Production - as used by the Department of Revenue means wells that were drilled and began producing oil and/or gas after July 1, 1985 (i.e. post 1985 production).

New Oil and Gas Net Proceeds Tax - is the tax paid quarterly to the county for "new production." The rate of tax is 7% for oil and 12% for gas.

Oil and Gas Net Proceeds Tax - is the tax that applied to "old production" prior to being replaced by the Local Government Severance Tax by the June 1989 Special Legislative Session. This tax was paid directly to the county and the amount of tax was based on the mill levy for the school district in which the production occurred.

Flat Tax - is the more common name used when referring to the Local Government Severance Tax (LGST). The LGST replaced the Oil and Gas Net Proceeds on "old production." The LGST is paid to the state and all of the money is distributed back to the counties that have oil and/or gas production.

Well Head Price - is the price paid for gas at the well head versus the price paid away from the well head after the gas has been gathered, compressed or processed.

ambiguous area

Secondary Recovery - production of oil utilizing artificially created reservoir energies such as waterflood, gas injection, or enriched gas drive. Gas lift operations or mechanical lifting devices may be employed.

Tertiary Recovery - chemicals or other energy are injected into an oil producing formation to move the oil to a production well. The statute includes such things as steam drive injection, polymer augmented water flooding, and carbon dioxide water flooding. Use of 3rd rec. is dependent upon price of [illegible] processes

Working Interest - is the name given to the party or parties who have leased the rights to explore for and produce oil. These owners bear the exploration, development, and operating costs of an oil or gas property.

Non-working Interest - as defined in Montana law is any interest owner who does not share in the development and operation costs of a property. These are typically royalty owners.

Independent Operator - is an operator of an oil or gas lease or unit who only produces the oil or gas and is not engaged in the transportation, refining or marketing of oil or gas. majority of operators are independent operators

Base Information Regarding the Oil and Gas Industry in Montana

	Fund Impacted	Revenue FY 90 ($ millions)	Revenue FY 91 ($ millions)
I. Taxes and Current Rates that apply to Oil Producers			
A. State Severance	General	$14.510	$19.147
1. Incremental Tertiary - 2.5% of Gross Value			
2. All other production - 5% of Gross Value			
B. Local Government Severance	County	N/A	$25.232
1. Working Interest Owner			
a. Tertiary - 5% of Gross Value			
b. Stripper - 5% of Gross Value			
c. Regular - 8.4% of Gross Value			
2. Non-working Interest Owner			
a. All - 12.5% of Gross Value			
C. Net Proceeds - New Production	County	$ 2.090	$ 4.335
1. First 12 months exempt			
2. After 12 month exemption - 7% of Gross Value			
D. Privilege and License	O & G Board	$ .709	$ .906
1. All - .2% of Gross Value			
E. Resource Indemnity Trust	RIT Trust	$ 1.796	$ 2.268
1. All - .5% of Gross Value			
II. Taxes and Current Rates that apply to Gas Producers			
A. State Severance	General	$ 1.057	$ 1.469 ↑ due to ↑ in production
1. Stripper - First 30,000 cubic feet are exempt			
2. Stripper - In excess of 30,000 cubic feet - 1.59% of Gross Value			
3. All other production - 2.65% of Gross Value			
B. Local Government Severance	County	N/A	$ 8.318
1. Working Interest Owner			

EXHIBIT 1
DATE 1-24-91
HB N/A

	Fund Impacted	---- $ millions --- Revenue FY 90	Revenue FY 91
a. Stripper - 10% of Gross Value			
b. Regular - 15.25% of Gross Value			
2. Non-working Interest Owner			
a. All 15.25% of Gross Value			
C. Net Proceeds - New Production	County	$ 1.343	$ 1.721
1. First 12 months exempt			
2. After 12 exemption - 12% of Gross Value			
D. Privilege and License	O & G Board	$ .165	$ .172
1. All - .2% of Gross Value			
E. Resource Indemnity Trust	RIT Trust	$ .453	$ .399 ↓ is projected no answer for reasons to ↓ we will get back to answer
1. All - .5% of Gross Value			

III. Number of Producers Filing - FY 90
- A. Oil - 290
- B. Gas - 168

IV. Number of Counties & School District Impacted by Oil and Gas
- A. Counties - 32
- B. School Districts - 131

V. Collection and Due Dates of Returns and Payments
- A. State Severance
  - 1. Collected by the State
  - 2. Returns due 60 days after the end of each calendar quarter
    - a. Production quarter ending March 31, due May 31
    - b. Production quarter ending June 30, due August 31
    - c. Production quarter ending September 30, due November 30

d. Production quarter ending December 31, due February 28

3. Payment of tax due with the returns

B. Local Government Severance

1. Collected by the State - distributed to the counties having oil and gas production
2. Returns due 60 days after the end of each calendar quarter same as State Severance
3. Payment of tax due one year after return is filed
   a. Example - Production quarter ending March 31, 1989, return due May 31, 1989, payment of the tax due May 31, 1990, distributed to county November 30, 1990

based on mill levy just kept 1yr.

