

SB 387 INTRODUCED BY ECK
MAKE TAX PAYMENT PERIOD MORE FREQUENT FOR
WITHHOLDING COAL, OIL, AND GAS TAXES

2/20 INTRODUCED
2/20 REFERRED TO TAXATION
2/20 FISCAL NOTE REQUESTED
3/04 HEARING
3/05 FISCAL NOTE RECEIVED
3/13 TABLED IN COMMITTEE

1 *Senate* BILL NO. 387
2 INTRODUCED BY *Ed*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING THE REPORTING
5 AND TAX PAYMENT PERIOD MORE FREQUENT FOR WITHHOLDING TAXES,
6 COAL SEVERANCE TAXES, AND OIL AND GAS SEVERANCE TAXES;
7 AMENDING SECTIONS 15-1-501, 15-30-204, 15-35-102, 15-35-104,
8 15-35-105, 15-35-108, 15-36-102, 15-36-105, 15-36-107, AND
9 15-36-112, MCA; AND PROVIDING EFFECTIVE DATES."

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

12 NEW SECTION. Section 1. Change in tax payment periods
13 -- transition deposits to general fund. The reporting and
14 tax payment periods for withholding taxes, coal severance
15 taxes, and oil and gas severance taxes are changed to more
16 frequent periods. The revenue produced from the following
17 sources in the transition to more frequent periods shall be
18 deposited in the general fund:

19 (1) all taxes deducted and withheld from wages, as
20 provided in 15-30-202, during the period beginning April 1,
21 1987, and ending June 1, 1987;

22 (2) all coal severance taxes owed the state, as
23 provided in 15-35-104, on the production of coal, as
24 provided in 15-35-103, during the period beginning April 1,
25 1987, and ending June 1, 1987, except that portion of coal

1 severance taxes required to be deposited in the coal
2 severance tax trust fund under 15-35-108 and Article IX,
3 section 5, of the Montana constitution; and

4 (3) all oil and gas severance taxes owed the state on
5 the production of any petroleum or other mineral or crude
6 oil or natural gas, as provided in 15-36-101 and 15-36-102,
7 during the period beginning April 1, 1987, and ending June
8 1, 1987.

9 Section 2. Section 15-1-501, MCA, is amended to read:

10 "15-1-501. Disposition of moneys from certain
11 designated license and other taxes. (1) The state treasurer
12 shall deposit to the credit of the state general fund all
13 moneys received by him from the collection of:

14 (a) fees from driver's licenses, motorcycle
15 endorsements, and duplicate driver's licenses as provided in
16 61-5-121;

17 (b) electrical energy producer's license taxes under
18 chapter 51;

19 (c) severance taxes allocated to the general fund
20 under chapter 36;

21 (d) liquor license taxes under Title 16;

22 (e) telephone [company] license taxes under chapter
23 53; and

24 (f) inheritance and estate taxes under Title 72,
25 chapter 16.



1 (2) ~~Seventy-five--percent~~ Except as provided in
 2 [section 1], 75% of all moneys received from the collection
 3 of income taxes under chapter 30 and corporation license and
 4 income taxes under chapter 31, except as provided in
 5 15-31-702, shall be deposited in the general fund subject to
 6 the prior pledge and appropriation of such income tax and
 7 corporation license tax collections for the payment of
 8 long-range building program bonds. The remaining 25% of the
 9 proceeds of the corporation license tax, excluding that
 10 allocated to the counties under 15-31-702, corporation
 11 income tax, and income tax shall be deposited to the credit
 12 of the state special revenue fund for state equalization aid
 13 to the public schools of Montana.

14 (3) The state treasurer shall also deposit to the
 15 credit of the state general fund all moneys received by him
 16 from the collection of license taxes, fees, and all net
 17 revenues and receipts from all other sources under the
 18 operation of the Montana Alcoholic Beverage Code.

19 (4) Thirty-three and one-third percent of the total
 20 collections of the oil severance tax under chapter 36 shall
 21 be deposited into the local government block grant account
 22 within the state special revenue fund. After the
 23 distribution provided for in 15-36-112, the remainder of the
 24 oil severance tax collections shall be deposited in the
 25 general fund."

