

SENATE BILL NO. 368

INTRODUCED BY KEATING, GILBERT, GAGE, IVERSON,  
GUTHRIE, HAYNE, KNAPP

IN THE SENATE

FEBRUARY 7, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
FEBRUARY 15, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 16, 1989	PRINTING REPORT.
FEBRUARY 17, 1989	SECOND READING, DO PASS.
FEBRUARY 18, 1989	ENGROSSING REPORT.
FEBRUARY 20, 1989	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 21, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
APRIL 11, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
APRIL 12, 1989	SECOND READING, CONCURRED IN.
APRIL 13, 1989	THIRD READING, CONCURRED IN. AYES, 91; NOES, 8.
	RETURNED TO SENATE.

IN THE SENATE

APRIL 14, 1989	RECEIVED FROM HOUSE.
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SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *368*  
 2 INTRODUCED BY *Kerting Gilbert*  
 3 *James R. Wayne, Jr.*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND THE EXEMPTION  
 5 OF CERTAIN STRIPPER WELLS FROM SEVERANCE TAXES; AMENDING  
 6 SECTION 15-36-101; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE  
 7 AND A CONTINGENT RETROACTIVE APPLICABILITY DATE."

8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

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

24 (a) except as provided in subsections (1)(b), (1)(c),  
 25 and (1)(d), 5% of the total gross value of all the petroleum

1 and other mineral or crude oil produced by such person from  
 2 each lease or unit on or after April 1, 1981, and on or  
 3 before March 31, 1983, 6% of the total gross value of all  
 4 the petroleum and other mineral or crude oil produced by  
 5 such person from each lease or unit on or after April 1,  
 6 1983, and on or before March 31, 1985, and 5% of the total  
 7 gross value of all the petroleum and other mineral or crude  
 8 oil produced by such the person from each lease or unit  
 9 thereafter; but in determining the amount of such severance  
 10 tax there shall be excluded from consideration all petroleum  
 11 or other crude or mineral oil produced and used by such the  
 12 person during such the year in connection with his  
 13 operations in prospecting for, developing, and producing  
 14 such the petroleum or crude or mineral oil;

15 (b) 2.65% of the total gross value of natural gas  
 16 produced from each lease or unit; but in determining the  
 17 amount of such severance tax there shall be excluded from  
 18 consideration all gas produced and used by such the person  
 19 during such the year in connection with his operations in  
 20 prospecting for, developing, and producing such the gas or  
 21 petroleum or crude or mineral oil; and there shall also be  
 22 excluded from consideration all gas, including carbon  
 23 dioxide gas, recycled or reinjected into the ground;

24 (c) 2.5% of the total gross value of the incremental  
 25 petroleum and other mineral or crude oil produced from each

1 lease or unit in a tertiary recovery project after July 1,  
2 1985. For purposes of this section, a tertiary recovery  
3 project must meet the following requirements:

4 (i) the project must be approved as a tertiary  
5 recovery project by the department of revenue. Such The  
6 approval may be extended only after notice and hearing in  
7 accordance with Title 2, chapter 4.

8 (ii) the property to be affected by the project must be  
9 adequately delineated according to the specifications  
10 required by the 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  
14 department to be significant in light of all the facts and  
15 circumstances, in the amount of crude oil which may  
16 potentially be recovered. For the purpose of this section,  
17 tertiary recovery methods include but are not limited to:

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

1 (I) immiscible carbon dioxide displacement; or  
2 (J) any other method approved by the department as a  
3 tertiary recovery method;.

4 (d) 3% of the total gross value of all the petroleum  
5 and other mineral or crude oil, after the first 5 barrels,  
6 produced by a stripper well, as defined in 15-36-121, that  
7 produces more than 5 barrels a day during the period  
8 beginning April 1, ~~1987~~ 1989, and ending March 31, ~~1989~~  
9 1991.

10 (2) For purposes of this section, the term  
11 "incremental petroleum and other mineral or crude oil" means  
12 the amount of oil, as determined by the department of  
13 revenue, to be in excess of what would have been produced by  
14 primary and secondary methods. The determination arrived at  
15 by the department must be made only after notice and hearing  
16 and shall specify through the life of a tertiary project,  
17 calendar year by calendar year, the combined amount of  
18 primary and secondary production that must be used to  
19 establish the incremental production from each lease or unit  
20 in a tertiary recovery project.

