

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - SPECIAL SESSION**

COMMITTEE ON TAXATION

Call to Order: By Senator Halligan, Chair, on December 3, 1993,
at 8:17 a.m.

ROLL CALL

Members Present:

Sen. Mike Halligan, Chair (D)
Sen. Dorothy Eck, Vice Chair (D)
Sen. Bob Brown (R)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John Harp (R)
Sen. Spook Stang (D)
Sen. Tom Towe (D)
Sen. Fred Van Valkenburg (D)
Sen. Bill Yellowtail (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jeff Martin, Legislative Council
Beth Satre, Committee Secretary

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

Committee Business Summary:

Hearing: SB 1, SB 10
Executive Action: SB 10, SB 4, SB 18

HEARING ON SENATE BILL 1

Opening Statement by Sponsor:

Senator Gage, Senate District 5, reminded the Committee that the Legislature had asked that a study committee review the non-mill revenue portion of school financing during the interim. He stated that currently schools must use their prior year receipts from non-mill revenues to calculate their current year general fund budget and to determine the amount of mill levy money required for that year. He explained the current policy had been adopted in order to stop schools from understating their non-mill revenues, increasing their mills, and consequently qualifying for

more guaranteed tax base.

According to **Senator Gage**, the current policy is "a two edged sword"; if school districts anticipate increases in non-mill revenues over the previous year, they do not have the flexibility to adjust their mills downward and the state pays more money in guaranteed tax base than necessary. He stated the current policy also does a disservice to schools especially in those districts where the local government severance tax (LGST) collected from oil production continues to decline. **Senator Gage** said that it did not make sense to require school districts to use a two-year old number when figuring their budgets, especially since school districts can predict LGST revenues or the effects of legislative changes fairly accurately. He stated school districts should have the flexibility to anticipate non-mill revenues rather than be tied to the figures from the previous year which may no longer be relevant. He noted if the state paid a little more guaranteed tax base money than necessary to a district, it would be a one year occurrence because the numbers could be adjusted in the budget for the following year.

Proponents' Testimony:

Don Waldron, Montana Rural Education Association (MREA), expressed MREA's support for SB 1 and stated **Senator Gage** had explained exactly the problem many schools are experiencing. He noted that taxpayers are happier when their tax levies can be leveled out and said with the flexibility SB 1 would grant that becomes more of a possibility. He explained that if a school district can react to, for example, rising property values and taxes, it becomes possible to better balance the funding sources. **Mr. Waldron** said SB 1 would provide a "very good tool for the taxpayers and the schools", and noted estimates might be off for one year, but school districts could not "get away with anything", the funding equation would balance itself out again.

Madalyn Quinlan, Office of Public Instruction (OPI), expressed OPI's support for SB 1 and expressed her willingness to answer any questions from the Committee.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Towe asked **Senator Gage** to respond to the initial reason for the current statute: the possibility that school districts will not accurately state their revenues and receive more money from the guaranteed tax base as a result. **Senator Gage** responded that possibility would remain. He added, however, he did not find it realistic to dismiss SB 1 on those grounds since school districts would only be able to do that one time as OPI would have a better handle on the districts available non-mill

revenues. He stated if school districts are tied to revenues from the pervious year, the State is presented with the "other side of the problem".

Senator Towe asked who actually made the determination of what non-mill revenue is anticipated. **Senator Gage** replied that as he understood the process the school board calculated the budget which then was reviewed first by the county superintendent and then by the county commission.

Senator Towe noted **Senator Gage's** answer covered the expenditure side and asked who calculated the anticipated property taxes, fees, net proceeds tax, and each of the non-mill levies. **Senator Gage** responded probably a lot of people were involved in determining anticipated revenues. **Madalyn Quinlan** noted that **Senator Gage** was correct. She explained the school district adopts the budget and the county superintendents could not change the expenditure side of the budget, but could adjust anticipated revenues in conjunction with the county attorney. She stated the school district would "take the first shot" at anticipating revenues.

Senator Towe asked if OPI made any changes or had any authority. **Ms. Quinlan** responded that OPI made no changes to the revenue side of school budgets, since no statute directed OPI how it could make any changes. She said OPI could check whether a school district is living within their caps on the budget and expenditure side, but the budget is put together with school district revenue estimates.

Senator Towe asked **Ms. Quinlan** to respond the concern that spawned the current statute. **Ms. Quinlan** replied that if a district underestimates its revenue and has collected more revenues than it estimated by year end, that extra money would be reappropriated in the following year. She said one scenario would be that the mills would be that much lower, the local taxpayer would have a savings and the state would have somewhat lower guaranteed tax base obligation for that year.

Senator Towe commented that the district may underestimate the revenue in the second year as well. **Ms. Quinlan** responded that once that money goes out it stays in the school budgets, she noted it should only be "sort of a one time shot in the system". She stated the other possibility would be that a district may use both local and state money to build its reserves. She noted school districts currently have a 10 percent reserve limit, after which they do have to appropriate the extra money. She said this scenario did not present a problem, because statute does allow that to happen. She added the reserve limit may be lowered during the special session.

Senator Eck asked if the county boards have any guidelines or assistance in estimating revenues. **Ms. Quinlan** replied that most school districts, particularly the larger school districts, would

work with their county treasurer in determining the amount. She said OPI sends out estimates of LGST amounts to every school district. She added that revenues from motor vehicle licenses and interest from investments would be estimated at the school district level and would involve whomever the school district chose to consult.

Closing by Sponsor:

Senator Gage informed the Committee that the House had taken "fairly significant action" on HB 22 dealing with school reserves on the previous day. He said HB 22 and SB 1 both deal with the same section of statute and asked that the Committee table SB 1 until HB 22 arrived in the Senate. He voiced the possibility of transferring SB 1 into Senate Education where it could possibly be amended into HB 22.

Chair Halligan noted that the Committee would not have to table SB 1, but simply hold it until it became clear if it should be transferred to Education or simply acted upon.

HEARING ON SENATE BILL 10

Opening Statement by Sponsor:

Senator Harp, Senate District 4, said he was sponsoring SB 10 at the request of the Department of Revenue (DOR) and Office of Budget Planning and Programming (OBPP). He added SB 10 was part of the governor's budget reduction package and would reduce General Fund expenditures by \$300,000 annually. He explained that the majority of collection and audit costs incurred by DOR's Corporate Tax and Natural Resource Bureaus are currently paid with General Fund monies. According to **Senator Harp**, each of these bureaus benefit non-General Fund entities, and SB 10 would allocate a certain percentage of non-General Fund collections over fiscal years (FY) 1994 and 1995 in order to cover costs directly related to those non-General Fund collections. He noted that the Legislature would recalculate those percentages for following fiscal years. He said the mechanism contained in SB 10 is the same mechanism currently used by the Public Service Commission (PSC). **Senator Harp** concluded that SB 10 would effect local governments although the impact would be minimal.

Proponents' Testimony:

Don Hoffman, DOR, distributed an packet of information to the Committee explaining SB 10 and containing DOR's calculations and figures (Exhibit #1). He said SB 10 would establish a mechanism whereby the General Fund is reimbursed for those activities related to non-General Fund collections. He gave as examples of non-General Fund entities currently enjoying the benefits of DOR tax audits and collections the resource indemnity trust and county and LGST. He explained the mechanism would allow DOR to

deposit a portion of non-General Fund revenues into a state special appropriation account and use that to offset General Fund expenditures. **Mr. Hoffman** explained the formula in SB 10 which would be used to calculate the portion of monies to be withheld using the tables in Exhibit #1. He noted a slight difference would exist between the actual appropriation reduction and the net impact since some of the money going to the counties would impact the school equalization account which is directly tied to the General Fund.

Mr. Hoffman informed the Committee he would like to offer a couple of amendments to SB 10. The first had been requested by the Montana Power Company, which was concerned that the language in SB 10 indicated that a portion of the assessed fees would be passed on to the taxpayer (Exhibit #2). **Mr. Hoffman** stated that did not reflect the intent of SB 18 and DOR had no problem with the amendment. He said the second amendment would provide a correcting mechanism in SB 18 for the calculation used to determine the yearly fees after FY95 (Exhibit #3). He stated DOR's intent was to require that the amount of money accumulated in the special revenue account be reconciled with the money being withdrawn to reimburse costs from non-General Fund related activities. **Mr. Hoffman** explained that the effect of the amendment would be that the yearly rate withheld from non-General Fund entities would be adjusted each year to account for what was not spent in the previous year; without the amendment the balance in that account would continue to grow.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

Senator Gage commented that when the net proceeds tax was changed to the LGST, the counties had expressed the fear that the State would start siphoning off some of that LGST. He stated SB 10 proved their fears were justified. He asked that a DOR representative respond. **Mick Robinson, Director, DOR**, replied he had not been around when the counties voiced their fear. He said SB 10 was consistent with the budgetary activity within DOR and in the last regular session which established the direct relationship between tax collection and accommodation of tax collections. He stated there should be a direct relation between the work done and the taxes collected.

Senator Towe asked how did DOR arrived at the numbers it did. **Don Hoffman** referred to Exhibit #1 and asked to the Committee to follow along as he worked through DOR's calculations. He noted that 60 percent of the revenues collected in FY92 were related to non-general fund and emphasized that SB 10 excluded the permanent coal trust fund because DOR does not believe that Montana constitution would allow that. He noted that the total expenditures from the general fund for collecting revenues was \$469,3908 and by multiplying that by the 60 percent resulted in \$281,628. **Mr. Hoffman** explained that since a portion of FY94 had

already expired, DOR needed to recoup that money from the remainder of the collection that it would get for the remainder of the year since SB 10 has an immediate effective date. He stated that the final total is .737 percent, but that total was rounded up to one percent in order to build a balance in the appropriation account. He said the calculation was basically similar for FY95.

Senator Towe asked **Don Hoffman** to clarify why SB 10 would assess one percent for FY94. **Mr. Hoffman** replied \$327,000 is approximately .6 percent of the \$54 million collected in non-general fund revenues. Referring to the supplemental table in Exhibit #1, he explained that the \$327,000 is slightly more than is needed, but DOR's projected cash flow on this account for the rest of FY 94 and FY95 got "pretty low" in Feb. 1995. He stated based on this flow the rate was adjusted to ensure it would not be necessary to borrow from the General Fund. He said in the start-up period, the rate would have to be adjusted upward or downward depending upon what has been deposited in the account from previous years, which is what the law would allow DOR to do if the second amendment were adopted (Exhibit #3). **Mr. Hoffman** noted that in its present form, SB 10 would not provide that the account be reconciled.

Senator Towe asked to what the proposed amendment would be tied. **Don Hoffman** replied the amendment DOR is proposing would be tied to the 1 percent in FY94 and the .6 percent in FY95 in the natural resource area. He said it used as its basic mechanism that statutory mechanism established for the PSC tax, and added it would allow DOR to adjust that rate up and down in accordance to need. He noted, according to that law, DOR could not appropriate more what the ratio of non-general funds to general funds, which places a check on DOR's budget.

Senator Towe asked if the items in the expenses column in Table 3 (Exhibit #1) referred to as tax audits, are audits only for Natural Resources. **Mr. Hoffman** responded affirmatively. He stated that the historical data at DOR shows that 80 percent of audit collections go back to the towns. He explained DOR spends a great deal of its audit time on the net proceeds tax for oil and gas, but decided that the data showed 80 percent was not a fair figure. As a result, **Mr Hoffman** said DOR adopted the current revenue mix rather than the historical audit collections to determine the final figure.

Senator Towe verified that the \$469,000 reflected figures only for natural resources. **Mr. Hoffman** replied those reflected the Natural Resource Bureau's expenditures for FY94.

Closing by Sponsor:

Senator Harp closed the hearing on SB 10.

EXECUTIVE ACTION ON SENATE BILL 10

Motion/Vote:

Senator Harp moved to AMEND SB 10 (Exhibit #2). The MOTION CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Harp moved to AMEND SB 10 (Exhibit #3). The MOTION CARRIED UNANIMOUSLY.

Motion:

Senator Harp moved SB 10 DO PASS AS AMENDED.

Discussion:

Senator Yellowtail said he appreciated the rational basis for this concept in SB 10. He identified, however, the underlying principle as an attempt to set up an earmarking process that would insulate this part of what has been a General Fund part of state government operation from the budgeting process. He noted that this earmarking would occur at the expense of counties and schools.

Senator Van Valkenburg commented that **Senator Yellowtail** had already made most of the comments he would have made with respect to SB 18. He stated the consequence is that DOR is not cutting anything; DOR's Natural Resource and Corporate Tax bureaus are going to receive the same amount of money as they have always had. He stated the cuts would be made at the local government level and to some small degree the money that goes into the six-mill levy funds for the university system and the school equalization account. He stated SB 10 exemplified how administrative functions in Helena always take precedence over everything else in the state of Montana.

Senator Harp responded that HB 2 would afford the Legislature an opportunity to cut DOR's budget. He pledged to "join" **Senator Van Valkenburg** if he found ways to cut DOR budget in Helena when HB 2 came on the Senate floor.