C. Net Proceeds - New Production

1. Collected by the county in which the production occurred
2. Returns due 30 days after the end of each calendar quarter
3. Payment due 60 days after the end of the quarter

[reason for 60 days instead of 30, is because ... out of state ...]

D. Privilege & License

1. Collected by the State
2. Return information is filed quarterly with the State Severance Tax on the same tax form
3. Payment is combined with the State Severance Tax

E.Resource Indemnity Trust

1. Collected by the State
2. Return information is filed quarterly with the State Severance Tax on the same tax form
3. Payment is made annually on February 28

VI. Distribution of Revenue Collected from each Tax

A. State Severance

1. 100% to the State General Fund

B. Local Government Severance

1. 100% to Counties and School Districts
   a. Distributed to each county based upon a statutory formula that uses 1988 net proceeds collections per unit of production
   b. The County Treasurer then distributes the money to the various taxing units in the same proportion that each

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taxing unit was of the total for FY 90

C. Privilege & License
   1. 100% to the Oil and Gas Commission to support its function

D. Resource Indemnity Trust
   1. 100% is deposited to the Resource Indemnity Trust until the balance reaches $100 million - the balance in the RIT as of 6\30\90 was $72,811,618

VII. Average Price of Crude Oil in Montana compared to West Texas Intermediate

A. Posted price on 1/3/91 per bbl
   1. West Texas Intermediate - $25.25
   2. Williston Basin Sweet - $24.65
   3. Central Montana - $24.75
   4. South Montana Sour - $21.75

Quality of crude impacts price of oil
all @ 40 gravity ... quality for MT
40 is industry standard

B. Posted price on 9/17/90 per bbl
   1. West Texas Intermediate - $32.25
   2. Williston Basin Sweet - $31.65
   3. Central Montana - $31.75
   4. South Montana Sour - $30.25

C. Posted price on 6/12/90 per bbl
   1. West Texas Intermediate - $15.00
   2. Williston Basin Sweet - $14.90
   3. Central Montana - $15.00
   4. South Montana Sour - $13.75

VIII. Price of Natural Gas by Nine Major Purchasers in 1989 - $/MCF

A. Purchaser 1 - $1.35
B. Purchaser 2 - $1.63 intra purchasers
C. Purchaser 3 - $1.73
D. Purchaser 4 - $2.73
E. Purchaser 5 - $2.94 inter state purchasers
F

F. Purchaser 6 - $2.64
G. Purchaser 7 - $0.66
H. Purchaser 8 - $1.46
I. Purchaser 9 - $1.20
J. Statewide Avg. - $1.64

higher prices up near Ph... because gas is going to interstate pipeline

VIII. Comparison of Tax Rates on New Production
A. North Dakota - 9.00% → does note holiday, not reflected here
B. Montana
1. First 12 months of production - 5.7%
2. After 12 months - 12.7%

due to 12 mo. holiday

IX. Production Information - Oil Barrels

	Stripper	Regular
A. Old Production		
1. 1987 - 23,200,615		
2. 1988 - 20,703,960		
3. 1989 - 18,252,574	2,499,388	15,753,186
B. New Production		
1. 1987 - 1,025,049		
2. 1988 - 1,294,049		
3. 1989 - 1,817,031	50,400	1,766,631

X. Production Information - Gas MCF's

A. Old Production		
1. 1987 - 38,698,149		
2. 1988 - 37,092,980		
3. 1989 - 34,147,689	15,577,732	18,569,957
B. New Production		
1. 1987 - 3,010,624		
2. 1988 - 5,777,363		
3. 1989 - 7,845,356	1,174,601	6,670,755

new production ↑ [illegible] state to maintain or get ahead
Most of drilling in [illegible] area

