

HOUSE BILL NO. 636

INTRODUCED BY ABRAMS, DEVLIN, HART, ASAY,
E. SMITH, SHAW, TVEIT, GAGE, STEPHENS, NATHE,
KEATING, D. BROWN, HANSON, ZABROCKI

IN THE HOUSE

February 2, 1985	Introduced and referred to Committee on Taxation.
February 4, 1985	Fiscal Note requested.
February 9, 1985	Fiscal Note returned.
March 6, 1985	Committee recommend bill do pass as amended. Report adopted.
	Bill printed and placed on members' desks.
March 7, 1985	Second reading, do pass.
	Considered correctly engrossed.
March 8, 1985	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

March 11, 1985	Introduced and referred to Committee on Taxation.
April 16, 1985	Committee recommend bill be concurrent in as amended. Report adopted.
April 17, 1985	Second reading, concurred in.
April 18, 1985	Third reading, concurred in. Ayes, 45; Noes, 5.
	Returned to House with amendments.

IN THE HOUSE

April 19, 1985	Received from Senate.
April 20, 1985	Second reading, amendments concurred in.
April 22, 1985	Third reading, amendments concurred in.
	Sent to enrolling.
April 23, 1985	Correctly enrolled.
April 24, 1985	Signed by President.
	Signed by Speaker.
	Delivered to Governor.
	Returned from Governor with recommended amendments.
	Second reading, Governor's amendments concurred in.
April 25, 1985	Third reading, Governor's amendments concurred in.
	Governor's amendments transmitted to Senate.

IN THE SENATE

April 25, 1985	Received from House.
	Second reading, Governor's amendments concurred in.
	Third reading, Governor's amendments concurred in.
	Returned to House.

IN THE HOUSE

April 25, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

1 produced by such person from each lease or unit thereafter;
 2 but in determining the amount of such tax there shall be
 3 excluded from consideration all petroleum or other crude or
 4 mineral oil produced and used by such person during such
 5 year in connection with his operations in prospecting for,
 6 developing, and producing such petroleum or crude or mineral
 7 oil;

8 (b) 2.65% of the total gross value of natural gas
 9 produced from each lease or unit; but in determining the
 10 amount of such tax there shall be excluded from
 11 consideration all gas produced and used by such person
 12 during such year in connection with his operations in
 13 prospecting for, developing, and producing such gas or
 14 petroleum or crude or mineral oil; and there shall also be
 15 excluded from consideration all gas recycled or reinjected
 16 into the ground; and all carbon dioxide gas;

17 (c) 2.5% of the total gross value of the incremental
 18 petroleum and other mineral or crude oil produced from each
 19 lease or unit in a tertiary recovery project after [the
 20 effective date of this act]. For purposes of this section, a
 21 tertiary recovery project must meet the following
 22 requirements:

23 (i) the project must be approved as a tertiary
 24 recovery project by the board of oil and gas conservation.
 25 Such approval may be extended only after notice and hearing

1 as provided in 82-11-141.

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

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

13 (A) miscible fluid displacement;

14 (B) steam drive injection;

15 (C) micellar/emulsion flooding;

16 (D) in situ combustion;

17 (E) polymer augmented water flooding;

18 (F) cyclic steam injection;

19 (G) alkaline or caustic flooding;

20 (H) carbon dioxide water flooding;

21 (I) immiscible carbon dioxide displacement;

22 (J) any other method approved by the board of oil and
 23 gas conservation as a tertiary recovery method.

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

1 the amount of oil, as determined by the board of oil and gas
 2 conservation, to be in excess of what would have been
 3 produced by primary and secondary methods.

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

24 (3) Every person required to pay such tax hereunder
 25 shall pay the same in full for his own account and for the

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

17 Section 2. Section 15-23-603, MCA, is amended to read:

18 "15-23-603. Net proceeds -- how computed. (1) The
 19 department of revenue shall calculate and compute from the
 20 returns the gross sales proceeds of the product yielded from
 21 such well for the year covered by the statement and shall
 22 calculate the net proceeds of the well yielded to the
 23 producer, which net proceeds shall be determined by
 24 subtracting from the gross sales proceeds thereof the
 25 following:

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

8 (b) all moneys expended for necessary labor~~y~~ and
 9 machinery~~y~~-and-supplies needed and used in the operation and
 10 development;

11 (c) except as provided in subsection (3), all moneys
 12 expended for necessary supplies needed and used in the
 13 operation and development;

14 ~~(e)~~(d) all moneys expended for improvements, repairs,
 15 and betterments necessary in and about the working of the
 16 well;

17 ~~(d)~~(e) all moneys expended for fire insurance and
 18 workers' compensation insurance and for payments by
 19 operators to welfare and retirement funds when provided for
 20 in wage contracts between operators and employees;

21 ~~(e)~~(f) 70% of the amount paid or withheld in
 22 satisfaction of liability for excise taxes imposed by the
 23 U.S. government on the production, sale, or removal of the
 24 natural gas, petroleum, or other crude or mineral oil
 25 yielded from such well, other than the amount of such taxes

1 paid by or withheld from each royalty owner.

2 (2) No moneys invested in the well and improvements
 3 during any year except the year for which such statement is
 4 made may be included in such expenditures, except as
 5 provided in 15-23-604, and such expenditures may not include
 6 the salaries or any portion thereof of any person or officer
 7 not actually engaged in the working of the well or
 8 superintending the management thereof.

9 (3) In calculating the deduction for moneys expended
 10 for carbon dioxide needed and used in a tertiary recovery
 11 project approved by the board of oil and gas conservation,
 12 as provided in 15-36-101, the department shall allow 10% of
 13 such moneys expended each year for a period of 10 years,
 14 beginning with the year in which the moneys were expended."

15 NEW SECTION. Section 3. Extension of authority. Any
 16 existing authority of the board of oil and gas conservation
 17 or the department of revenue to make rules on the subject of
 18 the provisions of this act is extended to the provisions of
 19 this act.

20 NEW SECTION. Section 4. Effective date. This act is
 21 effective July 1, 1985.

-End-

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. FNN327-85

Form BD-15

In compliance with a written request received February 4, 19 85, there is hereby submitted a Fiscal Note for House Bill 636 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to reduce the tax rate on petroleum produced by tertiary recovery methods from 5% to 2.5%; allowing amortization over ten (10) years of the deduction for the costs of carbon dioxide used in approved tertiary recovery projects; and providing an effective date.