1 Section 3. Section 15-30-204, MCA, is amended to read:
 2 "15-30-204. Quarterly or weekly payment. (1) Except as
 3 provided in subsection (3), on or before the last day of
 4 April, July, October, and January, every employer subject to
 5 the provisions of 15-30-202 and 15-30-203 shall file a
 6 return in such form and containing such information as may
 7 be required by the department and, except as provided in
 8 subsection (2), shall pay therewith the amount required by
 9 15-30-202 to be deducted and withheld by the employer from
 10 wages paid during the preceding quarter. Quarterly returns
 11 for employers paying weekly shall be used to summarize and
 12 adjust payments and request refunds of overpayments.

13 (2) An employer subject to the provisions of
 14 15-30-202 and 15-30-203 whose total liability for
 15 withholdings equalled or exceeded ~~\$300,000~~ \$12,000 for the
 16 preceding calendar year shall remit a weekly payment to the
 17 department for the amount required by 15-30-202 to be
 18 deducted and withheld by the employer from wages paid during
 19 the preceding week. The weekly payment must be submitted on
 20 or before the date on which federal income tax weekly
 21 withholding payments are due.

22 (3) If the total amount of the tax withheld by an
 23 employer under the provisions of 15-30-202 upon the wages of
 24 all employees of any employer is less than \$10 in each
 25 quarterly period of any year, such employer shall not be

1 required to file the quarterly returns or to make the
 2 quarterly payments as provided in subsection (1), but in
 3 lieu thereof such employer shall, on or before February 15
 4 of the year succeeding that in which such wages were paid,
 5 file an annual return in such form as may be required by the
 6 department and shall pay therewith the amount required to be
 7 deducted and withheld by the employer from all wages paid
 8 during the preceding calendar year.

9 (4) If the department has reason to believe that
 10 collection of the amount of any tax withheld is in jeopardy,
 11 it may proceed as provided for under 15-30-312 with respect
 12 to jeopardy assessments of income tax."

13 Section 4. Section 15-35-102, MCA, is amended to read:

14 "15-35-102. Definitions. As used in this chapter, the
 15 following definitions apply:

16 (1) "Agreement" means a signed contract that is valid
 17 under Montana law between a coal mine operator and a
 18 purchaser or broker for the sale of coal that is produced in
 19 Montana.

20 (2) "Base consumption level" for a purchaser means the
 21 greater of:

22 (a) the arithmetic average volume of coal purchased
 23 during calendar years 1983 and 1984 from all Montana coal
 24 mine operators; or

25 (b) 90% of the maximum tonnage provided for in any

1 agreement executed prior to January 1, 1985, for which the
 2 highest scheduled minimum quantity of coal stipulated by the
 3 terms of the agreement as they existed on January 1, 1985,
 4 has not been purchased at any time during the term of the
 5 agreement, plus the arithmetic average volume of coal
 6 purchased during calendar years 1983 and 1984 from all
 7 Montana coal mine operators under all other agreements.

8 (3) "Base production level" for a coal mine operator
 9 means the arithmetic average volume of coal produced in
 10 Montana and sold to a purchaser in calendar years 1983 and
 11 1984.

12 (4) "Broker" means any person who resells Montana
 13 coal.

14 (5) "Contract sales price" means either the price of
 15 coal extracted and prepared for shipment f.o.b. mine,
 16 excluding that amount charged by the seller to pay taxes
 17 paid on production, or a price imputed by the department
 18 under 15-35-107. Contract sales price must be based on the
 19 statements required in 15-35-104 and includes all royalties
 20 paid on production, no matter how such royalties are
 21 calculated. However, with respect to royalties paid to the
 22 government of the United States, the state of Montana, or a
 23 federally recognized Indian tribe, the contract sales price
 24 includes only:

25 (a) for quarterly monthly periods ending on and after

1 September 30, 1984, 15 cents per ton plus 75% of the
2 difference between 15 cents per ton and the amount of such
3 federal, state, and tribal government royalties actually
4 paid;

