

SENATE BILL NO. 462

INTRODUCED BY GAGE, KEATING

IN THE SENATE

February 23, 1985	Introduced and referred to Committee on Local Government.
February 26, 1985	Fiscal Note requested. On motion taken from Committee on Local Government and rereferred to Committee on Taxation. Motion adopted.
March 4, 1985	Fiscal Note returned.
March 15, 1985	Committee recommend bill do pass as amended. Report adopted.
March 16, 1985	Bill printed and placed on members' desks.
March 19, 1985	Second reading, do pass.
March 20, 1985	Considered correctly engrossed. Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

March 21, 1985	Introduced and referred to Committee on Taxation.
March 27, 1985	Committee recommend bill be concurred in. Report adopted.
March 30, 1985	Second reading, pass consideration.
April 3, 1985	Second reading, concurred in as amended.

April 5, 1985

Third reading, concurred in.

Returned to Senate with
amendments.

IN THE SENATE

April 13, 1985

On motion, rules suspended to
accept. Motion adopted.

April 15, 1985

Received from House.

April 17, 1985

Second reading, amendments
concurred in.

April 18, 1985

Third reading, amendments
concurred in.
Ayes, 48; Noes, 0.

Sent to enrolling.

Reported correctly enrolled.

Senate BILL NO. 462

INTRODUCED BY

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ALLOWABLE DEDUCTIONS IN DETERMINING OIL AND GAS NET PROCEEDS FOR PROPERTY TAX PURPOSES; DEFINING "OWNER-OPERATOR" AND "STRIPPER WELL"; ESTABLISHING STARTING POINTS FOR THE AMORTIZATION OF DRILLING COSTS AND CERTAIN CAPITAL EXPENDITURES; AMENDING SECTIONS 15-23-601, 15-23-603, AND 15-23-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-23-601, MCA, is amended to read:

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

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

(2) The terms "operator" and "producer" mean any person who engages in the business of drilling for, extracting, or producing any natural gas, petroleum, or other crude or mineral oil.

(3) The term "owner-operator" means any person:

(a) who owns the right, in whole or in part, to search for and produce any natural gas, petroleum, or other crude or mineral oil, whether such right is derived from the ownership of the mineral estate free of lease, from an oil or gas lease, or from any other agreement conferring such right; and

(b) who actually performs supervisory, management, or operational services necessary to the extraction or production of any natural gas, petroleum, or other mineral or crude oil.

(4) The term "stripper well" means:

(a) any crude oil well from which has been produced and sold during any consecutive 12-month period beginning on or after January 1, 1973, an average of 10 barrels or less of crude oil a day, as determined from the records of the board of oil and gas conservation; or

(b) any natural gas well from which is produced and sold during any consecutive 90-day period, in accordance with recognized conservation practices and without damage to the reservoir, an average of not more than 60,000 cubic feet of nonassociated natural gas a day, as determined from the records of the board of oil and gas conservation.

(5) The term "well" includes each single well or group of wells, including dry wells, in one field or production unit and under the control of one operator or



1 producer. The term does not include stripper well."

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

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

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

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

21 (c) (i) all money expended for necessary labor; and

22 (ii) all money expended pursuant to a written operating
23 agreement for supervisory, management, or operational
24 services needed and used in the operation and development;

25 (e)(d) all moneys money expended for improvements,

1 repairs, and betterments necessary in and about the working
2 of the well;

3 (e) that portion of all money, including costs of
4 insurance, expended for the acquisition and operation of any
5 vehicle used in the operation and development of the well
6 which bears the same ratio to all money expended for the
7 acquisition and use of the vehicle during the year covered
8 by the statement as the number of miles the vehicle is used
9 in operation and development of the well during the year
10 covered by the statement bears to the total miles the
11 vehicle is used during the year covered by the statement;

12 (d)(f) all moneys money expended for fire insurance
13 and, workers' compensation insurance, liability insurance,
14 and casualty insurance and for payments by operators to
15 welfare and retirement funds when provided for in wage
16 contracts between operators and employees;

17 (g) all money expended for any performance or
18 indemnity bonds required by the laws of this state or the
19 rules of any state agency, with respect to the well for
20 which the net proceeds are being calculated;