FISCAL IMPACT:

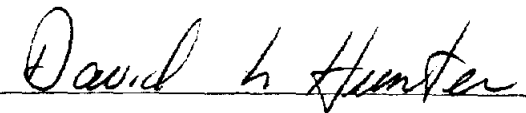
Passage of the proposed legislation would reduce revenue in the 1987 biennium stemming from projects currently in operation. These projects are in the following areas: Bell Creek Field, Powder River County; Dean Dome, Stillwater County; North Melstone Unit, Musselshell County; Pine Unit, Wibaux County.

LONG-RANGE EFFECTS:

The National Petroleum Council, a federal advisory committee to the Secretary of Energy, recently estimated that 14.5 billion barrels of oil could be recovered nationwide using tertiary recovery techniques. Montana's share of tertiary recovery potential is not fully known but may provide substantial additions to currently depleting reserves.

The Montana severance tax rate is but one factor in determining the economic feasibility of tertiary recovery projects. Other factors include windfall profits tax reductions associated with tertiary recovery, the future price of oil, and the future costs of tertiary recovery technology. This method of recovery is relatively new and the high costs of pilot projects may not accurately reflect future costs under an industry-wide adoption of the technology. Given that there currently are tertiary recovery projects in operation in Montana it appears that feasibility is not predicated on severance tax rates alone. Therefore, it is assumed that tertiary recovery projects will proceed without the reduced severance tax rate.

While the total impact of future tertiary recovery projects is unknown, the following tables show estimated impacts from the one known anticipated major tertiary recovery project.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 9, 1985

HB 636

LONG-RANGE EFFECTS: (cont.)

A. Oil Severance Tax Revenue - The following projections are based on estimated tertiary production for the Cedar Creek Anticline (located around Baker, Montana) through the year 2040. Estimated total incremental tertiary production for the period is 86,357,000 barrels. The following table shows the estimated tax revenue over the 50 year life of the project for various assumptions regarding price and tax rates:

OIL SEVERANCE TAX REVENUES

Price \$/bbl.	Incremental Production (bbls.)	Proposed Tax 2.5%	Current Tax 5.0%	Decrease
\$26.00	86,357,000	\$56,132,000	\$112,264,000	\$(56,132,000)
28.00	86,357,000	60,450,000	120,900,000	(60,450,000)
30.00	86,357,000	64,768,000	129,536,000	(64,768,000)
32.00	86,357,000	69,086,000	138,172,000	(69,086,000)
34.00	86,357,000	73,403,000	146,806,000	(73,403,000)
36.00	86,357,000	77,721,000	155,442,000	(77,721,000)

B. Property Tax Revenue (oilfield equipment) - The average annual increase in taxable value is estimated to be \$5,580,000. The following table shows the breakdown of the resulting taxes across affected counties and property tax distribution assuming full potential tertiary extraction is realized:

PROPERTY TAX REVENUES

County	Taxable Value	Mills	Total Tax	PROPERTY TAX REVENUES		Net to Local
				(6mills) Universities	(45mills) Schools	
Fallon	3,906,000	85.93	335,643	23,436	175,770	136,437
Wibaux	1,283,400	105.74	135,707	7,700	57,753	70,254
Dawson	223,200	259.38	57,894	1,339	10,044	46,511
Prairie	167,400	170.85	28,600	1,004	7,533	20,063
	<u>\$5,580,000</u>		<u>557,844</u>	<u>33,479</u>	<u>251,100</u>	<u>273,265</u>

Total school impact (557,844 X .60): \$334,706

C. Net Proceeds Tax - In the early years of tertiary extraction projects, net proceeds taxes are expected to fall in the affected counties as initial capital outlays push total expenses above gross proceeds. Providing for a 10-year amortization of carbon dioxide costs will mitigate this impact substantially. Through the end of the century total net proceeds are estimated to be \$23.5 million higher with ten (10) year amortization rather than expensing of project costs. However, it should be noted that after about 1994 counties would be in a better situation if these costs were to be expensed.

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 636

INTRODUCED BY ABRAMS, DEVLIN, HART, ASAY,
E. SMITH, SHAW, TVEIT, GAGE, STEPHENS, NATHE,
KEATING, D. BROWN, HANSON, ZABROCKI

A BILL FOR AN ACT ENTITLED: "AN ACT TO REDUCE THE TAX RATE
ON PETROLEUM PRODUCED BY TERTIARY RECOVERY METHODS FROM 5
PERCENT TO 2.5 PERCENT; ~~ALLOWING~~ REQUIRING AMORTIZATION OVER
10 YEARS OF THE ~~DEDUCTION FOR THE~~ COSTS OF ~~CARBON--DIOXIDE~~
NECESSARY CHEMICAL SUPPLIES USED IN APPROVED TERTIARY
RECOVERY PROJECTS; AMENDING SECTIONS 15-23-603 AND
15-36-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the Legislature recognizes that it is
essential to the continued growth in production and
development of the petroleum resources of this state and to
the continued prosperity and welfare of the people of this
state that tertiary recovery operations be encouraged; and

WHEREAS, the Legislature further recognizes that
tertiary recovery methods are experimental and more costly
than traditional enhanced recovery operations, thus
preventing recovery of oil in many fields because of
economic infeasibility.

THEREFORE, it is the policy of the Legislature to
provide an economic incentive to petroleum producers who

invest in tertiary recovery projects enhancing Montana's
crude oil production to the ultimate benefit of the state.