5 (b) for ~~quarterly~~ monthly periods ending on and after
6 September 30, 1985, 15 cents per ton plus 50% of the
7 difference between 15 cents per ton and the amount of such
8 federal, state, and tribal government royalties actually
9 paid;

10 (c) for ~~quarterly~~ monthly periods ending on and after
11 September 30, 1986, 15 cents per ton plus 25% of the
12 difference between 15 cents per ton and the amount of such
13 federal, state, and tribal government royalties actually
14 paid; and

15 (d) for ~~quarterly~~ monthly periods ending on and after
16 September 30, 1987, 15 cents per ton.

17 (6) "Department" means the department of revenue.

18 (7) "Energy conversion process" includes any process
19 by which coal in the solid state is transformed into slurry,
20 gas, electric energy, or any other form of energy.

21 (8) "Incremental production" means that quantity of
22 coal produced annually by a coal mine operator and sold to a
23 qualified purchaser that exceeds the base production level
24 of the coal mine operator for that purchaser, but only to
25 the extent the quantity of coal exceeds that purchaser's

1 base consumption level from all Montana producers.

2 (9) "Produced" means severed from the earth.

3 (10) "Purchaser" means a person who purchases or
4 contracts to purchase Montana coal directly from a coal mine
5 operator or indirectly from a broker and who utilizes that
6 coal in any industrial, commercial, or energy conversion
7 process. A coal broker or any other third party intermediary
8 is not a purchaser under the provisions of this chapter.

9 (11) "Qualified purchaser" means a purchaser whose
10 purchases of Montana coal in any given year exceed his base
11 consumption level. A purchaser of Montana coal who enters
12 into a coal agreement with another purchaser or a broker
13 that causes a reduction in the base consumption level of a
14 purchaser is not a qualified purchaser.

15 (12) "Strip mining" or "surface mining" is defined in
16 82-4-203.

17 (13) "Taxes paid on production" includes any tax paid
18 to the federal, state, or local governments upon the
19 quantity of coal produced as a function of either the volume
20 or the value of production and does not include any tax upon
21 the value of mining equipment, machinery, or buildings and
22 lands, any tax upon a person's net income derived in whole
23 or in part from the sale of coal, or any license fee.

24 (14) "Ton" means 2,000 pounds.

25 (15) "Underground mining" means a coal mining method

1 utilizing shafts and tunnels and as further defined in
2 82-4-203."

3 Section 5. Section 15-35-104, MCA, is amended to read:

4 "15-35-104. Quarterly Monthly statement and payment of
5 tax. Each coal mine operator shall compute the severance tax
6 due on each ~~quarter-year's~~ month's worth of production on
7 forms prescribed by the department. The statement shall
8 indicate the tonnage produced, the average Btu value of the
9 production, the contract sales price received for the
10 production, and such other information as the department may
11 require. The completed form in duplicate, with the tax
12 payment, shall be delivered to the department not later than
13 30 days following the ~~close end~~ of the quarter month. The
14 form shall be signed by the operator if the operator is an
15 individual or by an officer of the coal mine operator if the
16 operator is a business entity. A person operating more than
17 one coal mine in this state may include all of his mines in
18 one statement. The department may grant a reasonable
19 extension of time for filing statements and payment of taxes
20 due upon good cause shown therefor."

21 Section 6. Section 15-35-105, MCA, is amended to read:

22 "15-35-105. Penalty for delinquent tax. The department
23 shall add to the amount of all delinquent severance taxes a
24 penalty of 10% of the delinquent amount plus interest at the
25 rate of 1% per month or fraction thereof computed on the

1 total amount of severance tax and penalty. Interest shall be
2 computed from the date the severance tax was due to the date
3 of payment. The department shall mail to the person required
4 to file a quarterly monthly report and pay any severance
5 tax; a letter setting forth the amount of tax, penalty, and
6 interest due, and the letter shall further contain a
7 statement that if payment is not made, a warrant for
8 distraint may be filed. The penalty amount may be waived by
9 the department if reasonable cause for the failure or
10 neglect to file the quarterly monthly statement is provided
11 to the department."