Senator Gage expressed his opinion that when the Legislature makes commitments, legislators needed to honor those commitments. He noted those legislators who were not present might not be bound by the word of previous legislatures, but added those commitments ought not to be taken lightly or violated. **Senator Gage** stated that the counties had received a legislative commitment that those funds would not be dipped into when the LGST was adopted. He said he had assured those counties that

even though the money would be brought to the state level, he would fight to make sure all of it went back to the counties. He stated he would honor his commitment.

Senator Towe noted he was not in the Legislature and did not participate in that commitment. He stated that SB 10 would address LGST monies and the net effect would be the same whether it was redirected through SB 10 or taken out of the school foundation program. He expressed his suspicion that DOR's precise accounting would give a clearer picture of what was actually happening. He said that if audits do benefit the local governments through the local government's severance tax, the beneficiaries ought to pay a portion of the audit cost. He concluded the Committee ought to support SB 10 as a revenue measure.

Senator Eck said she was concerned by the current fashion in state government that has one department trying to bill somebody else for their costs. She noted "we might decide...to fund the Legislature by charging DOR, they bring in an awful lot of bills". She stated this whole issue should be looked at in the light of reinventing government, and expressed her suspicion that it was not an especially productive way to reinvent government. **Senator Eck** said that most of the services DOR currently provided could be billed out to somebody or other, but added that was not a good precedent to set.

Vote:

The DO PASS AS AMENDED motion for SB 10 FAILED BY ROLL CALL VOTE.

EXECUTIVE ACTION ON SENATE BILL 4

Motion/Vote:

Senator Towe moved that THE COMMITTEE RECONSIDER ITS ACTION ON SB 4. The MOTION CARRIED UNANIMOUSLY.

Discussion:

Chair Halligan explained that there was a technical flaw in the amendment the Committee had previously adopted (Exhibit #4). He asked **Jeff Martin** to explain the situation.

Jeff Martin explained the salient amendments were on page two (Exhibit #4a). He defined the technical problem as a circular loop which required that the money from the bond fund travel into the permanent trust fund while providing that the allocation of the clean coal technology program would not be affected. He stated the amendment would eliminate that reference. According to **Jeff Martin**, the amendment would also repeal the statutory section which set up the fund for the clean coal technology

demonstration projects. He noted this provision would address the auditors' concern about the transfer of money within all of the accounts.

Motion:

Senator Towe moved to AMEND SB 4 (Exhibit #4a).

Discussion:

Senator Towe noted that the amendments actually incorporated the amendments from yesterday (Exhibit #4) with the ones that **Jeff Martin** just described. **Jeff Martin** agreed, noting that the repealer of the section had been added which eliminated the authorization letting the money go to the Clean Coal Demonstration Fund.

Senator Towe informed the Committee that these amendments assume that those amendments the Committee adopted yesterday do not apply. He reminded committee members that he had referred to damage control during the hearing on SB 4, and stated **Greg Petesch** was of the opinion that the only way to accomplish the necessary damage control was to go into the 1991 law and repeal that one section which required a transfer. He said DOR had never made that transfer, and the auditor had insisted that transfer made; in order to make it clear that DOR should not make that transfer, it is necessary to repeal the transfer language.

Chair Halligan stated because the Committee had adopted the amendments (Exhibit #4) it may be necessary to strip those amendments before the Committee adopts the amendments currently under discussion (Exhibit #4a).

Senator Towe withdrew his MOTION TO AMEND SB 4.

Motion/Vote:

Senator Towe moved to STRIP YESTERDAY'S AMENDMENTS (Exhibit #4) AND TO AMEND SB 4 (Exhibit #4a). The MOTION CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Towe moved SB 4 DO PASS AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SENATE BILL 18

Discussion:

Chair Halligan informed the Committee that several sets of amendments to SB 18 had been drafted and then distributed a set he had requested (Exhibit #5). He explained that the amendments

responded to four of the concerns committee members had raised during the hearing on SB 18. First, the amendments would correct an oversight and remove all references to natural gas remaining in the body of SB 18. **Chair Halligan** said the reference to natural gas had been omitted from the title, but not the body of SB 18, and added that the inclusion of natural gas had never been intended. Second, the amendments would clarify that the incentive applies only to enhanced recovery, that incremental portion above existing flows. **Chair Halligan** noted the new language addressed **Senator Towe's** concern that the current language in SB 18 did not specify that intent clearly enough. Third, the amendments would establish the duties of the Board of Oil and Gas Conservation (BOGC) and DOR as they apply to the determination and the taxation of the incremental production levels. **Chair Halligan** noted **Senator Doherty** had been concerned that SB 18 would grant BOGC authority to tax. He explained the amendments would specify that BOGC would certify the decline rates to DOR which would use those rates to establish incremental production levels and to determine and to levy the actual tax. Fourth, the amendments would direct BOGC to make at least a yearly report on the implementation of SB 18 to the Revenue Oversight Committee. **Chair Halligan** stated this amendment would provide the Legislature with regular empirical information by which to evaluate the consequences and usefulness of SB 18. He said this amendment addressed the problems **Senator Yellowtail** had voiced about industry accountability.

Senator Towe asked for further clarification. In response, **Jeff Martin** identified the language and effect of each specific amendment (Exhibit #5) as it applied to the general description given by **Chair Halligan**.

Referring to amendments nine and ten, **Senator Towe** asked **Jeff Martin** to clarify the difference between "approval" and "certify". **Jeff Martin** responded he understand the concepts to be related; BOGC would approve the production decline rate of a project and then certify that approval to DOR.

Chair Halligan turned the meeting over to **Vice-Chair Eck** for the purposes of executive action on the amendments he was proposing for SB 18.

Motion/Vote:

Senator Halligan MOVED TO AMEND SB 18 (Exhibit #5). The MOTION CARRIED UNANIMOUSLY.

Discussion:

Senator Halligan said **Vice-Chair Eck** had expressed the concern that BOGC might not have sufficient staff to handle the application process. He stated SB 18 should be amended to

address that concern and asked **Tom Richmond**, BOGC, if BOGC currently had rule-making authority to establish fees. **Mr. Richmond** replied BOGC had some authority related to very specific fees, but added that statute did not grant BOGC authority to establish a fee for the administrative duties it would receive if SB 18 were adopted.

Since BOGC would have increased staff time directly related to the passage of SB 18, **Senator Halligan** stated it was important to grant BOGC the ability to establish a fee schedule BOGC's associated with the application process of horizontal, tertiary and secondary enhanced recovery projects. He asked **Tom Richmond** to comment on what sort of authority would be appropriate. **Mr. Richmond** suggested that the Committee establish BOGC's authority to assess the fee, but, aside from a possible cap, not set the fee in statute. He explained that allowing BOGC to determine the fee administratively would be the best solution because the complexity and the necessary staff time to process applications would greatly vary and would need to be addressed on a case by case basis. He noted BOGC could probably adopt rules recognizing a fee schedule based on some kind of a sliding scale.

Senator Halligan asked if the Committee should grant BOGC rule-making authority directly related to SB 18 or a general rule-making authority, since its rule-making authority for other fees was ambiguous. **Mr. Richmond** noted a general rule-making authority would "certainly be a gift [he] would be happy to take home with [him]".

Vice-Chair Eck asked if general rule-making authority could be added to SB 18. **Senator Halligan** replied he thought the Committee could amend SB 18 to establish rule-making authority to implement the act. **Senator Towe** noted that SB 18 already contained rule-making authority and that expanding that authority would be germane to the title. He said the question was whether the Committee wanted to expand that authority, and added if the Committee decided to do so a reference should be included both in the title and in the statement of intent as well as in the body of SB 18.

Motion:

Senator Halligan MOVED to AMEND SB 18 WITH AN AMENDMENT TO BE DRAFTED THAT WOULD GIVE BOGC FURTHER RULE-MAKING AUTHORITY TO DEVELOP A SLIDING SCALE FEE SYSTEM BASED ON THE COMPLEXITY OF THE APPLICATIONS.

Discussion:

Senator Halligan commented he was unsure whether the Committee should place a cap on that fee schedule.

Senator Towe asked to whom the fee would be assessed. **Mr. Richmond** said he would anticipate that the company applying for an increment determination would pay the fee.

Senator Towe said he felt uncomfortable approving such an amendment when the Committee did not know what the fee would be, how it would work, or how the amendment would be drafted.

Senator Halligan stated the Committee would not know the amount of the fee, and asked how much a comparable fee currently amounted to. **Mr. Richmond** said BOGC currently administers a drilling permit fee which varies by depth; the price range for that permit was set in 1953 and was \$25 for shallow wells, \$75 for medium depth, and \$150 for deep wells. He stated that the fee BOGC staff had been unofficially discussing was "somewhere in the neighborhood of \$500 for a complex application and going down from that for the lesser complex applications".

Vice-Chair Eck asked if BOGC could use \$500 as a cap. **Mr. Richmond** agreed that a \$500 cap was a possibility.

Senator Towe asked **Mr. Richmond** how he envisioned determining the appropriate fee and what language the Committee should adopt in order to give BOGC the necessary authority. **Mr. Richmond** replied he thought the best rule-making approach would be to estimate the amount of staff time required to process an application, place a dollar value on each hour of staff time, and then keep track of how much staff time is actually used, honoring the cap. He stated it would be fair to let the applicant know the estimated costs prior to the actual work.

Senator Towe asked if BOGC would charge the fee after the work was completed. **Mr. Richmond** replied most of the applications would be done by public hearing, and said the fee should be paid at the time the application is noted for public hearing.

Senator Towe commented the fee would then have to be based on an estimate. **Mr. Richmond** agreed, but added it would be understood that those were estimated costs and there would be a final number and any difference could be recompensed either to BOGC or the applicant.

Jeff Martin said the statute on BOGC's privilege and license tax contained language referring to fees established "for the purposes of providing funds for defraying expenses for BOGC" and "rule-making authority pursuant to a map of fixed assessment". He noted the Committee could adopt similar language which would set an upper limit and refer specifically to the fees for an application.

Senator Towe proposed that the Committee pull that statute into the code and add a new section which would provide that BOGC shall have the authority to establish a fee for determining the incremental production for each application based on the staff time necessary to process the application not to exceed \$1000. He noted \$500 was not high enough to allow BOGC to recoup its costs.

Motion:

Senator Towe MOVED TO AMEND SB 18 CREATING A NEW SECTION PROVIDING THAT BOGC SHALL HAVE THE AUTHORITY TO ESTABLISH A FEE FOR DETERMINING THE INCREMENTAL PRODUCTION FOR EACH APPLICATION BASED ON THE STAFF TIME NECESSARY TO PROCESS THE APPLICATION NOT TO EXCEED \$1000, AND ALSO APPROPRIATELY AMENDING THE TITLE AND STATEMENT OF INTENT. **Senator Towe** explained that reference needed to be made in the title and statement of intent because the amendment would grant rule-making authority.

Discussion:

Senator Halligan asked **Mr. Richmond** how much staff time would a complex application take, he asked if \$500 was enough or too much. **Mr. Richmond** explained that the staff time necessary would include a mix of professional, clerical and computer time, and added that \$500 would cover at least 20-25 hours.

Senator Van Valkenburg asked how the Committee could determine an appropriate cap. He suggested that the Committee simply adopt language which provided that BOGC should recover the costs of processing the application.

Motion/Vote:

Senator Towe amended his motion to cut reference to a cap. The MOTION TO AMEND SB 18 GRANTING BOGC RULE-MAKING AUTHORITY TO ESTABLISH A FEE SCHEDULE TO DEFRAY THE EXPENSES FOR REVIEWING PROPOSED ENHANCED RECOVERY PROJECTS. The MOTION CARRIED UNANIMOUSLY.

Discussion:

Senator Towe distributed a set of amendments to SB 18 (Exhibit #6). He stated the purpose of the amendments was to build yearly goals into SB 18 using 80 percent of the oil industry's own projected number of wells per year as a benchmark. He explained the amendments would cause the entire act and the incremental tax breaks to terminate for the following years if those goals were not met by January 1 of the corresponding year. In order to accomplish this, **Senator Towe** said BOGC would be required to certify the total number of wells completed in that year to the Governor and be given the authority to accumulate and disseminate information on anticipated numbers of wells. He noted this provision would allay companies' fears of violating anti-trust laws and make it easier to reach the necessary number of wells drilled.

Senator Towe stated the testimony yesterday made it clear that the best way to evaluate the success of SB 18 was to identify the number of new wells drilled and not jobs created or capital investment.

Motion:

Senator Towe MOVED TO AMEND SB 18 (Exhibit #6).

Discussion:

Senator Grosfield noted that **Senator Towe's** amendment would terminate sections one and six, which would affect only the 18 month holiday and not the incremental production after the 18 months.

Senator Towe asked **Jeff Martin** if the reduced rate after the 18 months would also be terminated. **Jeff Martin** replied the lower rate would continue.

Senator Grosfield commented that nothing would be gained by the amendment. He stated that **Senator Towe** was attempting to "put a monkey on the industry's back" in order to ensure that the oil companies take advantage of the incentives contained in SB 18. He said if the companies do not drill quite enough wells in one year and then drill no wells in the subsequent years because they cannot be economically justified, Montana would have lost the whole deal. He stated he was uncomfortable with the amendment.