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

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

"15-36-101. Definitions and rate of tax. (1) Every
person engaging in or carrying on the business of producing
petroleum, other mineral or crude oil, or natural gas within
this state or engaging in or carrying on the business of
owning, controlling, managing, leasing, or operating within
this state any well or wells from which any merchantable or
marketable petroleum, other mineral or crude oil, or natural
gas is extracted or produced sufficient in quantity to
justify the marketing of the same must, except as provided
in 15-36-121, each year when engaged in or carrying on any
such business in this state pay to the department of revenue
for the exclusive use and benefit of the state of Montana a
severance tax computed at the following rates:

(a) except as provided in subsections (1)(b) and
(1)(c), 5% of the total gross value of all the petroleum and
other mineral or crude oil produced by such person from each
lease or unit on or after April 1, 1981, and on or before
March 31, 1983; 6% of the total gross value of all the
petroleum and other mineral or crude oil produced by such
person from each lease or unit on or after April 1, 1983,

1 and on or before March 31, 1985; and 5% of the total gross
 2 value of all the petroleum and other mineral or crude oil
 3 produced by such person from each lease or unit thereafter;
 4 but in determining the amount of such tax there shall be
 5 excluded from consideration all petroleum or other crude or
 6 mineral oil produced and used by such person during such
 7 year in connection with his operations in prospecting for,
 8 developing, and producing such petroleum or crude or mineral
 9 oil;

10 (b) 2.65% of the total gross value of natural gas
 11 produced from each lease or unit; but in determining the
 12 amount of such tax there shall be excluded from
 13 consideration all gas produced and used by such person
 14 during such year in connection with his operations in
 15 prospecting for, developing, and producing such gas or
 16 petroleum or crude or mineral oil; and there shall also be
 17 excluded from consideration all gas recycled or reinjected
 18 into the ground; and all carbon dioxide gas USED IN AN
 19 APPROVED TERTIARY RECOVERY PROJECT;

20 (c) 2.5% of the total gross value of the incremental
 21 petroleum and other mineral or crude oil produced from each
 22 lease or unit in a tertiary recovery project after [the
 23 effective date of this act]. For purposes of this section, a
 24 tertiary recovery project must meet the following
 25 requirements:

1 (i) the project must be approved as a tertiary
 2 recovery project by the board of oil and gas conservation.
 3 Such approval may be extended only after notice and hearing
 4 as provided in 82-11-141.

5 (ii) the property to be affected by the project must be
 6 adequately delineated according to the specifications
 7 required by the board of oil and gas conservation; and

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

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

1 gas conservation as a tertiary recovery method.
 2 (d) For purposes of this section, the term
 3 "incremental petroleum and other mineral or crude oil" means
 4 the amount of oil, as determined by the board of oil and gas
 5 conservation, to be in excess of what would have been
 6 produced by primary and secondary methods. THE DETERMINATION
 7 ARRIVED AT BY THE BOARD MUST BE MADE ONLY AFTER NOTICE AND
 8 HEARING AND SHALL SPECIFY THROUGH THE LIFE OF A TERTIARY
 9 PROJECT, CALENDAR YEAR BY CALENDAR YEAR, THE COMBINED AMOUNT
 10 OF PRIMARY AND SECONDARY PRODUCTION THAT MUST BE USED TO
 11 ESTABLISH THE INCREMENTAL PRODUCTION FROM EACH LEASE OR UNIT
 12 IN A TERTIARY RECOVERY PROJECT.

13 (2) Nothing in this part may be construed as requiring
 14 laborers or employees hired or employed by any person to
 15 drill any oil well or to work in or about any oil well or
 16 prospect or explore for or do any work for the purpose of
 17 developing any petroleum or other mineral or crude oil to
 18 pay such severance tax, nor may any work done or the
 19 drilling of any well or wells for the purpose of prospecting
 20 or exploring for petroleum or other mineral or crude oils or
 21 for the purpose of developing same be considered to be the
 22 engaging in or carrying on of any such business. If, in the
 23 doing of any such work, in the drilling of any oil well, or
 24 in such prospecting, exploring, or development work, any
 25 merchantable or marketable petroleum or other mineral or

1 crude oil in excess of the quantity required by such person
 2 for carrying on such operation is produced sufficient in
 3 quantity to justify the marketing of the same, such work,
 4 drilling, prospecting, exploring, or development work is
 5 considered to be the engaging in and carrying on of such
 6 business within this state within the meaning of this
 7 section.

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

1 Section 2. Section 15-23-603, MCA, is amended to read:

2 "15-23-603. Net proceeds -- how computed. (1) The
3 department of revenue shall calculate and compute from the
4 returns the gross sales proceeds of the product yielded from
5 such well for the year covered by the statement and shall
6 calculate the net proceeds of the well yielded to the
7 producer, which net proceeds shall be determined by
8 subtracting from the gross sales proceeds thereof the
9 following:

10 (a) all royalty paid in cash by the operator or
11 producer and the gross value of all royalty apportioned in
12 kind by the operator or producer that shall be determined by
13 using as the value of a barrel of oil or a cubic foot of gas
14 the average selling price for the calendar year of a barrel
15 of oil or a cubic foot of gas from the well out of which the
16 royalty was paid;

17 (b) all moneys expended for necessary labor, and
18 machinery, and supplies needed and used in the operation and
19 development;

20 (c) except as provided in subsection (3), all moneys
21 expended for necessary supplies needed and used in the
22 operation and development;

23 ~~(e)~~(d) all moneys expended for improvements, repairs,
24 and betterments necessary in and about the working of the
25 well;

1 ~~(d)~~(e) all moneys expended for fire insurance and
2 workers' compensation insurance and for payments by
3 operators to welfare and retirement funds when provided for
4 in wage contracts between operators and employees;

5 ~~(e)~~(f) 70% of the amount paid or withheld in
6 satisfaction of liability for excise taxes imposed by the
7 U.S. government on the production, sale, or removal of the
8 natural gas, petroleum, or other crude or mineral oil
9 yielded from such well, other than the amount of such taxes
10 paid by or withheld from each royalty owner.

11 (2) No moneys invested in the well and improvements
12 during any year except the year for which such statement is
13 made may be included in such expenditures, except as
14 provided in 15-23-604, and such expenditures may not include
15 the salaries or any portion thereof of any person or officer
16 not actually engaged in the working of the well or
17 superintending the management thereof.

18 (3) In calculating the deduction for moneys expended
19 for ~~carbon--dioxide~~ NECESSARY CHEMICAL SUPPLIES needed and
20 used in a tertiary recovery project approved by the board of
21 oil and gas conservation, as provided in 15-36-101, the
22 department shall ~~allow 10% of such moneys expended each year~~
23 ~~for a period of 10 years,~~ REQUIRE THAT THE NECESSARY
24 CHEMICAL SUPPLIES, WHICH INCLUDE BUT ARE NOT LIMITED TO
25 CARBON DIOXIDE SUPPLIES, BE AMORTIZED OVER A 10-YEAR PERIOD

1 beginning with the year in which the moneys were expended."