21 (h) with respect to an owner-operator who maintains an
22 office or employs clerical or office personnel and who
23 provides supervision and management for the operation and
24 development of one or more wells or stripper wells, which
25 supervisory and management activity is supported by

adequate, contemporaneous records kept by the owner-operator, and whose average daily production from all wells and stripper wells in which the owner-operator owns the right to search for and produce petroleum or other crude or mineral oil or natural gas during the period covered by the statement required by 15-23-602 does not exceed 250 barrels of petroleum or mineral or crude oil or 1,500,000 cubic feet of natural gas, at the election of the owner-operator and in lieu of the deduction provided in subsection (1)(c)(ii):

(i) 10% of the gross sales proceeds allocable to each well for the year for which the net proceeds are being calculated, as an allowance for clerical, office, and supervisory and management costs directly attributable to the operation and development of the well; and

(ii) 25% of the gross sales proceeds allocable to each stripper well for the year for which the net proceeds are being calculated, as an allowance for clerical, office, and supervisory and management costs directly attributable to the operation and development of the stripper well; and

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

paid by or withheld from each royalty owner.

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

Section 3. Section 15-23-604, MCA, is amended to read:

"15-23-604. Deduction of drilling costs and capital expenditures. The (1) Unless an operator or producer proceeds under subsection (2), the department of revenue in computing the deductions allowable for cost of drilling wells completed during the period and for other capital expenditures shall allow 10% of such cost each year for a period of 10 years beginning:

(a) after the 3-year exemption period allowed in 15-36-121 for qualified natural gas wells;

(b) with the year natural gas from a nonqualified natural gas well is first placed into a natural gas distribution system; or

(c) with the year the pumping unit is installed on a crude oil well, provided, however, the

(2) The operator or producer may elect to amortize the cost over a period of 2 years if the well is less than 3,000

1 feet deep."

2 NEW SECTION. Section 4. Extension of authority. Any
3 existing authority of the department of revenue or the board
4 of oil and gas conservation 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 5. Effective date --
8 applicability. This act is effective on passage and approval
9 and applies to taxable years beginning after December 31,
10 1984.

-End-

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. FNN 505-85Form BD-15

In compliance with a written request received February 26, 19 85, there is hereby submitted a Fiscal Note for Senate Bill 462 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 revising allowable deductions in determining oil and gas net proceeds for property tax purposes; defining "owner-operator" and "stripper well"; establishing starting points for the amortization of drilling costs and certain capital expenditures; and providing an immediate effective date and an applicability date.

ASSUMPTIONS:

1. Statewide taxable value - FY86 = \$2,397,311,000; FY87 = \$2,444,893,000.
2. University levy, 6 mills; school foundation program, 45 mills; average local levy, 80 mills; all school funding 60% of average weighted oil & gas levy, 131 mills.
3. Performance or indemnity bonds, \$10,000 (DNRC); Annual premium, \$100/year (USF&G Insurance Co.); 390 oil & gas companies.
4. Insurance: annual premium for fire, casualty, and liability insurance, \$200/well/year (Dye, Tavery & Judge Agency in Cutbank, MT); fire insurance ($\frac{1}{2}$ of annual premium already deductible).
5. Overhead: 6,718 producing oil & gas wells; 2,243 stripper wells (1984 Annual Petroleum Independent 1983 statistics).
6. Companies which must use proposed section 15-23-603 c(ii): 5,154 wells (Montana Oil Journal); average written operating agreement - \$6,000/well/year.
7. Estimated barrels of oil produced in FY1986, 28,341,000; average price/barrel = \$26.10 (OBPP). This is held constant and used as a proxy for CY1984 and 1985 production.
8. 10% of all oil produced in Montana comes from stripper leases (1984 Petroleum Independent).
9. 26,347,476 barrels of oil and 38,139,096 MCF of gas are produced by companies which must use the deduction in proposed section 15-23-603 c(ii) (Montana Oil Journal).
10. Using natural gas severance tax collections of \$3,650,000 in FY1986 and a price of \$2.48/MCF, 55,538,649 MCF will be produced in 1985 (OBPP & FY1984 county refund worksheets).
11. 35% of all gas leases which are certified under the federal Natural Gas Policy Act are stripper gas leases (Minerals Management Service certification list, Casper, Wyoming).

David L. Henderson
 BUDGET DIRECTOR
 Office of Budget and Program Planning

Date: March 4, 1985

FISCAL IMPACT:

	<u>Under</u> <u>Current Law</u>	<u>FY1986</u> <u>Under</u> <u>Proposed Law</u>	<u>Difference</u>	<u>Under</u> <u>Current Law</u>	<u>FY1987</u> <u>Under</u> <u>Proposed Law</u>	<u>Difference</u>
<u>EFFECT ON REVENUE</u>						
University Mill Levy	\$ 14,383,866	\$ 14,118,677	(\$ 265,189)	\$ 14,669,358	\$ 14,404,169	(\$ 265,189)
School Foundation Program	\$107,878,995	\$105,890,077	(\$1,988,918)	\$110,020,485	\$108,031,267	(\$1,988,918)
TOTAL REVENUE	\$122,262,861	\$120,008,754	(\$2,254,107)	\$124,689,543	\$122,435,436	(\$2,254,107)

AFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

The proposed bill would result in a loss of taxable value of approximately \$44,198,186.

The loss in revenue to local governments would be \$3,535,855 annually, (\$44,198,186 X .080). School funding is 60% of the total levy or \$3,473,977.

RE-REFERRED AND
APPROVED BY COMMITTEE
ON TAXATION

SENATE BILL NO. 462

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(3) The term "owner operator" means any person:

(a) who owns the right, in whole or in part, to search for and produce any natural gas, petroleum, or other crude or mineral oil, whether such right is derived from the ownership of the mineral estate free of lease, from an oil or gas lease, or from any other agreement conferring such right; and

(b) who actually performs supervisory management, or operational services necessary to the extraction or production of any natural gas, petroleum, or other mineral or crude oil;

(4) The term "stripper well" means:

(a) any crude oil well from which has been produced and sold during any consecutive 12-month period beginning on or after January 17, 1973, an average of 10 barrels or less of crude oil a day, as determined from the records of the board of oil and gas conservation; or

(b) any natural gas well from which is produced and sold during any consecutive 90-day period, in accordance with recognized conservation practices and without damage to the reservoir, an average of not more than 60,000 cubic feet of nonassociated natural gas a day, as determined from the records of the board of oil and gas conservation;

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12 producer and the gross value of all royalty apportioned in
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16 of oil or a cubic foot of gas from the well out of which the
17 royalty was paid;

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2 of the well;

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4 ~~insurance, expended for the acquisition and operation of any~~
5 ~~vehicle used in the operation and development of the well~~
6 ~~which bears the same ratio to all money expended for the~~
7 ~~acquisition and use of the vehicle during the year covered~~
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13 and, workers' compensation insurance, liability insurance,
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15 OPERATION AND DEVELOPMENT OF THE WELL and for payments by
16 operators to welfare and retirement funds when provided for
17 in wage contracts between operators and employees;

18 ~~(g)(F)~~ all money expended for any performance or
19 indemnity bonds required by the laws of this state or the
20 rules of any state agency, with respect to the well for
21 which the net proceeds are being calculated; AND

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1 supervisory and management activity is supported by
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 6 or mineral oil or natural gas during the period covered by
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 8 barrels of petroleum or mineral or crude oil or 1,500,000
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 10 owner operator and in lieu of the deduction provided in
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 14 calculated, as an allowance for clerical, office, and
 15 supervisory and management costs directly attributable to
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 18 stripper well for the year for which the net proceeds are
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22 (c)(ii)(G) 70% of the amount paid or withheld in
 23 satisfaction of liability for excise taxes imposed by the
 24 U.S. government on the production, sale, or removal of the
 25 natural gas, petroleum, or other crude or mineral oil

1 yielded from such well, other than the amount of such taxes
 2 paid by or withheld from each royalty owner.

3 (2) No moneys invested in the well and improvements
 4 during any year except the year for which such statement is
 5 made may be included in such expenditures, except as
 6 provided in 15-23-604, and such expenditures may not include
 7 the salaries or any portion thereof of any person or officer
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4 cost over a period of 2 years if the well is less than 3,000
5 feet deep."

6 NEW SECTION. Section 3. Extension of authority. Any
7 existing authority of the department of revenue or the board
8 of oil and gas conservation to make rules on the subject of
9 the provisions of this act is extended to the provisions of
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12 applicability. This act is effective on passage and approval
13 and applies to taxable years beginning after December 31,
14 1984.