Senator Towe responded he was uncomfortable with SB 18. He added he was not certain that the incentives were necessary to get the wells under discussion. He said the oil companies could certainly show the Committee "all kinds of great graphs" that indicated that Montana projects were right on the margin of profitability and would not be economically justifiable if oil prices dropped \$.10 or if the tax was not decreased by \$.10, but stated he remained unconvinced. He noted the companies had done a great sales job in eastern Montana and added he wanted to be sure that they actually performed like they have told everybody they would. He stated if they did not perform, they were not entitled to the tax break. He commented if the companies show a good faith effort, the next Legislature will no doubt grant some relief, and said his amendment presented "a good way to hold their feet to the fire".

Senator Halligan responded that the companies are only trying to sell a plan. He added that the record reflected the industry's projected number of wells and the Revenue Oversight Committee would be meeting, receiving and reviewing BOGC's report, and asking the industry to explain any shortfalls. He stated if the industry did not appear to be complying with their testimony before the Committee, he expected legislation to address the situation or eliminate the incentive to be introduced in the next session. **Senator Halligan** stated SB 18 embodied a serious attempt to establish some benchmarks, but a statutory benchmark would penalize the rest of the industry if one big company did not meet its obligation. He noted that lots of independents would be taking advantage of the incentives in SB 18, not just Shell and Meridian, and added it would be possible to determine which

company was not being accountable because the actual permits would be available for legislative perusal.

Senator Towe replied it was not realistic to think that this Committee or this Legislature would repeal SB 18 at that point. He stated the legislative process in Montana "does not work that way". He added "if we don't do it now, we will never get it done".

Senator Eck commented that if the dates in the amendment were changed from December 31 to July 1 of the following year, it would make the option of legislative review more realistic, since the Legislature would be back in session. She said if it looked like the industry was making some good efforts, the Legislature could address the potential termination of the incentives. She noted that she would personally be satisfied if six new wells were drilled by July 1, 1995. **Senator Towe** agreed and verified that **Senator Eck's** suggestion was to change each one of the dates in his amendment to six months later.

Motion:

Senator Towe amended his motion to amend SB 18 by changing all dates in his amendment to six months later.

Discussion:

Senator Yellowtail objected to that concession. He urged **Senator Towe** to remember that the benchmarks proposed in the original motion were only 80 percent of the companies' projections, and to remember that the Montana Legislature was loathe to rescind a tax gift. He stated it was unrealistic to expect that ever to happen. He stated the industry could easily concoct alibis for why they were not delivering on their promises. He noted the industry confirmed yesterday that Montana tax policy was only in the shadow of the world oil market as it effects their ability to deliver on these projects. According to **Senator Yellowtail**, that argument comprised an automatic alibi. He stated **Senator Towe** was right to set some modest targets which are only a percentage of their own projections into statute and make the industry comply. He stated "do not subject this process to the political whims of this Legislature further".

Senator Halligan asked that someone from the industry respond to the proposed amendments (Exhibit #6). **Stan Kalezyck, Attorney representing Meridian Oil**, responded the practical effect of **Senator Towe's** amendment would be that Meridian would have to evaluate the project as though the tax incentives did not exist. He explained Meridian planned its drilling program for the entire year and had to make those decisions independently of Shell Oil or any other oil company in the state; as a result, Meridian would have to assume that something is going to go awry and the tax incentives will not be in place. **Mr. Kalezyck** reminded the Committee that Meridian would not receive any benefit from SB 18

unless they invested approximately \$1 million per well. He noted if Meridian drills ten effectively dry wells, the state and local revenues would still receive the advantages of \$10 million investment. According to Mr. Kalezyck, even if those wells portended the end of the program for 1994 in that particular field, Meridian might come back in 1995 and drill in another field in Montana. He said he understood what Senator Towe was trying to accomplish, but stated the incentive was already in SB 18.

Senator Yellowtail said if the industry preferred, the Committee could amend SB 18 to name each company and insert the projections they provided to the Committee. He noted that "the whimpering has begun already".

Senator Towe stated he was upset that the oil companies made the rounds and convinced the people in eastern Montana that the companies would invest \$141 million in Montana, drill 138 wells, and local and state governments will receive \$122 million in new revenue over the next 30 years if the Legislature would grant them these incentives. He stated it seems the people in eastern Montana "have been sold a bill of goods" given the companies' negative response to a measure which would make them accountable to only 80 percent of their own projections.

Senator Gage noted that if the person who put together a drilling program had complete control of that program, he could see the sense in the amendment. He stated, however, that drilling for oil and the completion of wells in Montana involve so many factors that are variable and uncontrollable like the weather or rig availability.

Senator Towe reminded the Committee that he had changed the dates contained in his amendments to six months later. He noted that would not provide any assurances, but would give the Legislature a chance to review the special circumstances before the act terminates. He stated it was a fair provision.

Senator Gage asked if the amendments could be segregated, but Senator Harp spoke against segregating the amendments.

Vote:

The MOTION TO AMEND SB 18 FAILED BY ROLL CALL VOTE (Exhibit #6).

Discussion:

Senator Doherty said he had requested an amendment which would have required DOR to retain full authority for adopting the rules necessary for taxes and the incremental rates in consultation with BOGC. He asked Jeff Martin to review how Senator Halligan's amendments (Exhibit #5) affected SB 18. Jeff Martin replied that those amendments statutorily established the consultation between

BOGC and DOR in the determination of the production decline rate which would be used to determine the production increments for tax purposes. He added that DOR would retain its current authority to determine old and new production, which would involve different tax rates whether it the well was net proceeds or LGST.

Senator Doherty said he would not offer that amendment since the combination of **Jeff Martin's** explanation and the letter from **Mick Robinson** submitted to the record (Exhibit #7) gave him a certain degree of comfort, that taxing authority had not been given to an entity which had not had authority before and which, he said, should not have power over taxes.

Senator Doherty distributed another proposed amendment to SB 18 (Exhibit #8). He explained that the amendment would install a trigger price of \$30/barrel in SB 18; if the price of oil in a quarter was \$30/barrel or more, the tax breaks would fall off for that quarter on the production in that quarter and for that quarter only. He noted that if the price of oil were to drop below that threshold, the oil companies would still receive the tax breaks granted in SB 18. **Senator Doherty** stated if the price of oil was \$30/barrel the oil companies would not need the incentive. He explained he had selected \$30/barrel because it would put "Montana in the ballpark" since North Dakota has a trigger price of \$33/barrel.

Senator Towe asked if the incentives would fall off in each quarter the price is above \$30/barrel, or if they would be gone and never come back once they fall off. **Senator Doherty** replied if the price of oil was \$30/barrel for the quarter and the incentive drops off for that quarter, the incentive would be reactivated the following quarter if the price dropped below \$30/barrel. **Jeff Martin** noted that the amendment read "incremental production from a new enhanced recovery project is subject to the tax rate imposed in [those sections] if the price per barrel of oil is under \$30/barrel". He stated that language stipulated that for any quarter oil was under \$30/barrel it would be subject to those tax rates, if oil went above \$30/barrel for the quarter, it would be taxed at the higher rates.

Senator Towe asked what would happen if the price of oil goes up to \$33/barrel and stays around \$33/barrel until the last day of the quarter when it dips below \$30/barrel. **Jeff Martin** replied the calculation would be based on the average price in the quarter.

Motion:

Senator Doherty MOVED TO AMEND SB 18 (Exhibit #8).

Discussion:

Senator Halligan asked **Tom Hoffman**, to respond. **Mr. Hoffman**

replied that DOR had no problem with the \$30/barrel threshold, but asked that the Committee establish a definite and general index by which to gauge the price of oil. He noted if that index was hooked to the price individual companies receive for their oil, keeping track of prices and calculating taxes would really present a problem for DOR.

Senator Grosfield noted the price of \$30/barrel was not specific enough. He asked \$30/barrel for what kind of oil. **Senator Towe** replied the average price of every kind of oil sold in the state that is taxed.

Jeff Martin noted the amendment's current language provided that the price of oil would be determined by the production from a project or a leaser-unitized area. He said the Committee would need to specify how that price should be calculated if DOR's concerns were to be addressed.

Don Hoffman informed the Committee that the law had previously used the price of west Texas intermediate crude as reported in the *Wall Street Journal* as a benchmark. He noted that west Texas intermediate crude commanded between \$1 to \$2/barrel more than what most producers in Montana could get for their oil. He added it would, at least, provide a workable benchmark for DOR to calculate the average over 90 days. **Mr. Hoffman** reminded the Committee that there had been problems with the last legislation containing a trigger, but noted if the statute specified an average of an identifiable price it could serve as a benchmark to see whether the incentives would apply to a quarter. He suggested the Committee could set the trigger price \$2/barrel higher to allow for the difference.

Senator Doherty noted since he had originally intended to set the benchmark at \$25/barrel, he would prefer to leave it at \$30/barrel.

Motion:

Accepting that suggestion as a friendly addition to his amendments, **Senator Doherty** asked that his previous motion be amended to include setting the trigger price at \$30/barrel for average price over a calendar quarter of west Texas intermediate crude as published daily in the *Wall Street Journal*.

Discussion:

Jeff Martin asked that the way the average would be calculated be clarified. **Mr. Hoffman** said the *Wall Street Journal* posted that price daily. He asked if the trigger price would be a quarterly average. **Jeff Martin** noted that each daily price would be added up over the quarter and that sum would be divided by the number of days. **Senator Doherty** verified **Mr. Martin's** statement.

Vote:

The MOTION to AMEND SB 18 CARRIED UNANIMOUSLY (Exhibit #8 plus the addition accepted by **Senator Doherty** to use the quarterly average price per barrel of west Texas intermediate crude oil as reported daily in the *Wall Street Journal* to determine whether or not the price of oil had reached the threshold).

Discussion:

Senator Doherty distributed another set of amendments to SB 18 (Exhibit #9). He said the amendment would make the act contingent upon the completion of 50 wells and made it retroactive from June 30, 1995. He explained if the industry completed 50 wells by that date, they would be accorded the incentives in SB 18 retroactively. **Senator Doherty** said this amendment would allow the industry 1.5 years to reach the benchmark and would give them the opportunity to appeal to the Legislature if the weather had been horrible or there had been a shortage of drill rigs. He agreed that such a provision was similar to the window of opportunity the Legislature had established for coal, but added, however, that even though the industries are different, he had not arrived at a valid reason why they should be treated differently as far as tax policy.

Senator Doherty stated the incentives would not become effective until the oil companies produced, but when they produced, the act would be very much effective. He said the Legislature had established a viable policy with the window of opportunity afforded the coal industry. He added he did not agree that somebody could be penalized when they were receiving a gift; the oil companies were going to be given an opportunity to make money, and they were giving Montana an opportunity for economic development. He noted the oil industry and the state would be partners and stated that requiring the oil industry to drill a moderate number of wells in order to qualify, would not penalize them, since they would have the opportunity to something they did not currently have.

Motion:

Senator Doherty moved TO AMEND SB 18 (Exhibit #9).

Discussion:

Senator Doherty stated if the Committee expressed interest in changing the number of wells or the amount of time stipulated in the amendment, he would be willing to "dicker". He added, however, he thought the basic concept was a good idea.

Senator Halligan stated he, like **Senator Yellowtail**, wanted to include benchmarks in SB 18 and noted that he might support **Senator Doherty's** amendment if he did not believe that the perspective of the Legislature and the public had changed enough

to allow any Legislature to muster enough votes to redo tax incentives. He reminded the Committee that enhanced recovery projects are long-term, and the tax incentives are also calculated over the long-term life of the project; even if the total is only \$1.59/barrel, the economic viability of a project would be figured from the first day on that incentive. **Senator Halligan** expressed his concern that if this amendment were adopted, the industry would have to figure as though no incentive existed at all, because it would establish a benchmark that would penalize some parts of the industry over others if they did not meet the expectations. He objected to this kind of benchmark, and stated that with the trigger price and the requirement that BOGC report to the Revenue Oversight Committee the industry is "pretty well covered".

Senator Towe pointed out that the industry projections include having 57 wells drilled by 1995 year end. He expressed his support for the amendment.

Vote:

The MOTION TO AMEND SB 18 FAILED by a ROLE CALL VOTE (Exhibit #9).

Discussion:

Senator Doherty complemented industry representatives on their professionalism in promptly providing him with straight forward information he had requested about Montana effective tax rates compared to Wyoming, North Dakota and Colorado. He stated, however, he would feel more comfortable in dealing with the numbers if he had somebody who could audit the companies' books. He explained the Committee might "be leaving a little bit too much money on the table". He stated he would like to reduce the rates in SB 18, but had not been able to arrive at any figures. He added he hoped to have some suggestions by the time SB 18 goes to the Senate floor, which would be the last chance to reduce those rates.

Senator Doherty noted that **Senator Halligan** had done a good job trying to target the incentives specifically. He said he would like to see the incentives in SB 18 directly attached to performance, but realized that idea did not have enough support in the Committee. He reiterated his belief that in providing an incentive, Montana may not have to reduce its tax rates as much as provided in SB 18.