12 Section 7. Section 15-35-108, MCA, is amended to read:

13 "15-35-108. Disposal of severance taxes. Severance
14 Except as provided in [section 1], severance taxes collected
15 under the provisions of this chapter are allocated as
16 follows:

17 (1) To the trust fund created by Article IX, section
18 5, of the Montana constitution, 50% of total coal severance
19 tax collections. The trust fund moneys shall be deposited
20 in the fund established under 17-6-203(5) and invested by
21 the board of investments as provided by law.

22 (2) Starting July 1, 1986, and ending June 30, 1987,
23 6% of coal severance tax collections are allocated to the
24 highway reconstruction trust fund account in the state
25 special revenue fund. Starting July 1, 1987, and ending June

1 30, 1993, 12% of coal severance tax collections are
2 allocated to the highway reconstruction trust fund account
3 in the state special revenue fund.

4 (3) Coal severance tax collections remaining after the
5 allocations provided by subsections (1) and (2) are
6 allocated in the following percentages of the remaining
7 balance:

8 (a) 2 1/2% until July 1, 1987, and thereafter 4 1/2%
9 to the state special revenue fund to the credit of the
10 alternative energy research development and demonstration
11 account;

12 (b) 6% until July 1, 1987, and thereafter 3 1/2% to
13 the state special revenue fund to the credit of the local
14 impact and education trust fund account;

15 (c) 30% until July 1, 1987, and thereafter 10% to the
16 state special revenue fund for state equalization aid to
17 public schools of the state;

18 (d) 1% to the state special revenue fund to the credit
19 of the county land planning account;

20 (e) 1 1/4% to the credit of the renewable resource
21 development bond fund;

22 (f) starting July 1, 1986, and ending June 30, 1989,
23 5% to the general fund, and after June 30, 1989, 5% to a
24 nonexpendable trust fund for the purpose of parks
25 acquisition or management, protection of works of art in the

1 state capitol, and other cultural and aesthetic projects.
2 Income from this trust fund shall be appropriated as
3 follows:

4 (i) 1/3 for protection of works of art in the state
5 capitol and other cultural and aesthetic projects; and

6 (ii) 2/3 for the acquisition, development, operation,
7 and maintenance of any sites and areas described in
8 23-1-102;

9 (g) 1% to the state special revenue fund to the credit
10 of the state library commission for the purposes of
11 providing basic library services for the residents of all
12 counties through library federations and for payment of the
13 costs of participating in regional and national networking;

14 (h) 1/2 of 1% to the state special revenue fund for
15 conservation districts;

16 (i) 1 1/4% to the debt service fund type to the credit
17 of the water development debt service fund;

18 (j) 4% until July 1, 1987, to the highway
19 reconstruction trust fund account in the state special
20 revenue fund;

21 (k) all other revenues from severance taxes collected
22 under the provisions of this chapter to the credit of the
23 general fund of the state."

24 Section 8. Section 15-36-102, MCA, is amended to read:
25 "15-36-102. ~~Quarterly~~ Monthly payment of tax. Such

1 severance tax shall be paid in quarterly monthly
 2 ~~installments for the quarterly periods ending, respectively,~~
 3 ~~March-31, June-30, September-30, and December-31--of--each~~
 4 ~~year,~~ and the amount of the tax for each quarterly monthly
 5 period shall be paid to the department of revenue within 60
 6 30 days after the end of ~~each quarterly period~~ the month."