2 NEW SECTION. Section 3. Extension of authority. Any
3 existing authority of the board of oil and gas conservation
4 or the department of revenue to make rules on the subject of
5 the provisions of this act is extended to the provisions of
6 this act.

7 NEW SECTION. Section 4. Effective date. This act is
8 effective July 1, 1985.

-End-

1 HOUSE BILL NO. 636

2 INTRODUCED BY ABRAMS, DEVLIN, HART, ASAY,

3 E. SMITH, SHAW, TVEIT, GAGE, STEPHENS, NATHE,

4 KEATING, D. BROWN, HANSON, ZABROCKI

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REDUCE THE TAX RATE
7 ON PETROLEUM PRODUCED BY TERTIARY RECOVERY METHODS FROM 5
8 PERCENT TO 2.5 PERCENT; ALLOWING REQUIRING AMORTIZATION OVER
9 10 YEARS OF THE ~~REDUCTION-FOR-THE~~ COSTS OF ~~CARBON--BIOMASS~~
10 NECESSARY CHEMICAL SUPPLIES USED IN APPROVED TERTIARY
11 RECOVERY PROJECTS; AMENDING SECTIONS 15-23-603 AND
12 15-36-101, MCA; AND PROVIDING AN EFFECTIVE DATE."
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14 WHEREAS, the Legislature recognizes that it is
15 essential to the continued growth in production and
16 development of the petroleum resources of this state and to
17 the continued prosperity and welfare of the people of this
18 state that tertiary recovery operations be encouraged; and

19 WHEREAS, the Legislature further recognizes that
20 tertiary recovery methods are experimental and more costly
21 than traditional enhanced recovery operations, thus
22 preventing recovery of oil in many fields because of
23 economic infeasibility.

24 THEREFORE, it is the policy of the Legislature to
25 provide an economic incentive to petroleum producers who

1 invest in tertiary recovery projects enhancing Montana's
2 crude oil production to the ultimate benefit of the state.
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4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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8 petroleum, other mineral or crude oil, or natural gas within
9 this state or engaging in or carrying on the business of
10 owning, controlling, managing, leasing, or operating within
11 this state any well or wells from which any merchantable or
12 marketable petroleum, other mineral or crude oil, or natural
13 gas is extracted or produced sufficient in quantity to
14 justify the marketing of the same must, except as provided
15 in 15-36-121, each year when engaged in or carrying on any
16 such business in this state pay to the department of revenue
17 for the exclusive use and benefit of the state of Montana a
18 severance tax computed at the following rates:

19 (a) except as provided in subsections (1)(b) and
20 (1)(c), 5% of the total gross value of all the petroleum and
21 other mineral or crude oil produced by such person from each
22 lease or unit on or after April 1, 1981, and on or before
23 March 31, 1983; 6% of the total gross value of all the
24 petroleum and other mineral or crude oil produced by such
25 person from each lease or unit on or after April 1, 1983,

1 and on or before March 31, 1985; and 5% of the total gross
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 7 year in connection with his operations in prospecting for,
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 15 limited to:

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

1 gas conservation as a tertiary recovery method.
 2 (d) For purposes of this section, the term
 3 "incremental petroleum and other mineral or crude oil" means
 4 the amount of oil, as determined by the board of oil and gas
 5 conservation, to be in excess of what would have been
 6 produced by primary and secondary methods. THE DETERMINATION
 7 ARRIVED AT BY THE BOARD MUST BE MADE ONLY AFTER NOTICE AND
 8 HEARING AND SHALL SPECIFY THROUGH THE LIFE OF A TERTIARY
 9 PROJECT, CALENDAR YEAR BY CALENDAR YEAR, THE COMBINED AMOUNT
 10 OF PRIMARY AND SECONDARY PRODUCTION THAT MUST BE USED TO
 11 ESTABLISH THE INCREMENTAL PRODUCTION FROM EACH LEASE OR UNIT
 12 IN A TERTIARY RECOVERY PROJECT.
 13 (2) Nothing in this part may be construed as requiring
 14 laborers or employees hired or employed by any person to
 15 drill any oil well or to work in or about any oil well or
 16 prospect or explore for or do any work for the purpose of
 17 developing any petroleum or other mineral or crude oil to
 18 pay such severance tax, nor may any work done or the
 19 drilling of any well or wells for the purpose of prospecting
 20 or exploring for petroleum or other mineral or crude oils or
 21 for the purpose of developing same be considered to be the
 22 engaging in or carrying on of any such business. If, in the
 23 doing of any such work, in the drilling of any oil well, or
 24 in such prospecting, exploring, or development work, any
 25 merchantable or marketable petroleum or other mineral or

1 crude oil in excess of the quantity required by such person
 2 for carrying on such operation is produced sufficient in
 3 quantity to justify the marketing of the same, such work,
 4 drilling, prospecting, exploring, or development work is
 5 considered to be the engaging in and carrying on of such
 6 business within this state within the meaning of this
 7 section.
 8 (3) Every person required to pay such tax hereunder
 9 shall pay the same in full for his own account and for the
 10 account of each of the other owner or owners of the gross
 11 proceeds in value or in kind of all the marketable petroleum
 12 or other mineral or crude oil or natural gas extracted and
 13 produced, including owner or owners of working interest,
 14 royalty interest, overriding royalty interest, carried
 15 working interest, net proceeds interest, production
 16 payments, and all other interest or interests owned or
 17 carved out of the total gross proceeds in value or in kind
 18 of such extracted marketable petroleum or other mineral or
 19 crude oil or natural gas, except that any of the aforesaid
 20 interests that are owned by the federal, state, county, or
 21 municipal governments shall be exempt from taxation under
 22 this chapter. Unless otherwise provided in a contract or
 23 lease, the pro rata share of any royalty owner or owners
 24 will be deducted from any settlements under said lease or
 25 leases or division of proceeds orders or other contracts."