21 (3) Nothing in this part may be construed as requiring  
22 laborers or employees hired or employed by any person to  
23 drill any oil well or to work in or about any oil well or  
24 prospect or explore for or do any work for the purpose of  
25 developing any petroleum or other mineral or crude oil to

1 pay such the severance tax, nor may any work done or the  
 2 drilling of any a well or wells for the purpose of  
 3 prospecting or exploring for petroleum or other mineral or  
 4 crude oils or for the purpose of developing same them be  
 5 considered to be the engaging in or carrying on of any-such  
 6 the business. If, in the doing of any such work, in the  
 7 drilling of any oil well, or in such prospecting, exploring,  
 8 or development work, any merchantable or marketable  
 9 petroleum or other mineral or crude oil in excess of the  
 10 quantity required by such the person for carrying on such  
 11 the operation is produced sufficient in quantity to justify  
 12 the marketing of the same petroleum or other mineral or  
 13 crude oil, such the work, drilling, prospecting, exploring,  
 14 or development work is considered to be the engaging in and  
 15 carrying on of such the business of producing petroleum or  
 16 other mineral or crude oil within this state within the  
 17 meaning of this section.

18 (4) Every person required to pay such the severance  
 19 tax hereunder under this section shall pay the same tax in  
 20 full for his own account and for the account of each of the  
 21 other owner or owners of the gross proceeds in value or in  
 22 kind of all the marketable petroleum or other mineral or  
 23 crude oil or natural gas extracted and produced, including  
 24 owner or owners of working interest, royalty interest,  
 25 overriding royalty interest, carried working interest, net

1 proceeds interest, production payments, and all other  
 2 interest or interests owned or carved out of the total gross  
 3 proceeds in value or in kind of such the extracted  
 4 marketable petroleum or other mineral or crude oil or  
 5 natural gas, except that any of the aforesaid interests that  
 6 are owned by the federal, state, county, or municipal  
 7 governments shall be exempt from taxation under this  
 8 chapter. Unless otherwise provided in a contract or lease,  
 9 the pro rata share of any royalty owner or owners will be  
 10 deducted from any settlements under said the lease or leases  
 11 or division of proceeds orders or other contracts.  
 12 (Subsection (1)(d) terminates on occurrence of  
 13 contingency--sec. 7, Ch. 656, L. 1987.)"

14 NEW SECTION. Section 2. Extension of authority. Any  
 15 existing authority to make rules on the subject of the  
 16 provisions of [this act] is extended to the provisions of  
 17 [this act].

18 NEW SECTION. Section 3. Effective date -- contingent  
 19 retroactive applicability. [This act] is effective on  
 20 passage and approval and if approved after April 1, 1989,  
 21 applies retroactively, within the meaning of 1-2-109, to  
 22 petroleum or other mineral or crude oil produced on or after  
 23 April 1, 1989.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB368, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to extend the exemption of certain stripper wells from severance taxes; and providing an immediate effective date and a contingent retroactive applicability date.

ASSUMPTIONS:

1. Oil Severance tax receipts are estimated to be \$14,439,000 in FY90 and \$13,836,000 in FY91. (REAC)
2. Oil production is estimated to be 21,131,000 barrels in FY90 and 19,754,000 barrels in FY91. This is a 5.14% decline between FY89 and FY90, and a 6.52% decline between FY90 and FY91. (REAC)
3. Stripper oil production is estimated to follow the same decline as regular oil production. The Stripper production is estimated to be 1,953,000 in FY89, 1,853,000 barrels in FY90 and 1,732,000 barrels in FY91.
4. The price per barrel of oil is estimated to be \$15.18 in FY90 and \$15.59 in FY91. (REAC)
5. It is estimated that 15.6253% of the stripper oil production is taxed at the full 3% rate (excludes exempt production). (REAC)
6. There is no impact on Department of Revenue expenditures.

FISCAL IMPACT:

	FY90			FY91		
<u>Revenue Impact:</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Oil Severance Tax	\$14,439,000	\$14,351,100	(\$87,900)	\$13,836,000	\$13,751,600	(\$84,400)
<u>Fund Information:</u>						
General Fund	\$14,439,000	\$14,351,100	(\$87,900)	\$13,836,000	\$13,751,600	(\$84,400)


DATE 2/14/89

RAY SHACKLEFORD, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 2-14-89

THOMAS F. KEATING, PRIMARY SPONSOR

Fiscal Note for SB368, as introduced

**SB 368**

APPROVED BY COMMITTEE  
ON TAXATION

1 *Sen. Bill No. 368*  
 2 INTRODUCED BY *Feeling Gilbert*  
 3 *Just R. D. L. Wayne, Kinapp*  
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 3 *Jensen R. Hays, Kincaid*  
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"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), (1)(c),

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

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

(c) 2.5% of the total gross value of the incremental

1 petroleum and other mineral or crude oil produced from each  
2 lease or unit in a tertiary recovery project after July 1,  
3 1985. For purposes of this section, a tertiary recovery  
4 project must meet the following requirements:

5 (i) the project must be approved as a tertiary  
6 recovery project by the department of revenue. Such The  
7 approval may be extended only after notice and hearing in  
8 accordance with Title 2, chapter 4.