7 Section 9. Section 15-36-105, MCA, is amended to read:

8 "15-36-105. Statement to accompany payment -- records
 9 -- collection of tax -- refunds. (1) Each and every person
 10 must, within 60 30 days after the end of each following
 11 quarter month, make out on forms prescribed by the
 12 department of revenue a statement showing the total number
 13 of barrels of merchantable or marketable petroleum and other
 14 mineral or crude oil or cubic feet of natural gas produced
 15 or extracted by such person in the state during each the
 16 month of such quarter and during the whole quarter, and the
 17 average value thereof during each the month, ~~and the total~~
 18 ~~value thereof for the whole quarter,~~ together with the total
 19 amount due to the state as severance taxes for ~~such--quarter~~
 20 the month, and must within such 60 30 days deliver such the
 21 statement and, except as provided in 15-36-121, pay to the
 22 department the amount of the taxes shown by such the
 23 statement to be due to the state for the quarter month for
 24 which such the statement is made. Such The statement must be
 25 signed by the individual or the president, vice-president,

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

12 (2) It shall be the duty of the department to examine
 13 each of such the statements and compute the taxes thereon,
 14 and the amount so computed by the department shall be the
 15 taxes imposed, assessed against, and payable by the taxpayer
 16 making the statement for the quarter month for which the
 17 statement is filed. If the tax found to be due shall be
 18 greater than the amount paid, the excess shall be paid by
 19 the taxpayer to the department within 10 days after written
 20 notice of the amount of the deficiency shall be mailed by
 21 the department to such the taxpayer. If the tax imposed
 22 shall be less than the amount paid, the difference must be
 23 applied as a credit against tax liability for subsequent
 24 quarters months or refunded if there is no subsequent tax
 25 liability.

1 (3) If the tax is not paid on or before the due date,
 2 there shall be assessed a penalty of 10% of the amount of
 3 the tax, unless it is shown that the failure was due to
 4 reasonable cause and not due to neglect. If any tax under
 5 this chapter is not paid when due, interest shall be added
 6 thereto at the rate of 1% a month or fraction thereof,
 7 computed on the total amount of severance tax and penalty
 8 from the due date until paid."

9 Section 10. Section 15-36-107, MCA, is amended to
 10 read:

11 "15-36-107. Procedure to compute tax in absence of
 12 statement -- penalty and interest. If any such person shall
 13 fail, neglect, or refuse to file any statement required by
 14 15-36-105 within the time therein required, the department
 15 of revenue shall, immediately after such time has expired,
 16 proceed to inform itself as best it may regarding the number
 17 of barrels of petroleum and other mineral or crude oil or
 18 cubic feet of gas extracted and produced by such the person
 19 in this state ~~during-such-quarter-and~~ during each applicable
 20 month thereof and the average value thereof during each such
 21 month and shall determine and fix the amount of the
 22 severance taxes due to the state from such the person for
 23 ~~such-quarter~~ the month and shall add to the amount of such
 24 the severance taxes a penalty of 10% thereof plus interest
 25 at the rate of 1% per month or fraction thereof computed on

1 the total amount of severance taxes and penalty. Interest
 2 shall be computed from the date the severance taxes were due
 3 to the date of payment. The department shall mail to the
 4 person required to file a ~~quarterly~~ monthly statement and
 5 pay any severance tax, a letter setting forth the amount of
 6 severance tax, penalty, and interest due, and the letter
 7 shall further contain a statement that if payment is not
 8 made, a warrant for distraint may be filed. The 10% penalty
 9 herein provided may be waived by the department if
 10 reasonable cause for the failure and neglect to file the
 11 statement required by 15-36-105 is provided to the
 12 department."

13 Section 11. Section 15-36-112, MCA, is amended to
 14 read:

15 "15-36-112. Disposition of oil and gas severance
 16 taxes. (1) Each year the department of revenue shall
 17 determine the amount of tax collected under this chapter
 18 from within each county.

19 (2) ~~The~~ Except as provided in [section 1], the
 20 severance taxes collected under this chapter are allocated
 21 as follows:

22 (a) 33 1/3% of the oil severance tax, not to exceed
 23 \$42 million for the biennium ending June 30, 1985, is
 24 deposited in the local government block grant account within
 25 the state special revenue fund;

1 (b) the amount, if any, by which the tax collected
 2 from within a county for any fiscal year exceeds the total
 3 amount collected from within that county for the previous
 4 fiscal year, by reason of increased production and not
 5 because of increase in or elimination of federal price
 6 ceilings on oil and gas, is statutorily appropriated, as
 7 provided in 17-7-502, for allocation to the general fund of
 8 the county for distribution as provided in subsection (3);

9 (c) any amount not allocated to the local government
 10 block grant account or the county under subsection (2)(a) or
 11 (2)(b) is allocated to the state general fund.

12 (3) (a) The county treasurer shall distribute the
 13 money received under subsection (2)(b) of this section to
 14 the county and to all the incorporated cities and towns
 15 within the county in the following manner. The county
 16 receives the available money multiplied by the ratio of the
 17 rural population to the county population. Each incorporated
 18 municipality receives the available money multiplied by the
 19 ratio of the population of the incorporated municipality to
 20 the county population. The rural population is that
 21 population of the county living outside the boundaries of an
 22 incorporated municipality. Population shall be based on the
 23 most recent figures as determined by the department of
 24 commerce.

25 (b) The money distributed under this subsection may be

1 used for any purpose as determined by the governing body of
 2 the county, city, or town."

3 NEW SECTION. Section 12. Extension of authority. Any
 4 existing authority of the department of revenue to make
 5 rules on the subject of the provisions of this act is
 6 extended to the provisions of this act.

7 NEW SECTION. Section 13. Effective dates. (1)
 8 Sections 1 through 11 are effective April 1, 1987.

9 (2) Section 12 and this section are effective on
 10 passage and approval, but no rules adopted under section 12
 11 may be made effective before April 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB387, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act making the reporting and tax payment period more frequent for withholding taxes, coal severance taxes, and oil and natural gas severance taxes; providing effective dates.

ASSUMPTIONS:

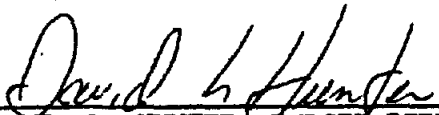
1. Affected revenues are: FY87 Individual Income Tax - \$193,347,000; and FY88 Coal Severance Tax - \$78,663,000, Oil Severance Tax - \$19,212,000, and Natural Gas Severance Tax - \$2,518,000.
2. Withholding estimates are based on MDOR studies of actual 1985 withholding data (revised estimates based on 1986 data will be available prior to the end of session).
3. Tax payments are uniformly distributed over the fiscal year.
4. All tax liabilities accruing between April 1 to June 1 would be diverted to the general fund, regardless of when the payments are received.

FISCAL IMPACT:Revenue Impact:

The proposal would increase General Fund revenues approximately \$27,551,000 in FY1987.

Expenditures:	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Personal Services	\$ 0	\$ 185,722	\$ 185,722	\$ 0	\$ 185,722	\$ 185,722
Operating Expense	0	49,692	49,692	0	49,692	49,692
Capital Outlay	0	0	0	0	0	0
TOTAL	\$ 0	\$ 235,414	\$ 235,414	\$ 0	\$ 235,414	\$ 235,414

In addition to the above expenditures, additional FY87 expenditures include \$41,758 for personal services, \$11,527 for operating expenses, and \$85,950 for capital outlay for a total of \$139,235.

 DATE 3/2/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

 DATE 3/5/87
 DOROTHY ECK, PRIMARY SPONSOR

Fiscal Note for SB387, as introduced.

SB 387

Fiscal Note Request, SB387, as introduced.

Form BD-15

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TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

This bill would require changes to both the crude oil severance and natural gas severance data processing systems by May of this year, a nearly impossible task. Although there would be no changes to the current requirements for accelerated filers in the new withholding system, it would be very difficult to deal with the estimated 1,650 filers and additional accelerated filings (46,000 annually) in such a short time frame. Additional data entry resources would be needed on short notice and could not be temporarily removed from income tax processing during this time of heavy refund processing. It would be impossible to notify the employers and get forms printed and into their hands by April 1. It would take a minimum of three weeks just to get the forms printed if the supplier has stock on hand. By the time the bill is signed and forms are printed, the taxpayers would already be delinquent.