1 Section 2. Section 15-23-603, MCA, is amended to read:

2 "15-23-603. Net proceeds -- how computed. (1) The
3 department of revenue shall calculate and compute from the
4 returns the gross sales proceeds of the product yielded from
5 such well for the year covered by the statement and shall
6 calculate the net proceeds of the well yielded to the
7 producer, which net proceeds shall be determined by
8 subtracting from the gross sales proceeds thereof the
9 following:

10 (a) all royalty paid in cash by the operator or
11 producer and the gross value of all royalty apportioned in
12 kind by the operator or producer that shall be determined by
13 using as the value of a barrel of oil or a cubic foot of gas
14 the average selling price for the calendar year of a barrel
15 of oil or a cubic foot of gas from the well out of which the
16 royalty was paid;

17 (b) all moneys expended for necessary labor, and
18 machinery and supplies needed and used in the operation and
19 development;

20 (c) except as provided in subsection (3), all moneys
21 expended for necessary supplies needed and used in the
22 operation and development;

23 (d) all moneys expended for improvements, repairs,
24 and betterments necessary in and about the working of the
25 well;

1 (e) all moneys expended for fire insurance and
2 workers' compensation insurance and for payments by
3 operators to welfare and retirement funds when provided for
4 in wage contracts between operators and employees;

5 (f) 70% of the amount paid or withheld in
6 satisfaction of liability for excise taxes imposed by the
7 U.S. government on the production, sale, or removal of the
8 natural gas, petroleum, or other crude or mineral oil
9 yielded from such well, other than the amount of such taxes
10 paid by or withheld from each royalty owner.

11 (2) No moneys invested in the well and improvements
12 during any year except the year for which such statement is
13 made may be included in such expenditures, except as
14 provided in 15-23-604, and such expenditures may not include
15 the salaries or any portion thereof of any person or officer
16 not actually engaged in the working of the well or
17 superintending the management thereof.

18 (3) In calculating the deduction for moneys expended
19 for carbon-dioxide NECESSARY CHEMICAL SUPPLIES needed and
20 used in a tertiary recovery project approved by the board of
21 oil and gas conservation, as provided in 15-36-101, the
22 department shall allow 10% of such moneys expended each year
23 for a period of 10 years; REQUIRE THAT THE NECESSARY
24 CHEMICAL SUPPLIES, WHICH INCLUDE BUT ARE NOT LIMITED TO
25 CARBON DIOXIDE SUPPLIES, BE AMORTIZED OVER A 10-YEAR PERIOD

1 beginning with the year in which the moneys were expended."

2 NEW SECTION. Section 3. Extension of authority. Any
3 existing authority of the board of oil and gas conservation
4 or the department of revenue to make rules on the subject of
5 the provisions of this act is extended to the provisions of
6 this act.

7 NEW SECTION. Section 4. Effective date. This act is
8 effective July 1, 1985.

-End-

STANDING COMMITTEE REPORT

SENATE

April 16, 1985

HB 636
Page 2 of 2.

April 16, 1985

MR. PRESIDENT

We, your committee on Taxation

having had under consideration House Bill No. 636

third reading copy (blue color)

(Senator Hirsch)

REDUCE TAX RATE ON PETROLEUM PRODUCED BY TERTIARY RECOVERY METHODS.

Respectfully report as follows: That House Bill No. 636

be amended as follows:

1. Page 3, line 17.

Following: "gas"

Insert: ", including carbon dioxide gas,"

2. Page 3, lines 18 and 19.

Following: "ground" on line 18

Strike: remainder of line 18 through "PROJECT" on line 19

3. Page 4, line 2.

Following: "the"

Strike: "board of oil and gas conservation"

Insert: "department of revenue"

4. Page 4, line 4.

Following: line 3

Strike: "as provided in 82-11-141"

Insert: "in accordance with Title 2, chapter 4"

5. Page 4, line 7.

Following: "the"

Strike: "board of oil and gas conservation"

Insert: "department"

6. Page 4, lines 10 and 11.

Following: "the" on line 10

Strike: "board of oil and gas conservation"

Insert: "department"

DCX:RAGS

99XNSK:RAGS

continued

TEJ

Chairman.

7. Page 4, line 25 through line 1, page 5.

Following: "the" on line 25

Strike: "board of oil and gas conservation"

Insert: "department"

8. Page 5, lines 4 and 5.

Following: "by the" on line 4

Strike: "board of oil and gas conservation"

Insert: "department of revenue"

9. Page 5, line 7.

Following: "the"

Strike: "BOARD"

Insert: "department"

10. Page 9, lines 3 and 4

Following: "authority of" on line 3

Strike: "the board of oil and gas conservation or"

AND AS AMENDED
BE CONCURRED IN

KB

Senator Thomas E. Towe, Chairman

1 HOUSE BILL NO. 636

2 INTRODUCED BY ABRAMS, DEVLIN, HART, ASAY,
 3 E. SMITH, SHAW, TVEIT, GAGE, STEPHENS, NATHE,
 4 KEATING, D. BROWN, HANSON, ZABROCKI

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REDUCE THE TAX RATE
 7 ON PETROLEUM PRODUCED BY TERTIARY RECOVERY METHODS FROM 5
 8 PERCENT TO 2.5 PERCENT; ~~ALLOWING~~ REQUIRING AMORTIZATION OVER
 9 10 YEARS OF THE ~~REDUCTION-FOR-THE~~ COSTS OF CARBON--DIOXIDE
 10 NECESSARY CHEMICAL SUPPLIES USED IN APPROVED TERTIARY
 11 RECOVERY PROJECTS; AMENDING SECTIONS 15-23-603 AND
 12 15-36-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

13
 14 WHEREAS, the Legislature recognizes that it is
 15 essential to the continued growth in production and
 16 development of the petroleum resources of this state and to
 17 the continued prosperity and welfare of the people of this
 18 state that tertiary recovery operations be encouraged; and

19 WHEREAS, the Legislature further recognizes that
 20 tertiary recovery methods are experimental and more costly
 21 than traditional enhanced recovery operations, thus
 22 preventing recovery of oil in many fields because of
 23 economic infeasibility.

24 THEREFORE, it is the policy of the Legislature to
 25 provide an economic incentive to petroleum producers who

1 invest in tertiary recovery projects enhancing Montana's
 2 crude oil production to the ultimate benefit of the state.

3
 4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

6 "15-36-101. Definitions and rate of tax. (1) Every
 7 person engaging in or carrying on the business of producing
 8 petroleum, other mineral or crude oil, or natural gas within
 9 this state or engaging in or carrying on the business of
 10 owning, controlling, managing, leasing, or operating within
 11 this state any well or wells from which any merchantable or
 12 marketable petroleum, other mineral or crude oil, or natural
 13 gas is extracted or produced sufficient in quantity to
 14 justify the marketing of the same must, except as provided
 15 in 15-36-121, each year when engaged in or carrying on any
 16 such business in this state pay to the department of revenue
 17 for the exclusive use and benefit of the state of Montana a
 18 severance tax computed at the following rates:

19 (a) except as provided in subsections (1)(b) and
 20 (1)(c), 5% of the total gross value of all the petroleum and
 21 other mineral or crude oil produced by such person from each
 22 lease or unit on or after April 1, 1981, and on or before
 23 March 31, 1983; 6% of the total gross value of all the
 24 petroleum and other mineral or crude oil produced by such
 25 person from each lease or unit on or after April 1, 1981,

REFERENCE BILL
 HB 636

1 and on or before March 31, 1985; and 5% of the total gross
 2 value of all the petroleum and other mineral or crude oil
 3 produced by such person from each lease or unit thereafter;
 4 but in determining the amount of such tax there shall be
 5 excluded from consideration all petroleum or other crude or
 6 mineral oil produced and used by such person during such
 7 year in connection with his operations in prospecting for,
 8 developing, and producing such petroleum or crude or mineral
 9 oil;

10 (b) 2.65% of the total gross value of natural gas
 11 produced from each lease or unit; but in determining the
 12 amount of such tax there shall be excluded from
 13 consideration all gas produced and used by such person
 14 during such year in connection with his operations in
 15 prospecting for, developing, and producing such gas or
 16 petroleum or crude or mineral oil; and there shall also be
 17 excluded from consideration all gas, INCLUDING CARBON
 18 DIOXIDE GAS, recycled or reinjected into the ground, and all
 19 carbon--dioxide--gas USED--IN--AN--APPROVED--TERTIARY--RECOVERY
 20 PROJECT;

21 (c) 2.5% of the total gross value of the incremental
 22 petroleum and other mineral or crude oil produced from each
 23 lease or unit in a tertiary recovery project after [the
 24 effective date of this act]. For purposes of this section, a
 25 tertiary recovery project must meet the following

1 requirements:

2 (i) the project must be approved as a tertiary
 3 recovery project by the board-of-oil-and-gas-conservation
 4 DEPARTMENT OF REVENUE. Such approval may be extended only
 5 after notice and hearing as--provided--in--82--11--141 IN
 6 ACCORDANCE WITH TITLE 2, CHAPTER 4.

7 (ii) the property to be affected by the project must be
 8 adequately delineated according to the specifications
 9 required by the board--of--oil--and--gas--conservation
 10 DEPARTMENT; and

11 (iii) the project must involve the application of one
 12 or more tertiary recovery methods that can reasonably be
 13 expected to result in an increase, determined by the board
 14 of--oil--and--gas--conservation DEPARTMENT to be significant in
 15 light of all the facts and circumstances, in the amount of
 16 crude oil which may potentially be recovered. For the
 17 purpose of this section, tertiary recovery methods include
 18 but are not limited to:

19 (A) miscible fluid displacement;

20 (B) steam drive injection;

21 (C) micellar/emulsion flooding;

22 (D) in situ combustion;

23 (E) polymer augmented water flooding;

24 (F) cyclic steam injection;

25 (G) alkaline or caustic flooding;

1 (H) carbon dioxide water flooding;

2 (I) immiscible carbon dioxide displacement;

3 (J) any other method approved by the board-of-oil-and
 4 gas-conservation DEPARTMENT as a tertiary recovery method.

5 (d) For purposes of this section, the term
 6 "incremental petroleum and other mineral or crude oil" means
 7 the amount of oil, as determined by the board-of-oil-and-gas
 8 conservation DEPARTMENT OF REVENUE, to be in excess of what
 9 would have been produced by primary and secondary methods.

10 THE DETERMINATION ARRIVED AT BY THE BOARD DEPARTMENT MUST BE
 11 MADE ONLY AFTER NOTICE AND HEARING AND SHALL SPECIFY THROUGH
 12 THE LIFE OF A TERTIARY PROJECT, CALENDAR YEAR BY CALENDAR
 13 YEAR, THE COMBINED AMOUNT OF PRIMARY AND SECONDARY
 14 PRODUCTION THAT MUST BE USED TO ESTABLISH THE INCREMENTAL
 15 PRODUCTION FROM EACH LEASE OR UNIT IN A TERTIARY RECOVERY
 16 PROJECT.

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

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

12 (3) Every person required to pay such tax hereunder
 13 shall pay the same in full for his own account and for the
 14 account of each of the other owner or owners of the gross
 15 proceeds in value or in kind of all the marketable petroleum
 16 or other mineral or crude oil or natural gas extracted and
 17 produced, including owner or owners of working interest,
 18 royalty interest, overriding royalty interest, carried
 19 working interest, net proceeds interest, production
 20 payments, and all other interest or interests owned or
 21 carved out of the total gross proceeds in value or in kind
 22 of such extracted marketable petroleum or other mineral or
 23 crude oil or natural gas, except that any of the aforesaid
 24 interests that are owned by the federal, state, county, or
 25 municipal governments shall be exempt from taxation under

1 this chapter. Unless otherwise provided in a contract or
 2 lease, the pro rata share of any royalty owner or owners
 3 will be deducted from any settlements under said lease or
 4 leases or division of proceeds orders or other contracts."