9 (ii) the property to be affected by the project must be  
10 adequately delineated according to the specifications  
11 required by the department; and

12 (iii) the project must involve the application of one  
13 or more tertiary recovery methods that can reasonably be  
14 expected to result in an increase, determined by the  
15 department to be significant in light of all the facts and  
16 circumstances, in the amount of crude oil which may  
17 potentially be recovered. For the purpose of this section,  
18 tertiary recovery methods include 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; or

3 (J) any other method approved by the department as a  
4 tertiary recovery method~~7~~.

5 (d) 3% of the total gross value of all the petroleum  
6 and other mineral or crude oil, after the first 5 barrels,  
7 produced by a stripper well, as defined in 15-36-121, that  
8 produces more than 5 barrels a day during the period  
9 beginning April 1, ~~1987~~ 1989, and ending March 31, ~~1989~~  
10 1991.

11 (2) For purposes of this section, the term  
12 "incremental petroleum and other mineral or crud oil" means  
13 the amount of oil, as determined by the department of  
14 revenue, to be in excess of what would have been produced by  
15 primary and secondary methods. The determination arrived at  
16 by the department must be made only after notice and hearing  
17 and shall specify through the life of a tertiary project,  
18 calendar year by calendar year, the combined amount of  
19 primary and secondary production that must be used to  
20 establish the incremental production from each lease or unit  
21 in a tertiary recovery project.

22 (3) Nothing in this part may be construed as requiring  
23 laborers or employees hired or employed by any person to  
24 drill any oil well or to work in or about any oil well or  
25 prospect or explore for or do any work for the purpose of

1 developing any petroleum or other mineral or crude oil to  
 2 pay such the severance tax, nor may any work done or the  
 3 drilling of any a well or wells for the purpose of  
 4 prospecting or exploring for petroleum or other mineral or  
 5 crude oils or for the purpose of developing same them be  
 6 considered to be the engaging in or carrying on of any-such  
 7 the business. If, in the doing of any such work, in the  
 8 drilling of any oil well, or in such prospecting, exploring,  
 9 or development work, any merchantable or marketable  
 10 petroleum or other mineral or crude oil in excess of the  
 11 quantity required by such the person for carrying on such  
 12 the operation is produced sufficient in quantity to justify  
 13 the marketing of the same petroleum or other mineral or  
 14 crude oil, such the work, drilling, prospecting, exploring,  
 15 or development work is considered to be the engaging in and  
 16 carrying on of such the business of producing petroleum or  
 17 other mineral or crude oil within this state within the  
 18 meaning of this section.

19 (4) Every person required to pay such the severance  
 20 tax hereunder under this section shall pay the same tax in  
 21 full for his own account and for the account of each of the  
 22 other owner or owners of the gross proceeds in value or in  
 23 kind of all the marketable petroleum or other mineral or  
 24 crude oil or natural gas extracted and produced, including  
 25 owner or owners of working interest, royalty interest,

1 overriding royalty interest, carried working interest, net  
 2 proceeds interest, production payments, and all other  
 3 interest or interests owned or carved out of the total gross  
 4 proceeds in value or in kind of such the extracted  
 5 marketable petroleum or other mineral or crude oil or  
 6 natural gas, except that any of the aforesaid interests that  
 7 are owned by the federal, state, county, or municipal  
 8 governments shall be exempt from taxation under this  
 9 chapter. Unless otherwise provided in a contract or lease,  
 10 the pro rata share of any royalty owner or owners will be  
 11 deducted from any settlements under said the lease or leases  
 12 or division of proceeds orders or other contracts.  
 13 (Subsection (1)(d) terminates on occurrence of  
 14 contingency--sec. 7, Ch. 656, L. 1987.)"

15 NEW SECTION. Section 2. Extension of authority. Any  
 16 existing authority to make rules on the subject of the  
 17 provisions of [this act] is extended to the provisions of  
 18 [this act].

19 NEW SECTION. Section 3. Effective date -- contingent  
 20 retroactive applicability. [This act] is effective on  
 21 passage and approval and if approved after April 1, 1989,  
 22 applies retroactively, within the meaning of 1-2-109, to  
 23 petroleum or other mineral or crude oil produced on or after  
 24 April 1, 1989.

-End-