In connection with **Senator Doherty's** statement, **Senator Towe** commented his biggest concern was the 18 month holiday SB 18 would accord new horizontal drilling. He stated that his concern was aggravated by the information that the other two states whose statutes make specific reference to horizontal drilling, have placed a limit on the amounts: Oklahoma law limits the holiday

until payback or 24 months which ever occurs first; Louisiana provides that the oil from a horizontal well is taxed at a lesser rate until the company doubles its investment. **Senator Towe** said he would at least like to see how those two states mechanically provide for that in their statutes, and noted that unfortunately Meridian Oil has not been able to obtain that information. He asked if the Committee was interested in considering limiting the holiday to 18 months or until the costs of drilling are recouped whichever is earlier.

Senator Halligan asked either **Don Hoffman** or an industry representative if they knew anything about the administrative costs connected to such a provision, or how they would audit financial information to know when payback would be reached by either an individual project or a field.

Mr. Hoffman responded DOR auditors have never concerned themselves with the concept of "payback". He noted that the concept was unique to the industry and indicated that at some point in time a company had recouped their costs on a well. He requested that if the Committee introduced the concept of "payback" into SB 18, DOR be given some guidance as to what standard should be adopted to determine when payback would be actually reached.

Senator Towe noted he did not know how the point of payback would be determined either. He said that was the reason he had asked to see the pertinent Oklahoma and Louisiana statutes.

Senator Van Valkenburg said he understood that payback within an 18 month period is unique to the geological formations in areas such as Louisiana or Oklahoma. He stated it was not even a matter of practical discussion in the geological formations found in Montana. He asked **Tom Richmond** if that was correct. **Mr. Richmond** responded that the concept of payback or recouping the expense of drilling could be found in Montana's "forced pooling" statute, 82-11 MCA. He stated that statute lists the kinds of things for which people who did not participate in the drilling are assessed a penalty.

Senator Van Valkenburg remarked **Mr. Richmond** was not addressing his question. **Senator Van Valkenburg** asked what the likelihood was that a horizontally drilled well in Montana was going to recover its cost of production in an 18 month period. **Mr. Richmond** said he could not answer that question because it was a geological function and depended upon the formation being drilled into. He noted that some wells in the Texas Austin Chalk paid off while the companies were drilling, but added in Montana there was nothing like that.

Senator Van Valkenburg asked what the likelihood was of that happening in Montana. **Mr. Richmond** said he had been told that the states forced pooling statute which has a 200 percent penalty would make almost all of the wells in the state uneconomical,

because those wells do not pay out at 200 percent. **Senator Van Valkenburg** said he did not know whether he and **Mr. Richmond** "were tracking".

Senator Towe asked how long it normally took for a payout to occur under the pooling statutes. **Mr. Richmond** said it really is dependent upon how much oil is produced. **Senator Towe** asked if payout could occur as early as 12 or 18 months. **Mr. Richmond** responded that in some cases payout could occur that early. He emphasized, however, that the time of payout is extremely variable, and added it was hard to assign dollar values on for enhanced recovery methods.

Senator Van Valkenburg asked an industry representative to respond to his question. **Bill Tulloch, Meridian Oil**, responded that Meridian oil planners estimate that at least three to five years would be necessary to even approach payback, at least at anticipated production levels. He defined payout to be the revenues recovered from the production stream against the actual cost or investment of drilling the well. **Mr. Tulloch** stated that Meridian is looking at an excess of \$1 million per well in drilling cost and the company would really be pleasantly surprised, if some production levels were tapped that caused Meridian to recover its costs within 18 months. He emphasized Meridian certainly does not project that kind of production out of the wells it hoped to drill in Montana.

Mr. Tulloch reminded committee members that the 18 month holiday in SB 18 would only apply to the local net proceeds tax. He stated the oil companies are "in no way getting a holiday of any nature on the state severance tax", a fact which was made clear in the company's presentations to local residents, according to **Mr. Tulloch**. He said he remembered no expressed opposition to granting the additional six months on the local taxing structure. He emphasized the state would receive the full tax rate for new horizontal wells.

Senator Towe noted he still would like to see the Oklahoma and Louisiana statutes. He said he had no qualms about the industry's projections that payback would normally occur at three years. He stated certain circumstances exist in which it ought to be limited sooner, but noted that until the Committee has a better grasp of how to determine and define "payout", the Committee would not be in a position to include that concept in SB 18.

Motion:

Senator Halligan moved SB 18 DO PASS AS AMENDED.

Discussion:

Senator Yellowtail stated the "Committee ought to be wearing red suits and white whiskers today because we are about to deliver a

Christmas present to a special interest that has to be understood in the proper context of this special session". He reminded committee members that the "holiday season package for students and poor people and the elderly and the sick is not bright", and added he remained unconvinced that an emergency existed and that SB 18 was appropriate in this special session. Setting the appropriateness of SB 18 aside, **Senator Yellowtail** expressed skepticism about the type of tax incentive contained in SB 18. He stated "they seldom perform up to the advertised expectation as delivered by the applicant", and noted the applicants had already begun to backpeddle, an action which "belies their sincerity in their ability to deliver on what they have sold the public in eastern Montana". He stated the Legislature should make it public policy to grant special tax incentives subject to "reasonable and concrete benchmark requirements that they deliver on their rhetoric", when a special interest appeals to the Legislature for an incentive "justified by their public promises of some public benefit". **Senator Yellowtail** emphasized that he was not opposed to incentives if "there is some accountability for delivery". He concluded that SB 18 embodied "enormously bad public policy", and urged the Committee to resist.

Senator Gage said SB 18 would require companies to deliver before they receive; if no well was drilled as a result of SB 18, nothing would happen to the State's tax policy. He noted, however, if SB 18 did result in new activity, additional funds would be available to give to the poor people, schools, local governments and other groups that will be hurt this session. He emphasized that SB 18 would not affect the current revenues of current production, or the projections of what current oil wells are going to produce. **Senator Gage** stated "nothing of nothing is nothing" and that was what Montana would get without such legislation. He noted that Montana was in competition with other areas of the world as well as the nation. He said although costs had more to do with drilling programs progressing than many things, the costs involved were not today's costs, but those projected over the life of that well.

Senator Towe disagreed with **Senator Gage**. He said SB 18 addressed a new technology which would probably be more efficient and extract more minerals from the ground. He said the oil companies had asked the Legislature to grant them a tax break because that new technology was more expensive. He stated there had been no suggestion or evidence that the oil companies would not be drilling at the same rate without the tax break as they would with the tax break. According to **Senator Towe**, that represents a substantial loss of revenue. He expressed his concern that for the second time in five years, the oil industry had emerged from a special session called because of a financial crisis costing the people of Montana tax dollars and cuts in services with a substantial tax break. **Senator Towe** stated during a special session the time frame made it impossible either to get information from Louisiana and Oklahoma in order to see what other kinds of limitations should be considered or to really

evaluate SB 18 to discover what problems might exist. He stated the tax incentive issue could have been introduced in a the past general session, and it could have waited for the next session. He added it was a mistake to consider such an issue in a special session. He noted the oil industry had possibly intended to exploit the shorter time frame of a special session.

Senator Brown said SB 18 did not give anything to anybody, and added government could not give what it does not first take. He noted that if a positive response to the incentives would generate more revenue, the government would have more money to provide eyeglasses in the future. He stated the fact that a special legislative session is called and the Legislature may be forced to cut important services makes good political rhetoric, but has nothing to do with SB 18. According to **Senator Brown**, the bottom line on this issue is whether a person believed that the cost of doing business played an important role in companies' investment decisions, and was to take the chance that providing the incentives in SB 18 might encourage business and new development in Montana's future. He concluded if a person believed in that philosophy, they could vote for SB 18, if they did not, they could vote against SB 18.

Senator Grosfield stated he agreed with **Senators Brown and Gage**. He stated SB 18 would provide possible economic development and the potential for more tax revenue in Montana. He noted the Committee had been given a chart which used figures published in the Oil and Gas Journal demonstrating that horizontal drilling did not occur in Montana. He stated those numbers win credibility for the potential of new wells in the state, and stated he believed that SB 18 was good public policy.

Senator Van Valkenburg stated he had always believed that the best way to persuade and convince someone else of the legitimacy and need for things he finds in the best interest of Montana was being fair, open-minded and receptive to the ideas of others, particularly from other geographic regions and other political parties. He noted he had all the same concerns that **Senators Towe, Yellowtail** and others had expressed about the effects of this special session on the people of this state. He added, however, that the people who live in eastern Montana and along the Hi-line want to contribute to state services, want their local economies to grow, and want contribute in a responsible way to the State's needs. According to **Senator Van Valkenburg**, these residents were faced with competition and incentives provided in other states and nations. He said SB 18 represented a chance for those areas to experience some real and long-term economic growth. He expressed his belief that supporting something his own constituents may have a difficult time understanding might make it easier for someone from another part of the state to understand and support a position of his in the future. He stated he would support SB 18 for that reason.

Senator Doherty commented he would like to vote for SB 18

especially since **Senator Halligan** had attempted to "tie it down and make it a performance based and targeted incentive". He noted that those kinds of incentives might be the ones that work, although "trickle down has not really proven to be very successful". He stated, however, he, like **Senator Towe**, was bothered that SB 18 was being presented in a special session with its concomitant time restraints and inability to really review all alternatives. **Senator Doherty** noted oil is an interest which can martial its forces, go into the governor's office and get the call of a legislature expanded on the hope that something would happen in a region which is desperate for hope. He stated "nobody else can do that and nobody else has done that", and added that fact offended him.

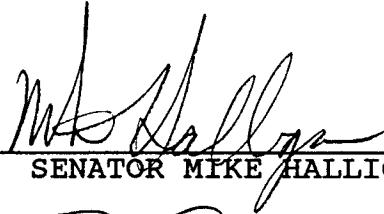
Senator Halligan noted the "holiday package of cuts for education and human services, the disabled and students" was largely the gift of Mr. Natelson and the petition supporters and had nothing to do with the oil industry. He stated he was "attempting not to give away the farm" but "to provide some stability and predictability in future revenue sources in order to defuse some of the interest in cutting government, so that petition drives cannot have such a dramatic impact on the services Montanans cherish". He repeated the foundation of SB 18 reflected the criteria of the National Conference of State Legislatures and the incentives were performance based since their benefits would only accrue to new wells or enhanced production. **Senator Halligan** argued that the additional criteria and the trigger price would make it possible to track the performance of companies while keeping Montana's tax policy competitive with North Dakota and Wyoming. He noted that the incentives contained in SB 18 would not result in the snowball effect of "somebody going to another state and whining about tax incentives in Montana". He concluded SB 18 was constructed to allow Montana's tax policy to maintain its position in the "competitive level playing field".

Vote:

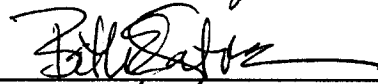
The DO PASS AS AMENDED MOTION FOR SB 18 CARRIED by ROLL CALL VOTE.

ADJOURNMENT

Adjournment: 10:35 a.m.



SENATOR MIKE HALLIGAN, Chair



BETH E. SATRE, Secretary

MH/bs

ROLL CALL

SENATE COMMITTEE TAXATION

DATE December 3, 1993

[illegible]

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
December 3, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 4 (first reading copy -- white), respectfully report that Senate Bill No. 4 be amended as follows and as so amended do pass.

Signed: 
Senator Mike Halligan, Chair

That such amendments read:

1. Title, lines 9 through 12.

Strike: "PROVIDING" on line 9 through "FUND;" on line 12

2. Title, line 14.

Following: ";

Insert: "REPEALING SECTION 11, CHAPTER 722, LAWS OF 1991;"

3. Page 2, line 7.

Following: "(2)"

Insert: "(a)"

Following: "determine"

Insert: ", on July 1 of each year,"

4. Page 2, lines 9 and 10.

Strike: "on" on line 9 through "dates" on line 10

Insert: "during the next 12 months"

5. Page 2, line 12.

Following: line 11

Insert: "(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (3) through (6)."

6. Page 3, line 11.

Following: "shall"

Insert: "quarterly"

7. Page 3, line 22.

Strike: "quarterly"

Insert: "monthly"

8. Page 3, line 23.

Following: "transfer"

Insert: "from the treasure state endowment fund"

9. Page 3, line 24.

Strike: "interest"

10. Page 4, line 1.

Strike: "Interest earnings"

Insert: "Earnings"

11. Page 4, line 6.

Following: "(2)"

Insert: "(a)"

12. Page 4, lines 10 through 14.

Strike: section 2 in its entirety

Renumber: subsequent sections

13. Page 4, line 16.

Following: "shall"

Insert: "on [the effective date of this act]"

Strike: "\$37,100,000"

14. Page 4, line 17.

Following: "permanent fund"

Insert: "the cash balance of the bond fund as of July 1, 1993,
that is in excess of the amount required by 17-5-703(2)(a),
including the amount either held in the fund for the clean
coal technology demonstration fund or required to be
transferred to the clean coal technology demonstration fund.
The provisions of this section do not affect the
authorizations contained in section 10, Chapter 722, Laws of
1991"

15. Page 4, line 18.

Following: line 17

Insert: "NEW SECTION. Section 3. Repealer. Section 11, Chapter
722, Laws of 1991, is repealed."