5 Section 2. Section 15-23-603, MCA, is amended to read:
 6 "15-23-603. Net proceeds -- how computed. (1) The
 7 department of revenue shall calculate and compute from the
 8 returns the gross sales proceeds of the product yielded from
 9 such well for the year covered by the statement and shall
 10 calculate the net proceeds of the well yielded to the
 11 producer, which net proceeds shall be determined by
 12 subtracting from the gross sales proceeds thereof the
 13 following:

14 (a) all royalty paid in cash by the operator or
 15 producer and the gross value of all royalty apportioned in
 16 kind by the operator or producer that shall be determined by
 17 using as the value of a barrel of oil or a cubic foot of gas
 18 the average selling price for the calendar year of a barrel
 19 of oil or a cubic foot of gas from the well out of which the
 20 royalty was paid;

21 (b) all moneys expended for necessary labor, and
 22 ~~machinery, and supplies~~ needed and used in the operation and
 23 development;

24 (c) except as provided in subsection (3), all moneys
 25 expended for necessary supplies needed and used in the

1 operation and development;

2 ~~(c)~~(d) all moneys expended for improvements, repairs,
 3 and betterments necessary in and about the working of the
 4 well;

5 ~~(d)~~(e) all moneys expended for fire insurance and
 6 workers' compensation insurance and for payments by
 7 operators to welfare and retirement funds when provided for
 8 in wage contracts between operators and employees;

9 ~~(e)~~(f) 70% of the amount paid or withheld in
 10 satisfaction of liability for excise taxes imposed by the
 11 U.S. government on the production, sale, or removal of the
 12 natural gas, petroleum, or other crude or mineral oil
 13 yielded from such well, other than the amount of such taxes
 14 paid by or withheld from each royalty owner.

15 (2) No moneys invested in the well and improvements
 16 during any year except the year for which such statement is
 17 made may be included in such expenditures, except as
 18 provided in 15-23-604, and such expenditures may not include
 19 the salaries or any portion thereof of any person or officer
 20 not actually engaged in the working of the well or
 21 superintending the management thereof.

22 (3) In calculating the deduction for moneys expended
 23 for carbon-dioxide NECESSARY CHEMICAL SUPPLIES needed and
 24 used in a tertiary recovery project approved by the board of
 25 oil and gas conservation, as provided in 15-36-101, the

1 ~~department shall allow 10% of such moneys expended each year~~
2 ~~for a period of 10 years;~~ REQUIRE THAT THE NECESSARY
3 ~~CHEMICAL SUPPLIES, WHICH INCLUDE BUT ARE NOT LIMITED TO~~
4 ~~CARBON DIOXIDE SUPPLIES, BE AMORTIZED OVER A 10-YEAR PERIOD~~
5 ~~beginning with the year in which the moneys were expended."~~

6 NEW SECTION. Section 3. Extension of authority. Any
7 existing authority ~~of the board of oil and gas conservation~~
8 or the department of revenue to make rules on the subject of
9 the provisions of this act is extended to the provisions of
10 this act.

11 NEW SECTION. Section 4. Effective date. This act is
12 effective July 1, 1985.

-End-

GOVERNOR'S PROPOSED AMENDMENT TO
HOUSE BILL NO. 636,
REFERENCE COPY
APRIL 24, 1985

1. Page 8, lines 24 and 25.
Following: " the " on line 24
Strike: " board " on line 24 through " conservation " on line 25
Insert: "department of revenue"

-END-

HOUSE BILL NO. 636

INTRODUCED BY ABRAMS, DEVLIN, HART, ASAY,

E. SMITH, SHAW, TVEIT, GAGE, STEPHENS, NATHE,

KEATING, D. BROWN, HANSON, ZABROCKI

A BILL FOR AN ACT ENTITLED: "AN ACT TO REDUCE THE TAX RATE ON PETROLEUM PRODUCED BY TERTIARY RECOVERY METHODS FROM 5 PERCENT TO 2.5 PERCENT; ~~ALLOWING~~ REQUIRING AMORTIZATION OVER 10 YEARS OF THE ~~DEDUCTION FOR THE~~ COSTS OF ~~CARBON--DIOXIDE~~ NECESSARY CHEMICAL SUPPLIES USED IN APPROVED TERTIARY RECOVERY PROJECTS; AMENDING SECTIONS 15-23-603 AND 15-36-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the Legislature recognizes that it is essential to the continued growth in production and development of the petroleum resources of this state and to the continued prosperity and welfare of the people of this state that tertiary recovery operations be encouraged; and

WHEREAS, the Legislature further recognizes that tertiary recovery methods are experimental and more costly than traditional enhanced recovery operations, thus preventing recovery of oil in many fields because of economic infeasibility.

THEREFORE, it is the policy of the Legislature to provide an economic incentive to petroleum producers who

invest in tertiary recovery projects enhancing Montana's crude oil production to the ultimate benefit of the state.

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

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

"15-36-101. Definitions and rate of tax. (1) Every person engaging in or carrying on the business of producing petroleum, other mineral or crude oil, or natural gas within this state or engaging in or carrying on the business of owning, controlling, managing, leasing, or operating within this state any well or wells from which any merchantable or marketable petroleum, other mineral or crude oil, or natural gas is extracted or produced sufficient in quantity to justify the marketing of the same must, except as provided in 15-36-121, each year when engaged in or carrying on any such business in this state pay to the department of revenue for the exclusive use and benefit of the state of Montana a severance tax computed at the following rates:

(a) except as provided in subsections (1)(b) and (1)(c), 5% of the total gross value of all the petroleum and other mineral or crude oil produced by such person from each lease or unit on or after April 1, 1981, and on or before March 31, 1983; 6% of the total gross value of all the petroleum and other mineral or crude oil produced by such person from each lease or unit on or after April 1, 1983,



1 and on or before March 31, 1985; and 5% of the total gross
 2 value of all the petroleum and other mineral or crude oil
 3 produced by such person from each lease or unit thereafter;
 4 but in determining the amount of such tax there shall be
 5 excluded from consideration all petroleum or other crude or
 6 mineral oil produced and used by such person during such
 7 year in connection with his operations in prospecting for,
 8 developing, and producing such petroleum or crude or mineral
 9 oil;

10 (b) 2.65% of the total gross value of natural gas
 11 produced from each lease or unit; but in determining the
 12 amount of such tax there shall be excluded from
 13 consideration all gas produced and used by such person
 14 during such year in connection with his operations in
 15 prospecting for, developing, and producing such gas or
 16 petroleum or crude or mineral oil; and there shall also be
 17 excluded from consideration all gas, INCLUDING CARBON
 18 DIOXIDE GAS, recycled or reinjected into the ground; ~~and all~~
 19 carbon--dioxide--gas USED--IN--AN--APPROVED--TERTIARY--RECOVERY
 20 PROJECT;

21 (c) 2.5% of the total gross value of the incremental
 22 petroleum and other mineral or crude oil produced from each
 23 lease or unit in a tertiary recovery project after [the
 24 effective date of this act]. For purposes of this section, a
 25 tertiary recovery project must meet the following

1 requirements:

2 (i) the project must be approved as a tertiary
 3 recovery project by the board-of-oil-and-gas-conservation
 4 DEPARTMENT OF REVENUE. Such approval may be extended only
 5 after notice and hearing as--provided--in--82-11-141 IN
 6 ACCORDANCE WITH TITLE 2, CHAPTER 4.

