HB BILL NO. 5

INTRODUCED BY [illegible]

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LOCAL GOVERNMENT SEVERANCE TAXES; ESTABLISHING A BASE YEAR FOR THE DISTRIBUTION OF LOCAL GOVERNMENT SEVERANCE TAXES; DISTRIBUTING LOCAL GOVERNMENT SEVERANCE TAXES TO ELIGIBLE TAXING UNITS; PROVIDING FOR A PERCENTAGE DISTRIBUTION MECHANISM FOR LOCAL GOVERNMENT SEVERANCE TAXES UNDER CERTAIN CONDITIONS; CLARIFYING THE APPLICATION OF THE LOCAL GOVERNMENT SEVERANCE TAX TO NATURAL GAS STRIPPER WELLS; CLARIFYING THAT LOCAL PRODUCTION TAXES ON OIL, NATURAL GAS, AND COAL ARE INCLUDED IN THE GUARANTEED TAX BASE CALCULATION; CLARIFYING THE DEFINITION OF THE GUARANTEED TAX BASE; AMENDING SECTIONS 15-36-112, 15-36-121, AND 20-9-366, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 15-36-112, MCA, is amended to read:

"**15-36-112. Disposition of oil and gas severance taxes -- calculation of unit value for local government severance tax.** (1) Each year the department of revenue shall determine the amount of tax collected under this chapter from within each ~~school-district~~ taxing unit.

(2) For purposes of the distribution of local government severance taxes collected under ~~15-36-101~~ this chapter, the department shall determine the unit value of oil and gas for each ~~school-district~~ taxing unit as follows:

(a) The unit value for petroleum and other mineral or crude oil for each ~~district~~ taxing unit is the quotient obtained by dividing the net proceeds taxes calculated on petroleum or mineral or crude oil produced in that ~~district~~ taxing unit in calendar year 1988 by the number of barrels of petroleum or other mineral or crude oil produced in that ~~district~~ taxing unit during 1988.

(b) The unit value for natural gas is the quotient obtained by dividing the net proceeds taxes calculated on natural gas produced in that ~~district~~ taxing unit in calendar year 1988 by the number of cubic feet of natural gas produced in that ~~district~~ taxing unit during 1988.

(3) The severance taxes collected under this chapter are allocated as follows:

(a) The local government severance tax is statutorily appropriated, as provided in 17-7-502, for allocation to the county for distribution as provided in subsection (4)~~(a)(iii)~~;

(b) Any amount not ~~allocated~~ distributed to the county under subsection ~~(3)(a)~~ (4) is allocated to the state general fund.

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(4) (a) For the purpose of distribution of the local government severance tax, the department shall adjust the unit value determined under this section according to the ratio that the local government severance taxes collected during the quarters to be distributed plus accumulated interest earned by the state and penalties and interest on delinquent local government severance taxes bears to the total liability for local government severance taxes for the quarters to be distributed. The taxes must be calculated and distributed as follows:

(i) By November 30 of each year, the department shall calculate and distribute to each eligible county the amount of local government severance tax, determined by multiplying unit value as adjusted in this subsection (4)(a) times the units of production on which severance tax was owed during the calendar quarters ending March 31 and June 30 of the preceding calendar year.

(ii) By May 31 of each year, the department shall calculate and distribute to each eligible county the amount of local government severance tax, determined by multiplying unit value as adjusted in this subsection (4)(a) times the units of production on which severance tax was owed during the 2 calendar quarters immediately following those quarters referred to in subsection (4)(a)(i).

(b) Any amount by which the total tax liability exceeds

or is less than the total distributions determined in subsections (4)(a)(i) and (4)(a)(ii) must be calculated and distributed in the following manner:

(i) The excess amount or shortage must be divided by the total ~~units--of-production-to-obtain-the-tax-value-per unit-of-production~~ distribution determined for that period to obtain an excess or shortage percentage.

(ii) ~~The--tax--value--per--unit--of--production--must-be multiplied-by-the-units-of-production-in-that-taxable-period in-each-school-district-that-had-production-in-that--period, and--this--amount--must--be--added-to-or-subtracted-from-the distribution--to--each--respective---district~~ The excess percentage must be multiplied by the distribution to each taxing unit, and this amount must be added to the distribution to each respective taxing unit.

(iii) The shortage percentage must be multiplied by the distribution to each taxing unit, and this amount must be subtracted from the distribution to each respective taxing unit.

(5) The county treasurer shall distribute the money received under subsection ~~(3)(a)~~ (4) to the taxing ~~jurisdictions~~ units that levied mills in fiscal year 1990 against calendar year 1988 production ~~during-fiscal-year 1989~~ in the same manner that all other property tax proceeds were distributed during fiscal year ~~1989~~ 1990 in the taxing

~~jurisdiction~~ unit, except that no distribution may be made to a municipal taxing ~~jurisdiction~~ unit."