Renumber: subsequent section


-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 5
December 4, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 18 (first reading copy -- white), respectfully report that Senate Bill No. 18 be amended as follows and as so amended do pass.

Signed: 

Senator Mike Halligan, Chair

That such amendments read:

1. Title, line 8.

Following: "2002;"

Insert: "PROVIDING THAT INCREMENTAL PRODUCTION FROM ENHANCED RECOVERY PROJECTS IS TAXED AT EXISTING HIGHER RATES IN CALENDAR QUARTERS IN WHICH THE PRICE PER BARREL OF OIL IS EQUAL TO OR GREATER THAN \$30;"

2. Title, line 12.

Following: "RATES;"

Insert: "REQUIRING THAT THE BOARD ESTABLISH A FEE SCHEDULE TO DEFRAY THE EXPENSES FOR REVIEWING PROPOSED ENHANCED RECOVERY PROJECTS;"

3. Page 2.

Following: line 23

Insert: "The board of oil and gas conservation is required to establish by rule a fee schedule to defray the expenses associated with reviewing applications for enhanced recovery projects. The fee schedule adopted by the board must take into account the complexity of processing the application."

4. Page 5, line 14.

Following: "project"

Insert: ", by a well in primary recovery recompleated as a horizontally completed well,"

5. Page 5, line 17.

Strike: "or"

6. Page 5, line 23.

Strike: "+"

Insert: "; or

(c) the commencement of the recompletion of a well as a horizontally completed well."

7. Page 6, line 18.

Following: "project"

Insert: ", of a recompletion of a well as a horizontally completed well,"

8. Page 6, line 19.

Following: "or"

Insert: "of an"

9. Page 6, line 20 and page 23, line 13.

Following: "writing"

Insert: "to the department of revenue"

10. Page 6, line 21 and page 23, line 13.

Strike: "The"

Insert: "In that certification, the"

11. Page 6, line 24.

Following: "used"

Insert: "by the department"

12. Page 7, line 14 and page 18, line 15.

Strike: "approved"

Insert: "certified"

13. Page 7, line 15 and page 18, line 16.

Following: "project"

Insert: "to the department"

Strike: "approval"

Insert: "certification"

14. Page 7, line 19.

Following: "delineated"

Insert: "in the certification"

15. Page 12, line 20.

Following: "(i)"

Insert: "except as provided in subsection (4),"

16. Page 13.

Following: line 17

Insert: "(4) (a) Incremental production from a new enhanced recovery project is subject to the tax rate imposed in subsection (2)(c)(i) or (2)(c)(ii) if the average price per barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 per barrel in a calendar quarter as

determined in subsection (5), incremental production from a new enhanced recovery project is taxed as provided in subsection (2)(a) for production occurring in that quarter.

(b) Incremental production from an expanded enhanced recovery project is subject to the tax rate imposed in subsection (2)(c)(i) or (2)(c)(ii) if the average price per barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 per barrel in a calendar quarter as determined in subsection (5), incremental production from an expanded enhanced recovery project is taxed as provided in subsection (2)(a) for production occurring in that quarter.

(5) For the purposes of subsections (4)(a) and (4)(b), the average price per barrel must be computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days in the quarter."

Renumber: subsequent subsections

17. Page 14, line 23.

Strike: "Production"

Insert: "New production"

18. Page 14, line 24.

Strike: "is"

Insert: "and incremental production from wells recompleted as horizontally completed wells are"

19. Page 15, lines 2 through 5.

Strike: ":" on line 2 through "(b)" on line 5

20. Page 18, line 2.

Following: "(c)"

Insert: "except as provided in subsection (4)(a),"

21. Page 19, line 15.

Strike: "(6)(a)(ii)"

Insert: "(8)(a)(ii)"

22. Page 20, line 21.

Following: "(e)"

Insert: "except as provided in subsection (4)(b),"

23. Page 20, line 25.

Strike: "(6)(a)(ii)"

Insert: "(8)(a)(ii)"

24. Page 22, line 14.

Following: "produced"

Insert: "by either a well in primary recovery recompleted as a horizontally completed well or"

25. Page 22, line 15.

Following: "project"

Insert: ", which volume of production is"

26. Page 22.

Following: line 16

Insert: "(A) the commencement of the recompletion of a well as a horizontally completed well;"

Renumber: subsequent subsections

27. Page 23, line 12.

Following: "project"

Insert: "or the recompletion of a well as a horizontally completed well"

28. Page 24.

Following: line 19

Insert: "(4) (a) Incremental production from a secondary recovery project is subject to the tax rate imposed in subsection (1)(c) if the average price per barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 per barrel in a calendar quarter as determined in subsection (5), incremental production from a secondary recovery project is taxed as provided in subsection (1)(a) for production occurring in that quarter.

(b) Incremental production from a tertiary recovery project is subject to the tax rate imposed in subsection (1)(e) if the average price per barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 per barrel in a calendar quarter as determined in subsection (5), incremental production from a tertiary recovery project is taxed as provided in subsection (1)(d) for production occurring in that quarter.

(5) For the purposes of subsections (4)(a) and (4)(b), the average price per barrel must be computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days in the quarter."

Renumber: subsequent subsections

29. Page 30, line 17.

Strike: "drilled"

Insert: "completed"

30. Page 48.

Following: line 11

Insert: "NEW SECTION. Section 20. Fees for processing applications. (1) The board shall establish a fee schedule to defray the expenses incurred for processing an application from an operator or producer of oil seeking approval of a new or expanded enhanced recovery project, as defined in 15-23-601 or 15-36-101. The fee must be paid by the owner or operator seeking approval of the project.

(2) The board shall, by rule, determine the amount of the fee based on the complexity of processing the application.

NEW SECTION. Section 21. Reports by board of oil and gas conservation to revenue oversight committee. The board of oil and gas conservation shall report at least once a year to the revenue oversight committee regarding the implementation of [this act]. The reports must include but are not limited to information regarding:

- (1) the methods used to determine production decline rates;
- (2) rules adopted to implement [this act];
- (3) the number of enhanced recovery projects completed or anticipated to be completed in a year; and
- (4) the number of horizontal wells completed or anticipated to be completed in a year and the method of recovery from the horizontal wells."

Renumber: subsequent sections

31. Page 48, line 12.

Following: "instruction."

Insert: "(1)"

32. Page 48.

Following: line 15

Insert: "(2) [Section 20] is intended to be codified as an integral part of Title 82, chapter 11, part 1, and the provisions of Title 82, chapter 11, part 1, apply to [section 20]."

-END-

ROLL CALL VOTE ①

SENATE COMMITTEE TAXATION BILL NO. *SB 10*

DATE December 3, 1993 TIME 8:57 A.M. P.M.

NAME _____

YES

NO

[illegible]

Beth Sater
SECRETARY

Senator M. Halligan
CHAIR

MOTION: SB 10 NO PASS HS AMENDED

ROLL CALL VOTE (2)

TAXATION

BILL NO. 5818

TIME 9:45

A.M. P.M.

YES

NO

[illegible]

Beth Salvo

SECRETARY

Senators Eck

CHAIR

MOTION: on SEN Torrey's Amendment (Exhibit #6) with
dates changed from December 31 to July 1 of the corresponding years.

En ci

ROLL CALL VOTE⁽³⁾

SENATE COMMITTEE

TAXATION

BILL NO. SB 18

DATE December 3, 1993

TIME 10:04 am.

A.M. P.M.

NAME _____

YES

NO

[illegible]

Both Sides

SECRETARY

Vice-Chair Eck

CHAIR

MOTION: Senator Doherty's amendment Exhibit #9

ROLL CALL VOTE (4)

SENATE COMMITTEE

TAXATION

BILL NO. 5618

DATE December 3, 1993 TIME 10:34 A.M. P.M.

NAME

YES

NO

[illegible]

Beth Schatz
SECRETARY

Senator Eck
CHAIR

MOTION: SB 18 DO PASS AS AMENDED

Natural Resource and Corporation Tax Funding Proposal

The majority of collection and audit costs of the Natural Resource and Corporate Tax Division are supported by the general fund. However, much of the Division's audit and collection functions benefit non-general fund agencies and accounts. The budget principal adopted for the Income and Miscellaneous Tax Division during the last several legislative sessions is that every revenue source should bear its fair share of administrative costs. This same principle would be applied to the natural resource tax program.

The Corporation Tax Bureau and Natural Resource Tax Bureau will each allocate a portion of their total costs to the non-general fund revenues for which they collect and or audit taxes based on the relative proportion of non-general fund to general fund revenue collections. For purposes of this allocation, collection and audit costs allocable to the school equalization account are considered as general fund costs. Furthermore, distributions to the coal permanent trust fund will be exempt from sharing in the administrative costs. Non-general fund costs are estimated to be approximately 60% of the current general fund budget of the Natural Resource Tax Bureau and 6% of the Corporation Tax Bureau.

Non-general fund costs will be recovered by withholding a percentage of non-general fund collections. The percentage of non-general fund collections withheld will be 1.0% in fiscal year 1994 and 0.6% in fiscal year 1995 for the Natural Resource Tax Bureau. The percentage of non-general fund collections withheld for the Corporation Tax Bureau will be 1.0% for fiscal year 1994 and 0.75% for fiscal year 1995. For fiscal years after 1995, the Department will calculate the percentage necessary to generate the annual non-general fund appropriation for each bureau. The funding mechanism is based on the method used to determine the Public Service Commission and Consumer Counsel tax rates and ensures that administrative revenues match appropriations.

December 3, 1993
Senate Bill 10

Table 1
Natural Resource and Corporation Tax Division
Change Between General Fund and State Special Revenue Appropriation
1995 Biennium

General Fund Appropriation Reduction:

Natural Resource Bureau

Fiscal 1994 282,000

Fiscal 1995 282,000

Corporation Tax Bureau

Fiscal 1994 49,000

Fiscal 1995 49,000

General Fund Appropriation Reduction 662,000

State Special Appropriation:

Natural Resource Bureau

Fiscal 1994 282,000

Fiscal 1995 282,000

Corporation Tax Bureau

Fiscal 1994 49,000

Fiscal 1995 49,000

State Special Revenue Fund Appropriation 662,000

School Foundation and University Loss of Revenue:

Natural Resource Bureau

Fiscal 1994 99,000

Fiscal 1995 79,000

School Foundation and University Loss 178,000

General Fund Appropriation Reduction 662,000

School Foundation and University Loss 178,000

Net General Fund Impact 484,000

Table 2
Taxes Collected and Audited By
Natural Resource Bureau
Percent Which Is Non-General Fund
Fiscal 1992

<u>Tax Type</u>	<u>Fiscal Year 1992 Collections</u> (1)	<u>General Fund Collections</u> (2)	<u>Permanent Trust</u> (3)	<u>Non-General Fund State Collections</u> (4)	<u>Local Government And Schools Collections</u> (5)	<u>County Collected State Mills</u> (6)
Compliance Collections						
1 Cement & Gypsum License	131,860	131,860				
2 Electrical Energy	4,128,510	4,128,510				
3 Metalliferous Mines License	6,595,467	3,825,371		1,121,229	1,648,867	
4 Coal Severance	32,754,110	8,774,826*	16,377,055	7,602,229		
5 Natural Gas Severance	1,112,778	1,112,778				
6 Crude Oil Severance	16,171,115	16,171,115				
7 Resource Indemnity Trust	5,154,732			5,154,732		
8 Total State Taxes	66,048,572	34,144,460	16,377,055	13,878,190	1,648,867	
9 Metal Mines Gross Proceeds	3,950,258				2,715,296	1,234,962
10 New Oil & Gas Net Proceeds	5,391,790				3,104,792	2,286,998
11 Misc. Mines Net Proceeds	2,228,269				1,377,039	851,230
12 Coal Gross Proceeds	13,148,125				6,964,500	6,183,625
13 Local Government Severance	37,142,799				27,023,832	10,118,967
14 Total County Taxes	61,861,241					
15 Total Natural Resource Taxes	127,909,813	34,144,460	16,377,055	13,878,190	42,834,326	20,675,782
16 Percent of Total Revenue	100.00%	26.69%	12.80%	10.85%	33.49%	16.16%
17 % Non-General Fund Tax Collections	60.50%			10.85%	33.49%	16.16%

* - Includes 15.39% to the General Fund and 11.40% to School Equalization

Table 3
General Fund Used To Produce Non-General Fund Revenue
Natural Resource Bureau - Fiscal 1994

<i>Personal Services related to tax audit & administration</i>	
Tax Audit	\$257,811
Tax Administration	122,618
Operating Expenses	
Administrative Costs	41,625
Audit Travel	<u>47,326</u>
Total General Fund Expenditures	469,380
% Of Revenue Non-General Fund	<u>60%</u>
General Fund Used To Produce Non-General Fund Revenue	<u>\$281,628</u>