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COMMITTEE OF THE WHOLE AMENDMENT

HOUSE

4-2-85
DATE

11:30
TIME

MR. CHAIRMAN: I MOVE TO AMEND SENATE BILL No. 462

third reading copy (blue) as follows:
Color

1. Page 7, line 14.
Strike: "1984"
Insert: "1985"

AS

ADOPT
 REJECT

Ted Schye
Rep. Schye

SENATE BILL NO. 462

INTRODUCED BY GAGE, KEATING

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ALLOWABLE DEDUCTIONS IN DETERMINING OIL AND GAS NET PROCEEDS FOR PROPERTY TAX PURPOSES; DEFINING--"OWNER-OPERATOR"--AND "STRIPPER---WELL"; ESTABLISHING STARTING POINTS FOR THE AMORTIZATION OF DRILLING COSTS AND CERTAIN CAPITAL EXPENDITURES; AMENDING SECTIONS 15-23-601, 15-23-603, AND 15-23-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1--Section 15-23-601, MCA, is amended to read:

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

{1}--"Excise-tax"--means--the--windfall--profit--tax--on--domestic--crude--oil--imposed--by--Title--I--of--the--federal--Crude--Oil--Windfall--Profit--Tax--Act--of--1980,--as--enacted--or--as--amended;

{2}--The--terms--"operator"--and--"producer"--mean--any--person--who--engages--in--the--business--of--drilling--for,--extracting,--or--producing--any--natural--gas,--petroleum,--or--other--crude--or--mineral--oil;

{3}--The--term--"owner-operator"--means--any--person:

{a}--who--owns--the--right,--in--whole--or--in--part,--to--search--for--and--produce--any--natural--gas,--petroleum,--or--other--crude--or--mineral--oil,--whether--such--right--is--derived--from--the--ownership--of--the--mineral--estate--free--of--lease,--from--an--oil--or--gas--lease,--or--from--any--other--agreement--conferring--such--right;--and

{b}--who--actually--performs--supervisory,--management,--or--operational--services--necessary--to--the--extraction--or--production--of--any--natural--gas,--petroleum,--or--other--mineral--or--crude--oil;

{4}--The--term--"stripper-well"--means:

{a}--any--crude--oil--well--from--which--has--been--produced--and--sold--during--any--consecutive--12-month--period--beginning--on--or--after--January--1,--1973,--an--average--of--10--barrels--or--less--of--crude--oil--a--day,--as--determined--from--the--records--of--the--board--of--oil--and--gas--conservation;--or

{b}--any--natural--gas--well--from--which--is--produced--and--sold--during--any--consecutive--90-day--period,--in--accordance--with--recognized--conservation--practices--and--without--damage--to--the--reservoir,--an--average--of--not--more--than--60,000--cubic--feet--of--nonassociated--natural--gas--a--day,--as--determined--from--the--records--of--the--board--of--oil--and--gas--conservation;

{3}{5} The--term--"well"--includes--each--single--well--or--group--of--wells,--including--dry--wells,--in--one--field--or--production--unit--and--under--the--control--of--one--operator--or

REFERENCE BILL



1 ~~producer. The term does not include stripper well.~~

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

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

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

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

21 ~~(c) -- (i) all money expended for necessary labor; and~~
22 ~~(ii) all money expended pursuant to a written operating~~
23 ~~agreement -- for -- supervisory, -- management, -- or -- operational~~
24 ~~services needed and used in the operation -- and -- development;~~

25 (c)(d)(C) all moneys money expended for improvements,

1 repairs, and betterments necessary in and about the working
2 of the well;

3 ~~(e)(D)~~ that portion of all money, including costs of
4 insurance, expended for the acquisition and operation of any
5 vehicle used in the operation and development of the well
6 which bears the same ratio to all money expended for the
7 acquisition and use of the vehicle during the year covered
8 by the statement as the number of miles the vehicle is used
9 in operation and development of the well during the year
10 covered by the statement bears to the total miles the
11 vehicle is used during the year covered by the statement;

12 ~~(d)(f)(E)~~ all moneys money expended for fire insurance
13 and, workers' compensation insurance, liability insurance,
14 and casualty insurance DIRECTLY ATTRIBUTABLE TO THE
15 OPERATION AND DEVELOPMENT OF THE WELL and for payments by
16 operators to welfare and retirement funds when provided for
17 in wage contracts between operators and employees;

18 ~~(g)(F)~~ all money expended for any performance or
19 indemnity bonds required by the laws of this state or the
20 rules of any state agency, with respect to the well for
21 which the net proceeds are being calculated; AND

22 ~~(h) -- with respect to an owner operator who maintains an~~
23 ~~office -- or -- employs -- clerical -- or -- office -- personnel and who~~
24 ~~provides supervision and management for -- the -- operation -- and~~
25 ~~development -- of -- one -- or -- more -- wells -- or -- stripper -- wells; which~~

1 supervisory--and--management--activity---is---supported---by
 2 adequate,---contemporaneous---records---kept---by---the
 3 owner-operator,--and--whose--average--daily--production--from--all
 4 wells--and--stripper--wells--in--which--the--owner--operator--owns
 5 the--right--to--search--for--and--produce--petroleum--or--other--crude
 6 or--mineral--oil--or--natural--gas--during--the--period--covered--by
 7 the--statement--required--by--15-23-602--does--not--exceed--250
 8 barrels--of--petroleum--or--mineral--or--crude--oil--or--1,500,000
 9 cubic--feet--of--natural--gas,--at--the--election--of--the
 10 owner-operator--and--in--lieu--of--the--deduction--provided--in
 11 subsection (1)(c)(ii):

12 (i)--10%--of--the--gross--sales--proceeds--allocable--to--each
 13 well--for--the--year--for--which--the--net--proceeds--are--being
 14 calculated,--as--an--allowance--for--clerical,--office,--and
 15 supervisory--and--management--costs--directly--attributable--to
 16 the--operation--and--development--of--the--well;--and

17 (ii)--25%--of--the--gross--sales--proceeds--allocable--to--each
 18 stripper--well--for--the--year--for--which--the--net--proceeds--are
 19 being--calculated,--as--an--allowance--for--clerical,--office,--and
 20 supervisory--and--management--costs--directly--attributable--to
 21 the--operation--and--development--of--the--stripper--well;--and

22 (e)(ii)(G) 70% of the amount paid or withheld in
 23 satisfaction of liability for excise taxes imposed by the
 24 U.S. government on the production, sale, or removal of the
 25 natural gas, petroleum, or other crude or mineral oil

1 yielded from such well, other than the amount of such taxes
 2 paid by or withheld from each royalty owner.

3 (2) No moneys invested in the well and improvements
 4 during any year except the year for which such statement is
 5 made may be included in such expenditures, except as
 6 provided in 15-23-604, and such expenditures may not include
 7 the salaries or any portion thereof of any person or officer
 8 not actually engaged in the working of the well or
 9 superintending the management thereof, AND SUCH EXPENDITURES
 10 MAY NOT INCLUDE THE SALARIES OR ANY PORTION THEREOF OF ANY
 11 PERSON OR OFFICER NOT ACTUALLY ENGAGED IN THE WORKING OF THE
 12 WELL OR SUPERINTENDING THE MANAGEMENT THEREOF."

13 Section 2. Section 15-23-604, MCA, is amended to read:

14 "15-23-604. Deduction of drilling costs and capital
 15 expenditures. The (1) Unless an operator or producer
 16 proceeds under subsection (2), the department of revenue in
 17 computing the deductions allowable for cost of drilling
 18 wells completed during the period and for other capital
 19 expenditures shall allow 10% of such cost each year for a
 20 period of 10 years beginning:

21 (a) after the 3-year exemption period allowed in
 22 15-36-121 for qualified natural gas wells;

23 (b) with the year natural gas from a nonqualified
 24 natural gas well is first placed into a natural gas
 25 distribution system; or

1 (c) with the year the pumping unit is installed on a
2 crude oil well. provided; however; the

3 (2) The operator or producer may elect to amortize the
4 cost over a period of 2 years if the well is less than 3,000
5 feet deep."

6 NEW SECTION. Section 3. Extension of authority. Any
7 existing authority of the department of revenue or the board
8 of oil and gas conservation 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 --
12 applicability. This act is effective on passage and approval
13 and applies to taxable years beginning after December 31,
14 ~~1984~~ 1985.

-End-