Section 2. Section 15-36-121, MCA, is amended to read:

"15-36-121. Exemption from state severance tax -- imposition of local government severance tax. (1) It is the public policy of this state to promote a sufficient supply of natural gas to provide for the residents of this state, to lessen Montana's dependence on imported natural gas, and to encourage the exploration for and development and production of natural gas, petroleum, and other mineral and crude oil within the state.

(2) All new production, as defined in 15-23-601, from a well during the 24 months immediately following the date of notification to the department of revenue that an oil well is flowing or being pumped or that a gas well has been connected to a gathering or distribution system is exempt from all of the state severance tax imposed by 15-36-101, provided the notification was made after March 31, 1987, and before July 1, 1991.

(3) All the natural gas produced from any well that has produced 60,000 cubic feet or less of natural gas a day for the calendar year prior to the current year shall be taxed as provided in this section. Production must be determined by dividing the amount of production from a lease or unitized area for the year prior to the current calendar

year by the number of producing wells in the lease or unitized area and by dividing the resulting quotient by 365. The first 30,000 cubic feet of average daily production per well is exempt from all of the state severance tax imposed by 15-36-101. The first 30,000 cubic feet of average daily production per well is subject to a local government severance tax of 7.625%. Everything over 30,000 cubic feet of gas produced is taxed at 1.59% plus a local government severance tax of 7.625%.

(4) The first 5 barrels of average daily production from a stripper well are exempt from all of the state severance tax imposed by 15-36-101, ~~except~~ but not from the local government severance tax.

(5) For the purposes of this section, "stripper well" means a well that produces less than 10 barrels per day, determined by dividing the amount of production from a lease or unitized area for the year prior to the current calendar year by the number of producing wells in the lease or unitized area, and by dividing the resulting quotient by 365.

(6) Notwithstanding the provisions of subsections (2) through (4), all reporting requirements under the state severance tax remain in effect. (Subsections (2) and (4) terminate on occurrence of contingency--sec. 7, Ch. 656, L. 1987.)"

Section 3. Section 20-9-366, MCA, is amended to read:

"20-9-366. (Effective July 1, 1990) Definitions. As used in 20-9-366 through 20-9-369, the following definitions apply:

(1) "County mill value per elementary ANB" or "county mill value per high school ANB" means the sum of the current taxable valuation of all property in the county plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) and the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of ~~nontax~~ nonlevy revenue for the support of schools, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for schools is the amount of ~~nontax~~ nonlevy revenue received by a district in the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the district in the previous year, multiplied by 1,000~~,--divided--by--1,000,--with--the~~

~~quotient-divided-by-the-total-county-elementary-ANB-count-or-the-total-county-high-school-ANB-count-used-to-calculate-the-elementary--school--districts'--and--high--school-districts'-current-year-foundation-program-amounts~~.

(2) "District mill value per ANB" means the current taxable valuation of all property in the district plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) and the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of ~~nontax~~ nonlevy revenue for the support of schools, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for schools is the amount of ~~nontax~~ nonlevy revenue received by a district in the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the district in the previous year, multiplied by 1,000~~,--divided--by--1,000,--with--the quotient--divided--by--the-ANB-count-of-the-district-used-to~~

~~calculate the district's current year foundation program schedule amount~~.

(3) "Guaranteed overschedule general fund budget" means that portion of a district's general fund budget in excess of the foundation program amount for the district, as provided in 20-9-316 through 20-9-321, but not exceeding 135% of the district's foundation program amount, and which excess is authorized under the provisions of 20-9-145 and 20-9-353.

(4) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB" means the sum of the current taxable valuation of all property in the state plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) and the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of ~~nontax~~ nonlevy revenue for the support of schools, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for schools is the amount of ~~nontax~~ nonlevy revenue received by a district in the previous year, including for fiscal year 1991 the

revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the district in the previous year, multiplied by 1,000~~, divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts~~."

NEW SECTION. Section 4. **Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 5. **Effective date.** [This act] is effective on passage and approval.

NEW SECTION. Section 6. **Retroactive applicability.** [Section 2] applies retroactively, within the meaning of 1-2-109, to all local government severance taxes on natural gas produced after December 31, 1988.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0005, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising local government severance taxes; establishing a base year for the distribution of local government severance taxes; distribution of local government severance taxes to eligible taxing units; providing for a percentage distribution mechanism for local government severance taxes under certain conditions; clarifying the application of the local government severance tax to natural gas stripper wells; clarifying that local production taxes on oil, natural gas, and coal are included in the guaranteed tax base calculation; clarifying the definition of the guaranteed tax base; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. For purposes of comparing fund information, the total taxable value of all property will be $1,491,091,000 in FY91. (Office of Budget and Program Planning)
2. Current law Local Government Severance TAx revenue on 1989 production to be received in fiscal year 1991 is estimated to be $27,662,000.
3. The proposed legislation is estimated to produce $29,855,000 based on 1989 production for fiscal year 1991.
4. The average mill levy for 1988 oil and gas net proceeds is 188.85 mills. The average mill levy for local schools and county government is 137.85 mills.
5. The proposed legislation adjusts the method of guaranteed tax base calculation to comply with current administrative rule promulgated by the Office of Public Instruction, except new and interim production revenues are not included in the rules. The inclusion of new and interim production taxes may affect the amount of GTB aid paid to the various districts, but the impact on total GTB payment should be minimal.