Table 3a
General Fund Personal Services
Fiscal 1994

Natural Resource Bureau Tax Staff

	Position #	Salary	Fringes	% Alloc.	Total
Tax Audit Staff					
	7450	25,839	6,588		32,427
	7506	25,697	6,585		32,282
	7801	36,174	9,000	75.00% *	33,881
	7508	25,868	6,670		32,538
	7804	42,880	10,642	50.00% *	26,761
	7509	30,787	7,378		38,165
	7805	23,150	6,147		29,297
	7808	25,868	6,592		<u>32,460</u>
Tax Audit Staff Personal Service Cost					<u>\$257,811</u>
Tax Administrative Staff					
	7803	22,572	6,763		29,335
	7804	42,880	10,642	50.00% *	26,761
	7806	24,185	7,332		31,517
	7809	22,250	6,479		28,729
	7801	36,174	9,000	25.00% *	<u>11,294</u>
Tax Administrative Staff Personal Service Cost					127,636
Clerical Staff					
	7701	21,674	6,371	50.00% **	14,023
	7902	15,634	4,957	50.00% **	<u>10,296</u>
Clerical Staff Personal Service Cost					<u>24,318</u>
Tax Administration and Clerical Personal Services					\$151,954
Less: Oil & Gas Era(Special Revenue Account)Personal Services					<u>(29,336)</u>
Tax Administration Staff					<u>\$122,618</u>

* - Audit Manager's Time Is Split Approximately 75% - Audit, 25% - Administrative; Bureau Chief's Time Is Split Approximately 50% - Audit, 50% - Administrative;

** - Two Clerical Positions' Time Is Split Approximately 50% - Natural Resource Bureau, 50% Corporation Tax Bureau

Table 3b
Natural Resource Bureau General Fund Operating and Travel Costs
Fiscal 1994

Operating Costs			
Allocation By Total FTE:	<u>FTE</u>	<u>%</u>	<u>Dollars</u>
Natural Resource Tax Staff	12	42.86%	\$41,625
Corporation Tax Staff	16	57.14%	55,499
Total Division General Fund Operating Costs	<u>28</u>	<u>100.00%</u>	<u>\$97,124</u>

Travel Costs			
Allocation By Auditor FTE:	<u>FTE</u>	<u>%</u>	<u>Dollars</u>
Natural Resource Tax Audit Staff	8	38.10%	\$47,326
Corporation Tax Audit Staff	13	61.90%	76,905
Total Division General Fund Travel Costs	<u>21</u>	<u>100.00%</u>	<u>\$124,231</u>

Table 3c
Natural Resource Bureau General Fund Used To Produce Non-General Fund Revenue
Fiscal 1995

Percent of Division General Fund Expenditures for Natural Resource Bureau	
Natural Resource Bureau General Fund Fiscal 1994	\$469,380
Division General Fund Expenditures Fiscal 1994	1,330,321
Percent of Division General Fund in Natural Resource Bureau 469,380/1,330,321	<u>35.28%</u>
Fiscal 1995 Division General Fund Appropriation	\$1,334,840
Percent of General Fund in Natural Resource Bureau	<u>35.28%</u>
Fiscal 1995 Natural Resource Bureau General Fund Expenditures	470,974
Percent of Expenditures To Produce Non-General Fund Revenue	<u>60%</u>
General Fund Used To Produce Non-General Fund Revenue Fiscal 1995	<u>\$282,585</u>

Table 4
Natural Resource Bureau
Estimated Fiscal 1994 State Special Revenue

Estimated Tax Collections During The Remainder Of Fiscal 1994

<u>Tax Type</u>	<u>Estimated Collections</u>	<u>% Non-General Fund</u>	<u>Amount Of Tax Rate Applied To</u>
Metal Mines License Tax	6,079,000	42.00%	2,553,180
Coal Severance	19,315,502	23.21%	4,483,128
Resource Indemnity Trust	4,518,000	100.00%	4,518,000
Coal Gross Proceeds	13,466,045	100.00%	13,466,045
Local Government Severance	<u>13,227,565</u>	100.00%	<u>13,227,565</u>
Estimated Tax Collections	56,606,112		38,247,918
General Fund Used To Produce Non-General Fund Revenue			282,000
Expenditure - Collection % (282,000/38,247,918)			0.737%
Actual Percentage To Be Used - Fiscal 1994 <i>- Build Balance in appropriations fund</i>			1.000%
Estimated Revenue To Special Account - Fiscal 1994 38,247,918 X 1.000%			<u>382,479</u>

Tax Administration Fee By Tax Type

	<u>Amount Of Tax Rate Applied To</u>	<u>@ 1.000%</u>
Metal Mines License Tax	2,553,180	25,532 *
Coal Severance	4,483,128	44,831
Resource Indemnity Trust	4,518,000	45,180
Coal Gross Proceeds	13,466,045	134,660 *
Local Government Severance	<u>13,227,565</u>	<u>132,276 *</u>
	<u>38,247,918</u>	<u>382,479</u>

* - Amounts Withheld From Counties - See Table 6 For Distribution Among Counties

Table 5
Natural Resource Bureau
Estimated Fiscal 1995 State Special Revenue

Estimated Tax Collections During Fiscal 1995

<u>Tax Type</u>	<u>Estimated Collections</u>	<u>% Non-General Fund</u>	<u>Amount Of Tax Rate Applied To</u>
Metal Mines License Tax	6,310,000	42.00%	2,650,200
Coal Severance	37,035,000	23.21%	8,595,824
Resource Indemnity Trust	4,655,000	100.00%	4,655,000
Coal Gross Proceeds	13,360,983	100.00%	13,360,983
Local Government Severance	<u>25,347,480</u>	100.00%	<u>25,347,480</u>
Estimated Tax Collections	86,708,463		54,609,487

General Fund Used To Produce
Non-General Fund Revenue

282,000

Actual Percentage To Be Used - Fiscal 1995

0.600%

Estimated Revenue To Special Account - Fiscal 1995

327,657

54,609,487 X .600%

Tax Administration Fee By Tax Type

	<u>Amount Of Tax Rate Applied To</u>	<u>@ 0.600%</u>
Metal Mines License Tax	2,650,200	15,901 *
Coal Severance	8,595,824	51,575
Resource Indemnity Trust	4,655,000	27,930
Coal Gross Proceeds	13,360,983	80,166 *
Local Government Severance	<u>25,347,480</u>	<u>152,085 *</u>
	<u>54,609,487</u>	<u>327,657</u>

* - Amounts Withheld From Counties

Table 6
Natural Resource Bureau Tax Administration Fee By County
Fiscal 1994

County	Local	Coal	New Net	Metal Mines	Misc.	Total	Administration Fee Allocated To:			% Of Total
	Government Severance			Gross Proceeds	Mines Net Proceeds		LGST	Coal	Metals	
Beaverhead					136,881	136,881				
Big Horn	25,370	9,276,794				9,302,164	(76)	(92,768)		-1.00%
Blaine	1,437,399		1,121,750			2,559,149	(5,774)			-0.23%
Broadwater				55	36,505	36,560				
Carbon	1,234,834		175,691		55,048	1,465,573	(3,798)			-0.26%
Carter					613,406	613,406				
Chouteau	135,193		17,925			153,118	(557)			-0.36%
Custer	44,569					44,569	(232)			-0.52%
Daniels			110,757			110,757				
Dawson	494,104		56,023			550,127	(1,355)			-0.25%
Fallon	6,460,886		929,491			7,390,377	(18,910)			-0.26%
Fergus	5,971		6,875	118,020		130,866	(24)		(1,318)	-1.03%
Gallatin					47,979	47,979				
Garfield	54,210		681			54,891	(146)			-0.27%
Glacier	2,005,316		54,185			2,059,501	(11,212)			-0.54%
Golden Valley	14,235		1,806			16,041	(66)			-0.41%
Granite				619		619				
Hill	1,005,422		579,447			1,584,869	(4,100)			-0.26%
Jefferson				1,092,389	6,923	1,099,312			(5,691)	-0.52%
Lewis & Clark				12,075		12,075			(59)	-0.49%
Liberty	597,688		14,481			612,169	(8,151)			-1.33%
Lincoln				258,812		258,812			(2,666)	-1.03%
Madison					570,879	570,879				
McCone	114,206					114,206	(318)			-0.28%
Meagher				806		806				
Musselshell	710,195		22,485			732,680	(5,661)			-0.77%
Park				120,646		120,646			(958)	-0.79%
Petroleum	76,713		14,433			91,146	(213)			-0.23%
Phillips	1,453,454		280,275	275,448		2,009,177	(6,751)		(2,825)	-0.48%
Pondera	486,012		20,868			506,880	(12,039)			-2.38%
Powder River	560,943					560,943	(1,414)			-0.25%
Powell						0				
Prairie	38,886		56,454			95,340	(111)			-0.12%
Richland	3,241,869	229,430	811,958			4,283,257	(3,136)	(2,294)		-0.13%
Roosevelt	2,107,357		117,097			2,224,454	(20,250)			-0.91%
Rosebud	345,013	3,959,820	14,003			4,318,836	(2,057)	(39,598)		-0.96%
Sheridan	2,287,886		386,012			2,673,898	(18,785)			-0.70%
Silver Bow				1,649,866		1,649,866			(9,167)	-0.56%
Stillwater	56,433		2,115	353,647		412,195	(255)		(2,848)	-0.75%
Teton	118,404		3,753			122,157	(747)			-0.61%
Toole	1,022,016		460,380			1,482,396	(2,663)			-0.18%
Valley	253,636		49,662			303,298	(1,014)			-0.33%
Wibaux	885,552		61,114			946,666	(2,407)			-0.25%
Yellowstone	19,109		22,073			41,182	(50)			-0.12%
	27,292,881	13,466,044	5,391,794	3,882,383	1,467,621	51,500,723	(132,272)	(134,660)	(25,532)	-0.54%

Table 7
Corporation Tax Bureau
Allocation Of Costs Between General Fund and Non-General Fund

Personal Services	\$519,834
Contracted Services	147,103
Operating Costs	55,499
Travel	76,905
Total Corporation Tax Bureau Costs	\$799,341
1/13 Of Total Bureau Costs	61,488
80% Of 1/13 Of Costs	<u>\$49,190</u>

Personal Services Fiscal 1994

Position #	FY 94 Salary	Benefits	Allocation %	Personal Services
7601	19,441	5,763		25,204
7901	16,144	5,203		21,347
7902	15,634	4,957	50.00%	10,296
7201	42,880	11,105		53,985
7401	36,692	9,406		46,098
7403	25,872	6,594		32,466
7404	32,744	8,378		41,122
7501	28,003	7,217		35,220
7502	32,744	8,378		41,122
7503	25,697	6,797		32,494
7504	28,378	7,280		35,658
7505	23,150	6,157		29,307
7507	30,787	7,664		38,451
7802	3,347	812		4,159
7906	23,150	6,159		29,309
7907	23,390	6,184		29,574
7701	21,674	6,371	50.00%	<u>14,023</u>
Total Personal Services				<u>519,834</u>

Percent Of General Fund Costs To Distribution Of Corporation Tax Paid By Financial Institutions

Fiscal Year	General Fund Costs	Total Distributions	% Of Costs To Distributions
1990	49,000	4,935,836	0.99%
1991	49,000	8,208,014	0.60%
1992	49,000	5,137,646	0.95%
1993	49,000	8,161,912	0.60%
4 Year Average			<u>0.79%</u>

CORPORATION TAX BUREAU ADMINISTRATION FEE BY COUNTY

FISCAL 1994

COUNTY	% OF TOTAL	ADMINISTRATIVE COSTS
BEAVERHEAD	0.64%	313
BIGHORN	0.85%	416
BLAINE	1.06%	519
BROADWATER	0.29%	141
CARBON	0.85%	416
CARTER	0.25%	121
CASCADE	4.94%	2,420
CHOTEAU	1.14%	560
CUSTER	3.39%	1,659
DANIELS	0.23%	112
DAWSON	1.89%	925
DEER LODGE	0.74%	364
FALLON	0.61%	299
FERGUS	0.99%	484
FLATHEAD	10.47%	5,128
GALLATIN	6.59%	3,227
GARFIELD	0.20%	98
GLACIER	0.67%	328
GRANITE	0.30%	146
HILL	2.32%	1,138
JEFFERSON	0.30%	148
JUDITH BASIN	0.34%	165
LAKE	2.79%	1,366
LEWIS & CLARK	4.38%	2,146
LIBERTY	0.42%	205
LINCOLN	1.26%	618
MADISON	0.38%	187
McCONE	0.16%	81
MEAGHER	0.14%	67
MINERAL	0.13%	63
MISSOULA	7.39%	3,619
MUSSELSHELL	0.76%	374
PARK	1.56%	763
PHILLIPS	1.20%	589
PONDERA	1.29%	630
POWDER RIVER	0.44%	217
POWELL	0.16%	80
PRAIRIE	0.48%	236
RAVALLI	3.85%	1,885
RICHLAND	2.38%	1,164
ROOSEVELT	0.89%	438
ROSEBUD	0.71%	348
SNADERS	1.06%	517
SHERIDAN	1.08%	531
SILVERBOW	2.46%	1,204
STILLWATER	0.76%	372
SWEETGRASS	0.48%	234
TETON	0.96%	471
TOOLE	0.93%	457
TREASURE	0.08%	37
VALLEY	1.82%	890
WHEATLAND	0.38%	188
WIBAU	0.00%	0
YELLOWSTONE	20.19%	9,893
TOTAL REFUNDS	100.00%	49,000