7 (ii) the property to be affected by the project must be
 8 adequately delineated according to the specifications
 9 required by the board--of--oil--and--gas--conservation
 10 DEPARTMENT; and

11 (iii) the project must involve the application of one
 12 or more tertiary recovery methods that can reasonably be
 13 expected to result in an increase, determined by the board
 14 of--oil--and--gas--conservation DEPARTMENT to be significant in
 15 light of all the facts and circumstances, in the amount of
 16 crude oil which may potentially be recovered. For the
 17 purpose of this section, tertiary recovery methods include
 18 but are not limited to:

- 19 (A) miscible fluid displacement;
 20 (B) steam drive injection;
 21 (C) micellar/emulsion flooding;
 22 (D) in situ combustion;
 23 (E) polymer augmented water flooding;
 24 (F) cyclic steam injection;
 25 (G) alkaline or caustic flooding;

1 (H) carbon dioxide water flooding;

2 (I) immiscible carbon dioxide displacement;

3 (J) any other method approved by the board-of-oil-and
4 gas-conservation DEPARTMENT as a tertiary recovery method.

5 (d) For purposes of this section, the term
6 "incremental petroleum and other mineral or crude oil" means
7 the amount of oil, as determined by the board-of-oil-and-gas
8 conservation DEPARTMENT OF REVENUE, to be in excess of what
9 would have been produced by primary and secondary methods.
10 THE DETERMINATION ARRIVED AT BY THE BOARD DEPARTMENT MUST BE
11 MADE ONLY AFTER NOTICE AND HEARING AND SHALL SPECIFY THROUGH
12 THE LIFE OF A TERTIARY PROJECT, CALENDAR YEAR BY CALENDAR
13 YEAR, THE COMBINED AMOUNT OF PRIMARY AND SECONDARY
14 PRODUCTION THAT MUST BE USED TO ESTABLISH THE INCREMENTAL
15 PRODUCTION FROM EACH LEASE OR UNIT IN A TERTIARY RECOVERY
16 PROJECT.

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

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

12 (3) Every person required to pay such tax hereunder
13 shall pay the same in full for his own account and for the
14 account of each of the other owner or owners of the gross
15 proceeds in value or in kind of all the marketable petroleum
16 or other mineral or crude oil or natural gas extracted and
17 produced, including owner or owners of working interest,
18 royalty interest, overriding royalty interest, carried
19 working interest, net proceeds interest, production
20 payments, and all other interest or interests owned or
21 carved out of the total gross proceeds in value or in kind
22 of such extracted marketable petroleum or other mineral or
23 crude oil or natural gas, except that any of the aforesaid
24 interests that are owned by the federal, state, county, or
25 municipal governments shall be exempt from taxation under

1 this chapter. Unless otherwise provided in a contract or
 2 lease, the pro rata share of any royalty owner or owners
 3 will be deducted from any settlements under said lease or
 4 leases or division of proceeds orders or other contracts."

5 Section 2. Section 15-23-603, MCA, is amended to read:
 6 "15-23-603. Net proceeds -- how computed. (1) The
 7 department of revenue shall calculate and compute from the
 8 returns the gross sales proceeds of the product yielded from
 9 such well for the year covered by the statement and shall
 10 calculate the net proceeds of the well yielded to the
 11 producer, which net proceeds shall be determined by
 12 subtracting from the gross sales proceeds thereof the
 13 following:

14 (a) all royalty paid in cash by the operator or
 15 producer and the gross value of all royalty apportioned in
 16 kind by the operator or producer that shall be determined by
 17 using as the value of a barrel of oil or a cubic foot of gas
 18 the average selling price for the calendar year of a barrel
 19 of oil or a cubic foot of gas from the well out of which the
 20 royalty was paid;

21 (b) all moneys expended for necessary labor, and
 22 machinery, and supplies needed and used in the operation and
 23 development;

24 (c) except as provided in subsection (3), all moneys
 25 expended for necessary supplies needed and used in the

1 operation and development;

2 ~~(c)~~(d) all moneys expended for improvements, repairs,
 3 and betterments necessary in and about the working of the
 4 well;

5 ~~(d)~~(e) all moneys expended for fire insurance and
 6 workers' compensation insurance and for payments by
 7 operators to welfare and retirement funds when provided for
 8 in wage contracts between operators and employees;

9 ~~(e)~~(f) 70% of the amount paid or withheld in
 10 satisfaction of liability for excise taxes imposed by the
 11 U.S. government on the production, sale, or removal of the
 12 natural gas, petroleum, or other crude or mineral oil
 13 yielded from such well, other than the amount of such taxes
 14 paid by or withheld from each royalty owner.

15 (2) No moneys invested in the well and improvements
 16 during any year except the year for which such statement is
 17 made may be included in such expenditures, except as
 18 provided in 15-23-604, and such expenditures may not include
 19 the salaries or any portion thereof of any person or officer
 20 not actually engaged in the working of the well or
 21 superintending the management thereof.

22 (3) In calculating the deduction for moneys expended
 23 for carbon-dioxide NECESSARY CHEMICAL SUPPLIES needed and
 24 used in a tertiary recovery project approved by the board of
 25 oil--and-gas-conservation DEPARTMENT OF REVENUE, as provided

1 ~~in 15-36-101, the department shall allow 10% of such moneys~~
2 ~~expended each year for a period of 10 years,~~ REQUIRE THAT
3 THE NECESSARY CHEMICAL SUPPLIES, WHICH INCLUDE BUT ARE NOT
4 LIMITED TO CARBON DIOXIDE SUPPLIES, BE AMORTIZED OVER A
5 10-YEAR PERIOD beginning with the year in which the moneys
6 were expended."

7 NEW SECTION. Section 3. Extension of authority. Any
8 existing authority of ~~the board of oil and gas conservation~~
9 or the department of revenue to make rules on the subject of
10 the provisions of this act is extended to the provisions of
11 this act.

12 NEW SECTION. Section 4. Effective date. This act is
13 effective July 1, 1985.

-End-