FISCAL IMPACT:

The proposal would have decreased revenues on 1987 production by approximately $2.116 million. The net proceeds system produced revenues of $40.385 million on 1987 oil and gas production. The proposal would have generated $38.269 million on that production.

W. David Darby DATE 5/22/90
W. DAVID DARBY, BUDGET DIRECTOR

OFFICE OF BUDGET AND PROGRAM PLANNING

Ralph S. Eudaily DATE 5/22/90
RALPH S. EUDAILY, PRIMARY SPONSOR

Fiscal Note for HB0005 ,as introduced
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FISCAL IMPACT:

Revenue Impact:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Local Gov. Sev. Tax	$ 0	$ 0	$ 0	$ 27,662,000	$ 29,705,000	$ 2,043,000
Fund Information:						
University Levy	0	0	0	879,000	944,000	65,000
School Equalization	0	0	0	6,592,000	7,078,000	486,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

The proposal will increase revenues to the counties and local schools by $1,491,000.

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1989 PRODUCTION-ESTIMATED LGST COUNTY IMPACT
NO 30 MCF EXEMPTION

HB5-1
MAY 21, 1990

	OIL RATE	GAS RATES
	********	***********
REGULAR NON-ROYALTY	8.40%	15.25%
STRIPPER NON-ROYALTY	4.20%	7.63%
REGULAR ROYALTY	8.40%	15.25%
STRIPPER ROYALTY	4.20%	7.63%

COUNTY	1989 BARRELLS	GAS MCF	PROPOSED LGST TOTAL DISTRIBUTION	TOTAL FINAL DISTRIBUTION	PROPOSED LGST MINUS CURRENT LAW
***********	***********	***********	***********	***********	***********
BIG HORN	60,732	0	$29,568	$29,568	$0
BLAINE	159,324	6,985,406	$1,860,686	$1,880,158	($19,473)
CARBON	581,151	903,376	$1,200,387	$1,200,669	($282)
CARTER	5,946	0	$0	$0	$0
CHOUTEAU	0	963,658	$172,013	$158,278	$13,735
CUSTER	0	68,765	$47,195	$26,384	$20,811
DANIELS	2,756	0	$0	$0	$0
DAWSON	242,300	17,944	$465,370	$465,660	($290)
FALLON	4,489,599	1,010,626	$6,297,902	$6,100,626	$197,276
FERGUS	0	39,730	$9,376	$10,644	($1,267)
GARFIELD	40,650	0	$53,019	$53,019	$0
GLACIER	947,925	2,878,041	$2,172,358	$1,908,307	$264,051
GOLDEN VALLEY	3,704	47,500	$9,440	$9,359	$80
HILL	1,241	4,234,994	$1,579,392	$1,582,344	($2,951)
LIBERTY	183,249	1,755,061	$569,631	$467,218	$102,413
MCCONE	44,011	0	$90,214	$90,214	$0
MUSSELSHELL	600,253	0	$877,669	$877,669	$0
PETROLEUM	61,593	0	$93,706	$93,706	$0
PHILLIPS	0	5,371,046	$1,424,558	$410,600	$1,013,958
PONDERA	251,557	361,064	$480,210	$448,451	$31,759
POWDER RIVER	661,445	0	$1,030,012	$1,030,012	$0
PRAIRIE	53,540	190	$46,903	$46,857	$46
RICHLAND	2,694,375	1,151,357	$3,250,073	$3,254,948	($4,875)
ROOSEVELT	1,419,430	383,856	$2,179,053	$2,184,629	($5,576)
ROSEBUD	533,156	0	$315,391	$315,391	$0
SHERIDAN	1,984,285	669,273	$2,656,563	$2,662,781	($6,218)
STILLWATER	0	295,575	$88,943	$45,827	$43,116
TETON	111,675	55,408	$122,016	$123,325	($1,309)
TOOLE	584,052	5,022,346	$1,271,190	$1,010,020	$261,170
VALLEY	294,874	366,388	$271,089	$141,273	$129,816
WIBAUX	899,469	42,061	$977,006	$969,989	$7,017
YELLOWSTONE	42,081	0	$64,564	$64,564	$0
	***********	***********	***********	***********	***********
	16,954,373	32,623,665	$29,705,495	$27,662,491	$2,043,005

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