TABLE - SUPPLEMENTAL
DOR - NATURAL RESOURCE BUREAU
ESTIMATED CAS-FLOW
FISCAL 1994 & 1995

DESCRIPTION	TAX AMOUNT RATE APPLIED TO	ADDITIONS	DELETIONS	BALANCE
BORROWED AMOUNT		\$282,000		\$282,000
JUN. THROUGH DEC. PAYROLL & OP. EXP.			(\$141,000)	
1/1/94 - PAYROLL & OPERATING EXPENSE			(\$23,500)	
1/31/94 - COAL SEVERANCE	\$2,241,564	\$22,415		\$139,918
2/1/94 - PAYROLL & OPERATING EXPENSE			(\$23,500)	\$116,418
2/28/94 - RITT COLLECTIONS	\$4,518,000	\$45,150		\$161,596
2/28/94 - LGST COLLECTIONS	\$5,950,595	\$59,907		\$230,503
3/1/94 - PAYROLL & OPERATING EXPENSE			(\$23,500)	\$207,003
3/31/94 - METAL MINES COLLECTION	\$2,553,180	\$25,532		\$232,534
4/1/94 - PAYROLL & OPERATING EXPENSE			(\$23,500)	\$209,034
4/30/94 - COAL SEVERANCE	\$2,241,564	\$22,415		\$231,450
5/1/94 - PAYROLL & OPERATING EXPENSE			(\$23,500)	\$207,950
5/31/94 - LGST COLLECTIONS	\$5,336,870	\$53,369		\$271,319
6/1/94 - PAYROLL & OPERATING EXPENSE			(\$23,500)	\$247,819
6/30/94 - COAL GROSS PROCEEDS	\$13,456,045	\$134,560		\$382,479
6/30/94 PAY BACK LOAN			(\$282,000)	\$100,479
FISCAL 1994 YEAREND BALANCE				\$100,479
7/1/94 - PAYROLL & OPERATING EXPENSE			(\$23,500)	\$76,979
7/31/94 - COAL SEVERANCE	\$2,241,564	\$13,449		\$88,187
8/1/94 - PAYROLL & OPERATING EXPENSE			(\$23,500)	\$64,687
8/31/94 - LGST COLLECTIONS (ESTIMATED)	\$5,336,870	\$53,021		\$96,371
9/1/94 - PAYROLL & OPERATING EXPENSE			(\$23,500)	\$72,871
10/1/94 - PAYROLL & OPERATING EXPENSE			(\$23,500)	\$49,371
10/31/94 - COAL SEVERANCE	\$2,148,956	\$12,894		\$62,265
11/1/94 - PAYROLL & OPERATING EXPENSE			(\$23,500)	\$38,765
11/30/94 - LGST COLLECTIONS (ESTIMATED)	\$5,336,870	\$53,021		\$70,449
12/1/94 - PAYROLL & OPERATING EXPENSE			(\$23,500)	\$46,949
1/1/95 - PAYROLL & OPERATING EXPENSE			(\$23,500)	\$23,449
1/31/95 - COAL SEVERANCE	\$2,148,956	\$12,894		\$36,343
2/1/95 - PAYROLL & OPERATING EXPENSE			(\$23,500)	\$12,843
2/28/95 - LGST COLLECTIONS (ESTIMATED)	\$5,336,870	\$53,021		\$50,864
2/28/95 - RITT COLLECTIONS	\$4,655,000	\$27,900		\$78,794
3/1/95 - PAYROLL & OPERATING EXPENSE			(\$23,500)	\$55,294
3/31/95 - METAL MINES COLLECTION	\$2,650,200	\$15,901		\$71,196
4/1/95 - PAYROLL & OPERATING EXPENSE			(\$23,500)	\$47,696
4/30/95 - COAL SEVERANCE	\$2,148,956	\$12,894		\$60,589
5/1/95 - PAYROLL & OPERATING EXPENSE			(\$23,500)	\$37,089
5/31/95 - LGST COLLECTIONS (ESTIMATED)	\$5,336,870	\$53,021		\$75,111
6/1/95 - PAYROLL & OPERATING EXPENSE			(\$23,500)	\$51,611
6/30/95 - COAL GROSS PROCEEDS	\$13,360,983	\$60,166		\$131,776
6/30/95 - BALANCE				\$131,776

2
December 3, 1993
Senate Bill 10

December 1, 1993

As introduced, Senate Bill No. 10 levies a fee for the administration of the dedicated portion of taxes collected under various sections of Montana Code Annotated, Title 15. As drafted, the bill is unclear whether the fee is levied against the taxpayer or the fund into which the taxes are deposited. The attached amendment clarifies that the fee is not levied against the taxpayer, but against the fund or account receiving the tax proceeds.

The Montana Power Company

December 1, 1993

PROPOSED AMENDMENTS FOR SB NO. 10
(INTRODUCED BILL VERSION)
REQUESTED BY THE MONTANA POWER COMPANY

1. Page 1, line 24.
Following: "chapter 38."
Delete: "Except"
Insert: "The fee is levied against the applicable funds or accounts and, except"

DEPARTMENT OF REVENUE
AMENDMENTS TO SENATE BILL NO. 10
AS INTRODUCED

December 3, 1993

EXPLANATION

A portion of section 1 has been stricken in its entirety and new provisions inserted in its place. The intent of this bill is to allow deduction of an administration fee from natural resource and bank corporation taxes which do not go to the general fund. The fee is intended only to cover the actual cost of administering those portions of the taxes. The amendments will insure the Department will only collect the actual costs of administering the non-general fund portions of these taxes.

A sample of how this adjustment works is attached.

AMENDMENTS

1. Page 1, line 17.
Following: "of"
Insert: "the non-general fund portions of"
2. Page 2, line 3 through line 17.
Strike: lines 3 through 15 in their entirety
Insert: "(a) 1% of the non-general fund portions of the metal mines license tax, the coal severance tax, the resource indemnity trust tax, the coal gross proceeds tax, the local government severance tax on oil and gas, and the corporation license tax on banks and savings and loan associations collected from the effective date of this act to June 30, 1994.
(b) 0.6% of the non-general fund portions of the metal mines license tax, the coal severance tax, the resource indemnity trust tax, the coal gross proceeds tax, the local government severance tax on oil and gas, and 0.75% of the non-general fund portions of the corporation license tax on banks and savings and loan associations collected from July 1, 1994 to June 30, 1995.
(c) From July 1, 1995 on, the administrative fee for the non-general fund portions of the metal mines license tax, the coal severance tax, the resource indemnity trust tax, the coal gross proceeds tax, and the local government severance tax on oil and gas administered by the natural resource tax bureau shall be determined by the department on or before July 31 of each year. The department shall calculate the fee by:
(i) computing the administrative fee that will

produce an amount equal to the current fiscal year state special revenue fund appropriation to the natural resource tax bureau by dividing the state special revenue appropriation for the current fiscal year by the estimated non-general fund tax collections for the metal mines license tax, the coal severance tax, the resource indemnity trust tax, the coal gross proceeds tax, and the local government severance tax on oil and gas; and

(ii) adjusting the administrative fee computed in (i) to ensure that money available in the state special revenue fund at the beginning of the fiscal year plus revenue to be generated by the current year administrative fee shall equal 125% of the state special revenue appropriation to the natural resource tax bureau.

(d) From July 1, 1995 on the administrative fee for non-general fund portion of the corporation license tax on banks and savings and loans associations administered by the corporation license and income tax bureau shall be determined by the department on or before July 31 of each year. The department shall calculate the fee by:

(i) computing the administrative fee that will produce an amount equal to the current state special revenue fund appropriation to the corporation license tax bureau by dividing the current year special revenue fund appropriation by the estimated total corporation license tax collections from banks and savings and loans associations for the current fiscal year; and

(ii) adjusting the administrative fee computed in (i) to ensure that money available in the state special revenue fund at the beginning of the fiscal year plus revenue to be generated by the current year administrative fee shall equal 125% of the state special revenue appropriation to the corporation license and income tax bureau.

(3) As used in this section the "non-general fund portion" from the coal severance tax does not include distributions made under 15-35-108 or to the coal permanent trust fund created by Article IX, section 5, of the Montana constitution.

(4) All administrative fees collected under subsection (2) shall be deposited by the department into the corporation and natural resource tax administration state special revenue fund.

(5) The money in the corporation and natural resource tax administration fund may be expended by the department to administer the non-general fund portions of the metal mines license tax, the coal severance tax, the resource indemnity trust tax, the coal gross proceeds tax, the local government severance tax on oil and gas, and the corporation license tax on banks and savings and loan associations."

Senate Bill 10 Funding Example
State Special Revenue Fund - Natural Resource Bureau

	Estimated		
	<u>FY96</u>	<u>FY97</u>	<u>FY98</u>
Appropriation	290,000	290,000	299,000
<u>X 125%</u>	<u>125%</u>	<u>125%</u>	<u>125%</u>
	<u>363,000</u>	<u>363,000</u>	<u>374,000</u>
Appropriation X 125%	363,000	363,000	374,000
<u>+ Previous Year Ending Balance</u>	<u>132,000</u>	<u>73,000</u>	<u>73,000</u>
= Revenue Required	231,000	290,000	301,000
Revenue Required	231,000	290,000	301,000
<u>+ Revenue Base</u>	<u>54,702,000</u>	<u>56,343,000</u>	<u>58,033,000</u>
= Administrative Fee	0.4223%	0.5147%	0.5187%
Revenue Raised	231,000	290,000	301,000
<u>+ Previous Year Ending Balance</u>	<u>132,000</u>	<u>73,000</u>	<u>73,000</u>
Total Funds Available	363,000	363,000	374,000
Total Funds Available	363,000	363,000	374,000
<u>- Expenditures/Appropriation</u>	<u>290,000</u>	<u>290,000</u>	<u>299,000</u>
Ending Balance	73,000	73,000	75,000

Amendments to Senate Bill No. 4
First Reading Copy

For the Committee on Taxation

Prepared by Jeff Martin
December 2, 1993

SENATE TAXATION

EXHIBIT NO. 4

DATE December 3, 1993

BILL NO. SB 4

1. Title, lines 9 through 12.

Strike: "PROVIDING" on line 9 through "FUND;" on line 12

2. Page 2, line 7.

Following: "(2)"

Insert: "(a)"

Following: "determine"

Insert: "on July 1 of each year"

3. Page 2, lines 9 and 10.

Strike: "on" on line 9 through "dates" on line 10

Insert: "during the next 12 months"

4. Page 2, line 12.

Following: line 11

Insert: "(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund in accordance with subsections (3) through (6)."

5. Page 3, line 11.

Following: "shall"

Insert: "quarterly"

6. Page 3, line 22.

Strike: "quarterly"

Insert: "monthly"

7. Page 3, line 23.

Following: "transfer"

Insert: "from the treasure state endowment fund"

8. Page 3, line 24.

Strike: "interest"

9. Page 4, line 1.

Strike: "Interest earnings"

Insert: "Earnings"

10. Page 4, line 6.

Following: "(2)"

Insert: "(a)"

11. Page 4, lines 10 through 14.

Strike: section 2 in its entirety

Renumber: subsequent sections

12. Page 4, line 16.

Following: "shall"

Insert: "on [the effective date of this act]"

Strike: "\$37,100,000"

13. Page 4, line 17.

Following: "permanent fund"

Insert: "the cash balance of the bond fund as of July 1, 1993,
that is in excess of the amount required by 17-5-703(2)(a),
including the amount either held in the fund for the clean
coal technology demonstration fund or required to be
transferred to the clean coal technology demonstration fund.
The provisions of this section do not affect the
authorizations contained in Chapter 722, Laws of 1991.
However, all prior allocations to the clean coal technology
demonstration fund must be transferred to the coal severance
tax permanent fund until the clean coal technology program
authorization is exercised under the provisions of Chapter
722, Laws of 1991"

Amendments to Senate Bill No. 4
First Reading Copy

For the Committee on Taxation

Prepared by Jeff Martin
December 2, 1993

4a
December 3, 1993
Senate Bill 4

1. Title, lines 9 through 12.

Strike: "PROVIDING" on line 9 through "FUND;" on line 12

2. Title, line 14.

Following: ";"

Insert: "REPEALING SECTION 11, CHAPTER 722, LAWS OF 1991;"

3. Page 2, line 7.

Following: "(2)"

Insert: "(a)"

Following: "determine"

Insert: ", on July 1 of each year,"

4. Page 2, lines 9 and 10.

Strike: "on" on line 9 through "dates" on line 10

Insert: "during the next 12 months"

5. Page 2, line 12.

Following: line 11

Insert: "(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (3) through (6)."