TAX INCENTIVES

Comparison of Montana's Incentive Before and After Recent Price Increase

Explanation	Terminated	In effect
1. NEW PRODUCTION - STATE SEVERANCE 24 month tax holiday for all newly drilled oil and gas wells. This incentive terminated for both oil and gas when the price of crude oil reached $25/bbl. This is no provision in statutes that allows holiday to become reactive when price drops below $25/bbl	X	
2. NEW PRODUCTION - NET PROCEEDS (LOCAL) 12 month tax holiday for all newly drilled oil and gas wells. This incentive didn't terminate for when the price of crude oil reached $25/bbl.		X
3. STRIPPER INCENTIVE - STATE SEVERANCE - OIL If a well produces less than 10 bbls/day during the previous calendar year it qualifies as a stripper for the current year. The first 5 bbls/day produced from a qualified stripper were exempt, and all bbls produced in excess of 5 bbls/day were tax at 3% rather than 5%. This incentive terminated when the price of crude reached $30/bbl. no provision for reinstatement when price drops back below $30/bbl	X	

Explanation	Terminated	In effect
4. STRIPPER INCENTIVE - STATE SEVERANCE - GAS		
If a well produces less than 60 MCF/day during the the previous calendar year it qualifies as a stripper for the current year. The first 30 MCF/day produced from a qualified stripper is exempt, and all MCFs in excess of the 30 MCF/day are taxed at 1.59% rather than 2.65%.		X
5. STRIPPER INCENTIVE - LOCAL GOVERNMENT SEVERANCE - OIL		
If a well produces less than 10 bbls/day during the previous calendar year it qualifies as a stripper for the current year. The tax rate is 5%.		X
6. STRIPPER INCENTIVE - LOCAL GOVERNMENT SEVERANCE - GAS		
If a well produces less than 60 MCF/day during the previous calendar year it qualifies as a stripper for the current year. The tax rate is 10%.		X
7. TERTIARY RECOVERY INCENTIVE - STATE SEVERANCE - OIL		
All production from wells in a tertiary recovery project in excess of what would have been produced under primary and secondary is taxed at 2.5%.		X

1
1-24-41
N/A

Explanation	Terminated	In effect
8. TERTIARY RECOVERY INCENTIVE - LOCAL GOVERNMENT SEVERANCE - OIL		
All production from wells in a tertiary recovery project in excess of what would have been produced under primary and secondary is taxed at 5%.		X

Sources of Funding for Oil and Gas Exploration and Development

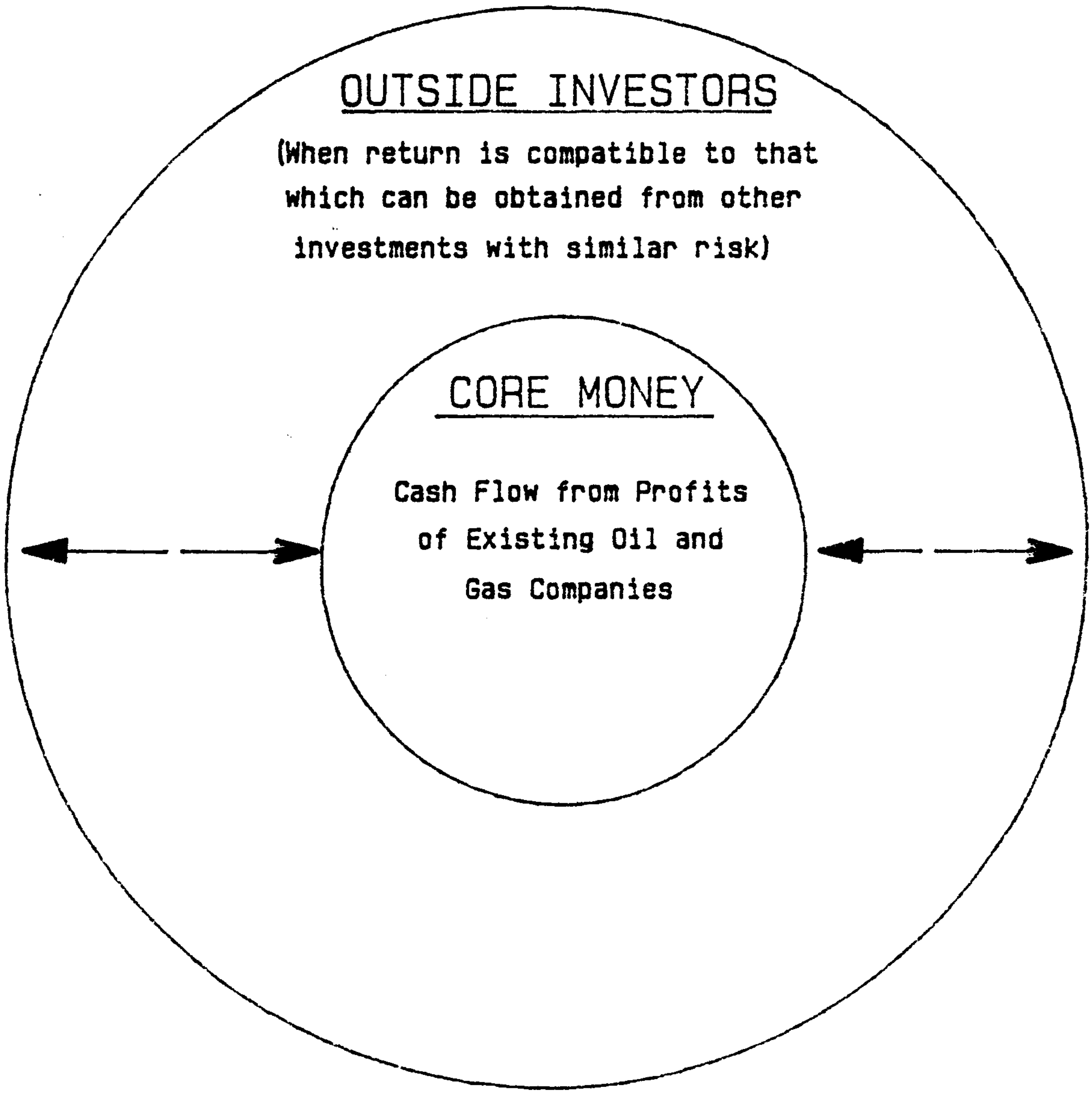

Exhibit # 1 1/24/91
Sev./Income Tax Sub.

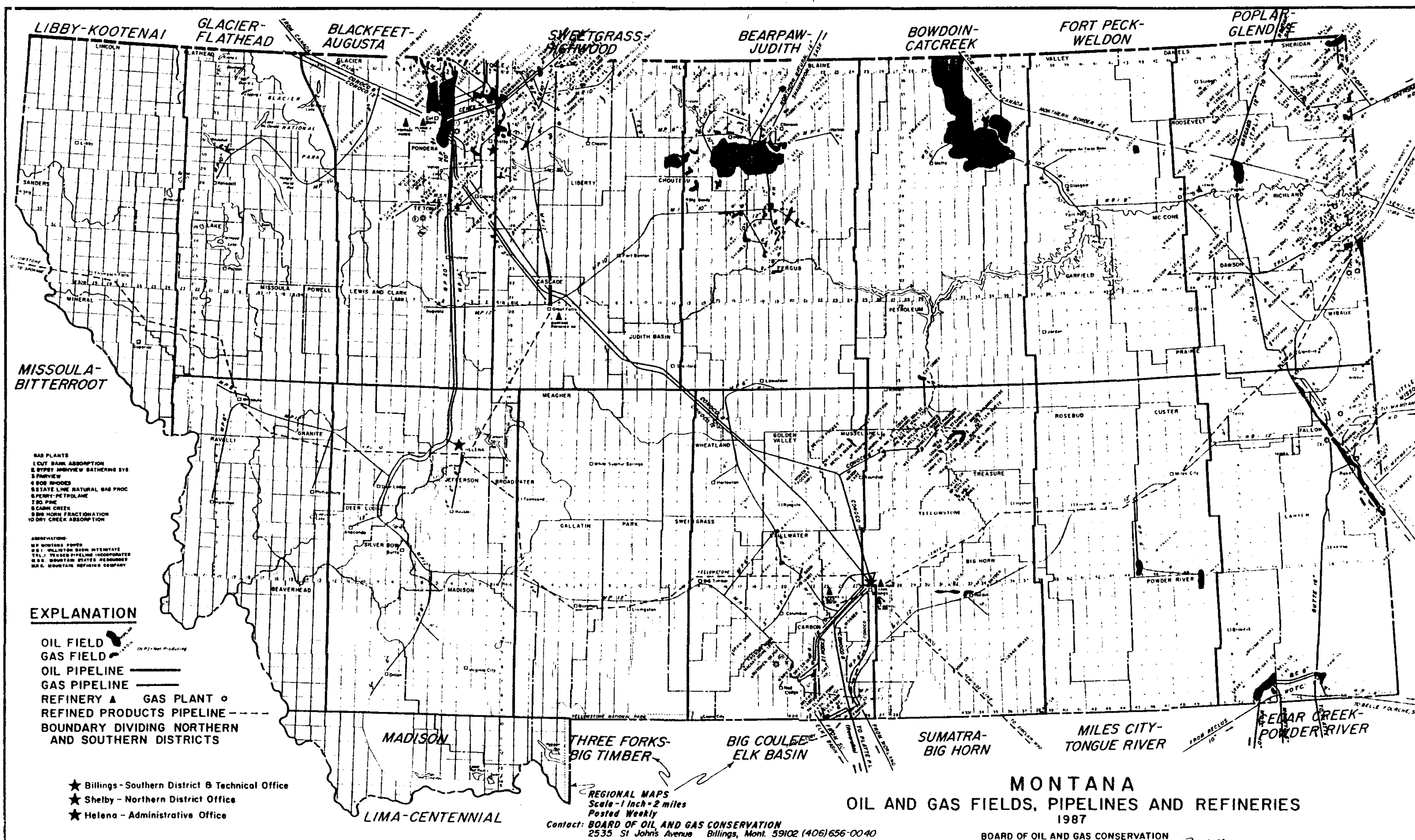

EXHIBIT 8
DATE 1-24-91
HB info
Income/Severance Tax Subcomm.

Report to House Taxation Subcommittee on Natural Resource Taxes
Information on Montana Solid Mineral Taxes
Prepared by the Department of Revenue

Base Information Regarding the Coal, Metal, and Industrial Mineral Taxes in Montana

	Fund Impacted	Revenue FY 90 ($ millions)	Revenue FY 91 ($ millions)
I. Taxes and Current Rates that apply to Coal Producers			
A. State Severance	See Below	$67.871	$49.853

1. After June 30, 1990 and before July 1, 1991:

Heating quality	Surface	Underground
Under 7,000	13% of CSP	3% of CSP
7,000 and over	20% of CSP	4% of CSP

2. After June 30, 1991:

Heating quality	Surface	Underground
Under 7,000	10% of CSP	3% of CSP
7,000 and over	15% of CSP	4% of CSP

CSP means the Contract Sales Price. CSP equals the f.o.b. mine price minus production taxes and governmental royalties in excess of $ .15/ton.

A person is not liable for any severance tax upon 50,000 tons of coal he produces in a calendar year, except if he produces more than 50,000 tons of coal, he will be liable for the severance tax upon all coal exceeding 20,000 tons.

	% of Dist. for 1990	Fund Impacted	Revenue FY 90 ($ millions)	Revenue FY 91 ($ millions)
3. Returns and payments due 30 days after the end of each quarter				
4. Distribution of Coal Severance Tax	15.39%	General	$10.445	$ 7.672
	.19%	Conservation Dist.	.128	.095
	.38%	County Planning	.258	.189
	6.65%	Local Impact	4.513	3.315
	.76%	Agri. Growth	.515	.379
	3.80%	School Equalization	2.579	5.683
	.38%	State Library	.258	.189
	.47%	Renewable Resource	.322	.237
	1.90%	Parks Trust	1.290	.947
	50.00%	Permanent Trust	33.935	24.927
	.47%	Water Development	.322	.237
	12.00%	Highway Trust	8.144	5.982

drop between 90 & 91 is because in 90 there was an Audit collection

% [illegible]

		Fund Impacted	Revenue FY 90	Revenue FY 91
B. Gross Proceeds		County	$13.432	$12.467
C. Resource Indemnity Trust		RIT Trust	$ 2.540	$ 1.273

B. Gross Proceeds
1. 5% of CSP
2. Returns due annually on March 31, payment made to counties on November 30 and May 31
3. Distribution by the county to the various taxing units in the same proportion that each taxing unit was of the total for FY 89

C. Resource Indemnity Trust
1. 1/2 of 1% (.5%) of Mine Mouth Value
2. Returns filed and paid annually on March 31

Mine mouth value equals f.o.b. mine price minus production taxes and

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post-mine costs (hauling, crushing, and loading).

II. Taxes and Current Rates that apply to Metal Producers

A. Metalliferous Mines License

1. Concentrate shipped to a smelter, mill or reduction work is taxed as follows:

Gross Value of Product	Rate of Tax (% of Gross Value)
First $250,000	0%
More than $250,000	1.81% of increment

2. Gold, silver, or any platinum-group metal that is dore, bullion, or matte and is shipped to a refinery is taxed as follows:

Gross Value of Product	Rate of Tax (% of Gross Value)
First $250,000	0%
More than $250,000	1.60% of increment

In 1989 legislative a distinction was made between prec & nonprec

3. Returns filed and payment made annually on March 31

4. Distribution

	Fund Impacted	Revenue FY 90 ($ millions)	Revenue FY 91 ($ millions)
	General - 58%	$ 3.337	$ 4.120
STATE	Hardrock Trust - 1.5%	.086	.107
	RITT - 15.5%	.892	1.101
	County - 25%	1.438	1.776

county is restricted to what they can do with it

Major shift in hardrock trust in 1989 session

	Fund Impacted	---- $ millions --- Revenue FY 90	Revenue FY 91
5. Gross value of product is defined for both the Metalliferous Mines and Gross Proceeds tax as the total price for the metal less smelting, refining and treatment charges paid by the producer.			
B. Metal Mines Gross Proceeds 1. Gross Value of Product times 3% equals taxable value times the mill levy equals tax due 2. Returns filed annually with the Department on March 31 3. Payments made to the county in which the mine is located on November 30 and May 31 like other property taxes	County	$10.145 - T/V	N/A
III. Taxes and Current Rates that apply to <u>Industrial Mineral</u> Producers (includes talc, vermiculite, gypsum, bentonite, silica, phosphate)			
A. Micaceous Mineral Mines License 1. $.05 per ton on any vermiculite, perlite, kerrite, maconite, or any other micaceous mineral. 2. Filed and paid quarterly	General	$ .004	N/A
B. Mines Net Proceeds <u>except Talc</u> 1. Gross value of product minus specific allowable deductions equals Net Proceeds 2. Net Proceeds times the total mill levy for the taxing district	County	$ 8.413 - T/V	N/A

EXHIBIT 2
DATE 1-24-91
HB N/A

	Fund Impacted	Revenue FY 90 ($ millions)	Revenue FY 91 ($ millions)
in which the mine is located 3. Returns filed annually with the Department on March 31 4. Payments made to the county in which the mine is located on November 30 and May 31 like other property tax			
C. Mines Net Proceeds <u>for Talc only</u>	County	$ 2.124 - T V	
1. Net Proceeds equals number of tons extracted, produced, and treated or sold times statutory price - 1988 price $4.25 ton. Price is escalated annually based on the "price deflator for personal consumption expenditures" 2. Returns are filed annually with the Department on March 31 3. Payments made to the county in which the mine is located on November 30 and May 31 like other property taxes			
D. Resource Indemnity Trust <u>for Talc only</u>	RIT Trust	$ .070	N A
1. Same value as Mines Net Proceeds for talc 2. Tax is .5% of the Net Proceeds value 3. Returns filed quarterly tax paid annually on March 31			
E. Resource Indemnity Trust <u>except for Talc</u>	RIT Trust	$ .087	$ .158
1. Gross Value of Product times .5%			
F. Cement and Gypsum Producers License	General	$ .131	N A
1. For each ton of cement produced or manufactured, $ .22/ton 2. For each ton of gypsum produced or manufactured, $ .05/ton			

problems for MT producers
> 50% cement produced is exported due to slow market in MT
cement industry [illegible]
outside MT

	---- $ millions -----		
	Fund Impacted	Revenue FY 90	Revenue FY 91
IV. Tax and Current Rate that applies to Electrical Energy Producers	General	$ 4.100	$ 4.449
A. Electricity and Electrical Energy License			
1. Total KWH of electricity and electrical energy generated manufactured or produced less KWH required for plant use to produce the electrical energy times $ .0002/KWH.			
2. Returns filed and tax paid quarterly by producer			
V. Taxes and Current Rates that apply to Miscellaneous Taxes			
A. Retail Coal Dealers License	General	$ .000	$ .000
1. Total number of tons of coal shipped in from outside Montana and sold times $ .05/ton			
B. Retail Cement Dealers License	General	$ .0001	N/A
1. Total number of tons of plaster, gypsum plaster and gypsum shipped in from outside Montana and sold or used times $ .05/ton.			
2. Total number of tons of cement product shipped in from outside Montana and sold or used times $ .22/ton.			
3. Tax is due only on those tons for which the Cement and Gypsum Producers tax was not paid			
4. Returns and payments due 30 after the end of each calendar quarter			

Exhibits 3 and 4 consist of 1990 Montana natural resource tax forms. The originals are available at the Montana Historical Society, 225 North Roberts, Helena, MT 59601. (Phone 406-444-4775)