6. Page 3, line 11.

Following: "shall"

Insert: "quarterly"

7. Page 3, line 22.

Strike: "quarterly"

Insert: "monthly"

8. Page 3, line 23.

Following: "transfer"

Insert: "from the treasure state endowment fund"

9. Page 3, line 24.

Strike: "interest"

10. Page 4, line 1.

Strike: "Interest earnings"

Insert: "Earnings"

11. Page 4, line 6.

Following: "(c)"

Insert: "(a)"

12. Page 4, lines 10 through 14.
Strike: section 2 in its entirety
Renumber: subsequent sections

13. Page 4, line 16.
Following: "shall"
Insert: "on [the effective date of this act]"
Strike: "\$37,100,000"

14. Page 4, line 17.
Following: "permanent fund"
Insert: "the cash balance of the bond fund as of July 1, 1993,
that is in excess of the amount required by 17-5-703(2)(a),
including the amount either held in the fund for the clean
coal technology demonstration fund or required to be
transferred to the clean coal technology demonstration fund.
The provisions of this section do not affect the
authorizations contained in section 10, Chapter 722, Laws of
1991."

15. Page 4, line 18.
Following: line 17
Insert: "NEW SECTION. Section 3. Repealer. Section 11, Chapter
722, Laws of 1991, is repealed."
Renumber: subsequent section

Amendments to Senate Bill No. 18
First Reading Copy

Requested by Senator Halligan
For the Committee on Taxation

Prepared by Jeff Martin
December 2, 1993

+ Allotment amendment
Rule making auth. 6.

5
December 3, 1993
SB 18

1. Page 5, line 14.
Following: "project"
Insert: ", by a well in primary recovery recompleted as a horizontally completed well,"
2. Page 5, line 17.
Strike: "or"
3. Page 5, line 23.
Strike: "."
Insert: "; or
(c) the commencement of the recompletion of a well as a horizontally completed well."
4. Page 6, line 18.
Following: "project"
Insert: ", of a recompletion of a well as a horizontally completed well,"
5. Page 6, line 19.
Following: "or"
Insert: "of an"
6. Page 6, line 20 and page 23, line 13.
Following: "writing"
Insert: "to the department of revenue"
7. Page 6, line 21 and page 23, line 13.
Strike: "The"
Insert: "In that certification, the"
8. Page 6, line 24.
Following: "used"
Insert: "by the department"
9. Page 7, line 14 and page 18, line 15.
Strike: "approved"
Insert: "certified"
10. Page 7, line 15 and page 18, line 16.
Following: "project"
Insert: "to the department"
Strike: "approval"
Insert: "certification"
11. Page 7, line 19.

Following: "delineated"
Insert: "in the certification"

12. Page 14, line 23.
Strike: "Production"
Insert: "New production"

13. Page 14, line 24.
Strike: "is"
Insert: "and incremental production from wells recompleted as horizontally completed wells are"

14. Page 15, lines 2 through 5.
Strike: ":" on line 2 through "(b)" on line 5

15. Page 22, line 14.
Following: "produced"
Insert: "by either a well in primary recovery recompleted as a horizontally completed well or"

16. Page 22, line 15.
Following: "project"
Insert: ", which volume of production is"

17. Page 22.
Following: line 16
Insert: "(A) the commencement of the recompletion of a well as a horizontally completed well;"
Renumber: subsequent subsections

18. Page 23, line 12.
Following: "project"
Insert: "or the recompletion of a well as a horizontally completed well"

19. Page 30, line 17.
Strike: "drilled"
Insert: "completed"

20. Page 48.
Following: line 11
Insert: "NEW SECTION. Section 20. Reports by board of oil and gas conservation to revenue oversight committee. The board of oil and gas conservation shall report at least once a year to the revenue oversight committee regarding the implementation of [this act]. The reports must include but are not limited to information regarding:
(1) the methods used to determine production decline rates;
(2) rules adopted to implement [this act];
(3) the number of enhanced recovery projects completed or anticipated to be completed in a year; and
(4) the number of horizontal wells completed or anticipated to be completed in a year and the method of recovery from the horizontal wells."

EXHIBIT 5
12-3-93
SB 18

Renumber: subsequent sections

Amendments to Senate Bill No. 18
First Reading Copy

Requested by Senator Towe
For the Committee on Taxation

Prepared by Jeff Martin
December 2, 1993

Failed Roll Call Vote
6
December 3, 1993
SB18

1. Title, line 12.

Following: "RATES;"

Insert: "REQUIRING THE BOARD OF OIL AND GAS CONSERVATION TO
CERTIFY TO THE GOVERNOR BY DECEMBER 31 OF EACH YEAR THE
NUMBER OF HORIZONTALLY COMPLETED WELLS AND THE NUMBER OF
WELLS COMPLETED IN ENHANCED RECOVERY PROJECTS SINCE JANUARY
1, 1994;"

2. Title, line 17.

Following: the first "DATE"

Insert: ", "

Strike: "AND"

Following: the second "DATE"

Insert: ", AND TERMINATION DATES"

3. Page 2, line 24.

Following: line 23

Insert: "The board of oil and gas conservation is also authorized
to adopt rules on the dissemination of information
concerning the number of horizontally completed wells and
the number of wells completed in enhanced recovery projects
as well as the number of wells anticipated to be completed.
Because this bill contains a number of termination dates
based on the completion of wells, it is the intent of the
legislature that the board of oil and gas conservation
develop rules to ensure that the oil industry is fully
informed on the number of completed wells and on the status
of wells anticipated to be completed. This information will
ensure that the oil industry will have the maximum
opportunity to develop enhanced recovery projects and to
achieve the goals of increased oil production in the state."

4. Page 48.

Following: line 11

Insert: "NEW SECTION. Section 20. Certification of enhanced
recovery projects -- rules. The board of oil and gas
conservation shall certify to the governor by December 31 of
each year the number of horizontally completed wells since
January 1, 1994, and the number of wells completed since
January 1, 1994, in approved new or expanded enhanced
recovery projects. The board may adopt rules to disseminate
information on the number of completed wells and on the
number of wells anticipated to be completed in a manner that
the board considers appropriate."

Renumber: subsequent sections

5. Page 49.

Following: line 1

Insert: "NEW SECTION. Section 24. Termination -- contingent termination. (1) [This act] terminates January 1, 2003.

(2) If the board of oil and gas conservation has certified to the governor under [section 20] that the total number of wells completed since January 1, 1994, is less than:

(a) 17 wells by December 31, 1994, then [sections 1 and 6] terminate December 31, 1994;

(b) 45 wells by December 31, 1995, then [sections 1 and 6] terminate December 31, 1995;

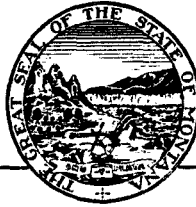
(c) 76 wells by December 31, 1996, then [sections 1 and 6] terminate December 31, 1996;

(d) 104 wells by December 31, 1997, then [sections 1 and 6] terminate December 31, 1997; and

(e) 126 wells by December 31, 1998, then [sections 1 and 6] terminate December 31, 1998.

State of Montana

Marc Racicot, Governor



STATE OF MONTANA

DATE: 7

DECEMBER 3, 1993

SENATE BILL 18

Department of Revenue

Mick Robinson, Director

P.O. Box 202701

Helena, Montana 59620-2701

December 3, 1993

TO: Senator Doherty
Senate Taxation Committee

FROM: Mick Robinson, Director *MR*
Department of Revenue

RE: Senate Bill 18 - Oil Incentives

The Department of Revenue will not be shifting tax administration duties by allowing the Board of Oil and Gas Conservation to be responsible for approving new or expanded secondary and tertiary projects in Senate Bill 18. The Department of Revenue's expertise lies in making sure the oil companies report and pay their taxes correctly. The Board of Oil and Gas Conservation is the state entity with the expertise to approve the projects and to establish the production decline rates.

The Department of Revenue will work closely with the Board of Oil and Gas Conservation to utilize each entities expertise in developing the rules to administer this legislation. The Department of Revenue will continue to administer all the oil taxes. The Board of Oil and Gas Conservation will be using their expertise and professional judgement in establishing the production decline curves. These decline curves are important for the proposed tax incentives so the Department of Revenue can determine the appropriate tax rate; however, determining the production decline curves are outside the technical knowledge and skills of tax administrators and auditors.

Amendments to Senate Bill No. 18
First Reading Copy

Requested by Senator Doherty
For the Committee on Taxation

Prepared by Jeff Martin
December 2, 1993

SENATE FILE NO. 1

8

December 3, 1993

SB 18

1. Title, line 8.

Following: "2002;"

Insert: "PROVIDING THAT INCREMENTAL PRODUCTION FROM ENHANCED RECOVERY PROJECTS IS TAXED AT EXISTING HIGHER RATES IN CALENDAR QUARTERS IN WHICH THE PRICE PER BARREL OF OIL IS EQUAL TO OR GREATER THAN \$30;"

2. Page 12, line 20.

Following: "(i)"

Insert: "except as provided in subsection (4),"

3. Page 13.

Following: line 17

Insert: "(4) (a) Incremental production from a new enhanced recovery project is subject to the tax rate imposed in subsection (2)(c)(i) or (2)(c)(ii) if the average price per barrel received during a quarter from production occurring in an approved project area is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 per barrel in a calendar quarter as determined in subsection (5), incremental production from a new enhanced recovery project is taxed as provided in subsection (2)(a) for production occurring in that quarter.

(b) Incremental production from an expanded enhanced recovery project is subject to the tax rate imposed in subsection (2)(c)(i) or (2)(c)(ii) if the average price per barrel received during a quarter from production occurring in an approved project area is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 per barrel in a calendar quarter as determined in subsection (5), incremental production from an expanded enhanced recovery project is taxed as provided in subsection (2)(a) for production occurring in that quarter.

(5) The average price per barrel must be computed by dividing the total gross value of product received from all petroleum and other mineral or crude oil sold in the quarter from the project area in which incremental production occurs by the number of barrels sold in the quarter from the project area in which incremental production occurs."

Renumber: subsequent subsections

4. Page 18, line 2.

Following: "(c)"

Insert: "except as provided in subsection (4)(a),"

5. Page 19, line 15.

Strike: "(6)(a)(i)"
Insert: "(8)(a)(ii)"

6. Page 20, line 21.

Following: "(e)"

Insert: "except as provided in subsection (4)(b),"

7. Page 20, line 25.

Strike: "(6)(a)(ii)"

Insert: "(8)(a)(ii)"

8. Page 24.

Following: line 19

Insert: "(4) (a) Incremental production from a secondary recovery project is subject to the tax rate imposed in subsection (1)(c) if the average price per barrel received during a quarter from production occurring in an approved project area is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 per barrel in a calendar quarter as determined in subsection (5), incremental production from a secondary recovery project is taxed as provided in subsection (1)(a) for production occurring in that quarter.

(b) Incremental production from a tertiary recovery project is subject to the tax rate imposed in subsection (1)(d) if the average price per barrel received during a quarter from production occurring in an approved project area is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 per barrel in a calendar quarter as determined in subsection (5), incremental production from a tertiary recovery project is taxed as provided in subsection (1)(a) for production occurring in that quarter.

(5) For the purposes of subsections (4)(a) and (4)(b), the average price per barrel of oil must be computed by dividing the total gross value of product received from all petroleum and other mineral or crude oil sold in the quarter from the lease or unitized area in which incremental production occurs by the number of barrels sold in the quarter from the lease or unitized area in which incremental production occurs."

Renumber: subsequent subsections

9
December 3, 1993
SB 18

Amendments to Senate Bill No. 18
First Reading Copy

Requested by Senator Doherty
For the Committee on Taxation

Prepared by Jeff Martin
December 2, 1993

1. Title, line 17.

Strike: "IMMEDIATE"

Insert: "CONTINGENT"

Strike: "AN"

Insert: "A RETROACTIVE"

2. Page 48, line 22 through page 49, line 1.

Strike: Section 22 in its entirety

Insert: "New Section. Section 22. Contingent effective date --
contingent voidness. (1) [This act] is effective on the date
that the board of oil and gas conservation [or the
department of revenue] certifies that at least 50 wells have
been completed since January 1, 1994.

(2) The wells referred to in subsection (1) may be
horizontally completed wells or new or expanded enhanced
recovery project wells or a combination of both.

(3) If the board of oil and gas conservation [or the
department of revenue] cannot certify by June 30, 1995, that
50 wells have been completed, then [this act] is void
NEW SECTION. Section 23. Applicability. [This act] applies
retroactively, within the meaning of 1-2-109, to oil
production from new or expanded enhanced recovery projects
and to tax years that begin after December 31, 1993."

DATE 3 DECEMBER

SENATE COMMITTEE ON TAXATION

BILLS BEING HEARD TODAY: SB 1, SB 10

< ■ > PLEASE PRINT < ■ >

Check One

[illegible]

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3 DECEMBERSENATE COMMITTEE ON TAXATIONBILLS BEING HEARD TODAY: SB 1, SB 10

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Don Waldron	MREA	SB 1	✓	
Don Huff	Don	SB 10	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY