

SENATE BILL NO. 1

INTRODUCED BY GAGE

IN THE SENATE

MAY 21, 1990

INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

~~FIRST~~ FIRST READING.

MAY 22, 1990

COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

PRINTING REPORT.

SECOND READING, DO PASS AS AMENDED.

ENGROSSING REPORT.

THIRD READING, PASSED.  
AYES, 40; NOES, 10.

TRANSMITTED TO HOUSE.

IN THE HOUSE

MAY 23, 1990

INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

FIRST READING.

COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

ON MOTION, RULES SUSPENDED AND BILL  
PLACED ON SECOND READING THIS DAY.

SECOND READING, CONCURRED IN.

ON MOTION, RULES SUSPENDED AND BILL  
PLACED ON THIRD READING THIS DAY.

THIRD READING, CONCURRED IN.  
AYES, 54; NOES, 44.

RETURNED TO SENATE WITH AMENDMENTS.

ON MOTION, FREE CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

MAY 23, 1990

SECOND READING, AMENDMENTS NOT  
CONCURRED IN.

MAY 24, 1990

ON MOTION, PREVIOUS ACTION RECONSIDERED.

SECOND READING, AMENDMENTS NOT  
CONCURRED IN.

ON MOTION, FREE CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

MAY 25, 1990

FREE CONFERENCE COMMITTEE REPORTED.

SECOND READING, FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

MAY 25, 1990

SECOND READING, CONFERENCE COMMITTEE  
REPORT ADOPTED.

THIRD READING, FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

IN THE SENATE

MAY 25, 1990

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

SENATE BILL NO. 1

INTRODUCED BY GAGE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING OIL AND NATURAL GAS LOCAL GOVERNMENT SEVERANCE TAX RATES; IMPOSING A REVENUE NEUTRAL LOCAL GOVERNMENT SEVERANCE TAX RATE ON NONWORKING INTEREST OWNERS OF OIL AND NATURAL GAS PRODUCTION; 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 THE LOCAL GOVERNMENT SEVERANCE TAX ON OIL 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 15-36-101, 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 15-36-101, MCA, is amended to read:

"15-36-101. Definitions and rate of tax -- state

severance tax -- local government severance tax -- assessment of nonworking interest owner -- exemption. (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 shall, except as provided in 15-36-121, each year when engaged in or carrying on the business in this state pay to the department of revenue a state severance tax for the exclusive use and benefit of the state of Montana plus a local government severance tax in lieu of a tax on net proceeds for the exclusive use and benefit of local government. The Except as provided in subsection (3), the state severance tax and the local government severance tax are computed-at-the-following-rates as follows:

(a) except as provided in subsections (1)(b), (1)(c), and (1)(d), and (1)(e), a 5% of state severance tax on the total gross taxable value of all the petroleum and other mineral or crude oil produced by the person, plus the local government severance tax of ~~8.4%~~ 8.11% on production the gross taxable value of all the petroleum and other mineral

1 or crude oil produced by the person other than interim  
 2 production and new production, from each lease or unit; but  
 3 in determining the amount of the state severance tax and  
 4 local government severance tax, there must be excluded from  
 5 consideration all petroleum or other crude or mineral oil  
 6 produced and used by the person during the year in  
 7 connection with his operations in prospecting for,  
 8 developing, and producing the petroleum or crude or mineral  
 9 oil;

10 (b) a 2.65% of state severance tax on the total gross  
 11 taxable value of all natural gas produced by the person,  
 12 plus the local government severance tax of ~~15-25%~~ 17.44% on  
 13 the total gross taxable value of all natural gas production  
 14 produced by the person other than interim production or new  
 15 production, from each lease or unit; but in determining the  
 16 amount of the state severance tax and the local government  
 17 severance tax, there must be excluded from consideration all  
 18 gas produced and used by the person during the year in  
 19 connection with his operations in prospecting for,  
 20 developing, and producing the gas or petroleum or crude or  
 21 mineral oil; and there must also be excluded from  
 22 consideration all gas, including carbon dioxide gas,  
 23 recycled or reinjected into the ground;

24 (c) a 2.5% of state severance tax on the total gross  
 25 taxable value of the incremental petroleum and other mineral

1 or crude oil produced by the person, plus the local  
 2 government severance tax of ~~4-2%~~ 4.06% on production the  
 3 total gross taxable value of the incremental petroleum and  
 4 other mineral or crude oil produced by the person other than  
 5 interim production and new production, from each lease or  
 6 unit in a tertiary recovery project after July 1, 1985. For  
 7 purposes of this section, a tertiary recovery project must  
 8 meet the following requirements:

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

13 (ii) the property to be affected by the project must be  
 14 adequately delineated according to the specifications  
 15 required by the department; and

16 (iii) the project must involve the application of one or  
 17 more tertiary recovery methods that can reasonably be  
 18 expected to result in an increase, determined by the  
 19 department to be significant in light of all the facts and  
 20 circumstances, in the amount of crude oil which may  
 21 potentially be recovered. For ~~the-purpose~~ purposes of this  
 22 section, tertiary recovery methods include but are not  
 23 limited to:

24 (A) miscible fluid displacement;

25 (B) steam drive injection;

1 (C) micellar/emulsion flooding;  
 2 (D) in situ combustion;  
 3 (E) polymer augmented water flooding;  
 4 (F) cyclic steam injection;  
 5 (G) alkaline or caustic flooding;  
 6 (H) carbon dioxide water flooding;  
 7 (I) immiscible carbon dioxide displacement; or  
 8 (J) any other method approved by the department as a  
 9 tertiary recovery method.

10 (d) except as provided in 15-36-121(2), a 3% of state  
 11 severance tax on the total gross taxable value of all the  
 12 petroleum and other mineral or crude oil production produced  
 13 by the person after the first 5 barrels, plus the local  
 14 government severance tax of 4.2% on all production other  
 15 than interim production and new production, produced by from  
 16 a stripper well, as defined in 15-36-121, that produces more  
 17 than 5 barrels a day during the period beginning April 1,  
 18 1989, and ending March 31, 1991;

19 (e) a 4.06% local government severance tax on the total  
 20 gross taxable value of all petroleum and other mineral or  
 21 crude oil produced by the person other than interim and new  
 22 production produced by a stripper well, as defined in  
 23 15-36-121.

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

1 of oil, as determined by the department of revenue, to be in  
 2 excess of what would have been produced by primary and  
 3 secondary methods. The determination arrived at by the  
 4 department must be made only after notice and hearing and  
 5 shall specify through the life of a tertiary project,  
 6 calendar year by calendar year, the combined amount of  
 7 primary and secondary production that must be used to  
 8 establish the incremental production from each lease or unit  
 9 in a tertiary recovery project.

10 (3) (a) A local government severance tax is imposed on  
 11 the gross value paid in cash or apportioned in kind to a  
 12 nonworking interest owner by the operator or producer of  
 13 extracted marketable petroleum, other mineral or crude oil,  
 14 or natural gas subject to local government severance taxes  
 15 imposed under this chapter. The local government severance  
 16 tax on nonworking interest owners is computed at the  
 17 following rates:

18 (i) 15% on the gross value paid in cash or apportioned  
 19 in kind to a nonworking interest owner by the operator or  
 20 producer of extracted marketable petroleum and other mineral  
 21 or crude oil;

22 (ii) 17.9% on the gross value paid in cash or  
 23 apportioned in kind to a nonworking interest owner by the  
 24 operator or producer of extracted or marketable natural gas.

25 (b) The amounts paid or apportioned in kind to

1 nonworking interest owners are exempt from the local  
 2 government severance taxes imposed under 15-36-121(3) and  
 3 (4) and under subsections (1)(a) through (1)(e) of this  
 4 section.

5 ~~(3)~~(4) Nothing in this part may be construed as  
 6 requiring laborers or employees hired or employed by any  
 7 person to drill any oil or natural gas well or to work in or  
 8 about any oil or natural gas well or prospect or explore for  
 9 or do any work for the purpose of developing any petroleum,  
 10 or other mineral or crude oil, or natural gas to pay the  
 11 severance tax, nor may work done or the drilling of a well  
 12 or wells for the purpose of prospecting or exploring for  
 13 petroleum, or other mineral or crude oil, or natural  
 14 gas or for the purpose of developing them be considered to  
 15 be the engaging in or carrying on of the business. If, in  
 16 the doing of any work, in the drilling of any oil or natural  
 17 gas well, or in prospecting, exploring, or development work,  
 18 any merchantable or marketable petroleum, or other mineral  
 19 or crude oil, or natural gas in excess of the quantity  
 20 required by the person for carrying on the operation is  
 21 produced sufficient in quantity to justify the marketing of  
 22 the petroleum, or other mineral or crude oil, or natural  
 23 gas, the work, drilling, prospecting, exploring, or  
 24 development work is considered to be the engaging in and  
 25 carrying on of the business of producing petroleum, or other

1 mineral or crude oil, or natural gas within this state  
 2 within the meaning of this section.

3 ~~(4)~~(5) Every person required to pay the state or local  
 4 government severance tax under this section shall pay the  
 5 tax in full for his own account and for the account of each  
 6 of the other owner or owners of the gross proceeds in value  
 7 or in kind of all the marketable petroleum or other mineral  
 8 or crude oil or natural gas extracted and produced,  
 9 including owner or owners of working interest, royalty  
 10 interest, overriding royalty interest, carried working  
 11 interest, net proceeds interest, production payments, and  
 12 all other interest or interests owned or carved out of the  
 13 total gross proceeds in value or in kind of the extracted  
 14 marketable petroleum or other mineral or crude oil or  
 15 natural gas, except that any of the interests that are owned  
 16 by the federal, state, county, or municipal governments are  
 17 exempt from taxation under this chapter. Unless otherwise  
 18 provided in a contract or lease, the pro rata share of any  
 19 royalty owner or owners will be deducted from any  
 20 settlements under the lease or leases or division of  
 21 proceeds orders or other contracts.

22 (6) For purposes of this section, the following  
 23 definitions apply:

24 (a) "Gross taxable value" means the gross value of the  
 25 product as determined in 15-36-103 less the gross value paid

1 in cash or apportioned in kind to a nonworking interest  
 2 owner by the operator or producer of extracted marketable  
 3 petroleum, other mineral or crude oil, or natural gas.

4 (b) "Nonworking interest owner" means any interest  
 5 owner who does not share in the development and operation  
 6 costs of the lease or unit. (Subsection (1)(d) terminates on  
 7 occurrence of contingency--sec. 7, Ch. 656, L. 1987.)"

8 Section 2. Section 15-36-112, MCA, is amended to read:

9 "15-36-112. Disposition of oil and gas state and local  
 10 government severance taxes -- calculation of unit value for  
 11 local government severance tax. (1) Each year the department  
 12 of revenue shall determine the amount of tax collected under  
 13 this chapter from within each school-district taxing unit.

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

18 (a) The unit value for petroleum and other mineral or  
 19 crude oil for each district taxing unit is the quotient  
 20 obtained by dividing the net proceeds taxes calculated on  
 21 petroleum or mineral or crude oil produced in that district  
 22 taxing unit in calendar year 1988 by the number of barrels  
 23 of petroleum or other mineral or crude oil produced in that  
 24 district taxing unit during 1988, excluding new and interim  
 25 production.

1 (b) The unit value for natural gas is the quotient  
 2 obtained by dividing the net proceeds taxes calculated on  
 3 natural gas produced in that district taxing unit in  
 4 calendar year 1988 by the number of cubic feet of natural  
 5 gas produced in that district taxing unit during 1988,  
 6 excluding new and interim production.

7 (3) The state and local government severance taxes  
 8 collected under this chapter are allocated as follows:

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

13 (b) ~~Any--amount--not--allocated--to--the--county--under~~  
 14 ~~subsection--{3}{a}~~ The state severance tax is allocated to  
 15 the state general fund.

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

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

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

16 (b) Any amount by which the total tax liability exceeds  
17 or is less than the total distributions determined in  
18 subsections (4)(a)(i) and (4)(a)(ii) must be calculated and  
19 distributed in the following manner:

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

24 (ii) ~~The--tax--value--per--unit--of--production--must-be~~  
25 ~~multiplied-by-the-units-of-production-in-that-taxable-period~~

1 ~~in each school district that had production in that--period,~~  
2 ~~and--this--amount--must--be--added-to-or-subtracted-from-the~~  
3 ~~distribution--to--each--respective---district~~ The excess  
4 percentage must be multiplied by the distribution to each  
5 taxing unit, and this amount must be added to the  
6 distribution to each respective taxing unit.

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

11 (5) The county treasurer shall distribute the money  
12 received under subsection ~~{3}{a}~~ (4) to the taxing  
13 jurisdictions units that levied mills in fiscal year 1990  
14 against calendar year 1988 production during ~~fiscal year~~  
15 ~~1989~~ in the same manner that all other property tax proceeds  
16 were distributed during fiscal year ~~1989~~ 1990 in the taxing  
17 jurisdiction unit, except that no distribution may be made  
18 to a municipal taxing jurisdiction unit."

19 Section 3. Section 15-36-121, MCA, is amended to read:  
20 "15-36-121. Exemption from state severance tax --  
21 imposition of local government severance tax. (1) It is the  
22 public policy of this state to promote a sufficient supply  
23 of natural gas to provide for the residents of this state,  
24 to lessen Montana's dependence on imported natural gas, and  
25 to encourage the exploration for and development and



1 production of natural gas, petroleum, and other mineral and  
2 crude oil within the state.

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

11 (3) All the natural gas produced from any well that has  
12 produced 60,000 cubic feet or less of natural gas a day for  
13 the calendar year prior to the current year shall be taxed  
14 as provided in this section. Production must be determined  
15 by dividing the amount of production from a lease or  
16 unitized area for the year prior to the current calendar  
17 year by the number of producing wells in the lease or  
18 unitized area and by dividing the resulting quotient by 365.  
19 The first 30,000 cubic feet of average daily production per  
20 well is exempt from all of the state severance tax imposed  
21 by 15-36-101. The first 30,000 cubic feet of average daily  
22 production per well is subject to a local government  
23 severance tax of 8.72%. Everything over 30,000 cubic feet of  
24 gas produced is taxed at 1.59% plus a local government  
25 severance tax of ~~7-625%~~ 8.72%.

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

5 (5) For the purposes of this section, "stripper well"  
6 means a well that produces less than 10 barrels per day,  
7 determined by dividing the amount of production from a lease  
8 or unitized area for the year prior to the current calendar  
9 year by the number of producing wells in the lease or  
10 unitized area, and by dividing the resulting quotient by  
11 365.

12 (6) Notwithstanding the provisions of subsections (2)  
13 through (4), all reporting requirements under the state  
14 severance tax remain in effect. (Subsections (2) and (4)  
15 terminate on occurrence of contingency--sec. 7, Ch. 656, L.  
16 1987.)"

17 Section 4. Section 20-9-366, MCA, is amended to read:

18 "20-9-366. (Effective July 1, 1990) Definitions. As  
19 used in 20-9-366 through 20-9-369, the following definitions  
20 apply:

21 (1) "County mill value per elementary ANB" or "county  
22 mill value per high school ANB" means the sum of the current  
23 taxable valuation of all property in the county plus the  
24 taxable value of oil and gas net proceeds determined under  
25 15-23-607(4) and the taxable value of coal gross proceeds

1 determined under 15-23-703(3) plus all the taxable value of  
 2 nontax nonlevy revenue for the support of schools, other  
 3 than Public Law 81-874 funds, divided by 1,000, with the  
 4 quotient divided by the total county elementary ANB count or  
 5 the total county high school ANB count used to calculate the  
 6 elementary school districts' and high school districts'  
 7 current year foundation program amounts. The taxable value  
 8 of nonlevy revenue for the purpose of computing guaranteed  
 9 tax base aid for schools is the amount of nontax nonlevy  
 10 revenue received by a district in the previous year,  
 11 including for fiscal year 1991 the revenue received in  
 12 fiscal year 1990 from the net proceeds taxation of oil and  
 13 natural gas and including for fiscal year 1992 and  
 14 thereafter the local government severance tax, divided by  
 15 the number of mills levied by the district in the previous  
 16 year, multiplied by 1,000--divided-by--1,000--with-the  
 17 quotient-divided-by-the-total-county-elementary-ANB-count-or  
 18 the-total-county-high-school-ANB-count-used-to-calculate-the  
 19 elementary-school--districts'--and--high--school--districts'  
 20 current-year-foundation-program-amounts.

21 (2) "District mill value per ANB" means the current  
 22 taxable valuation of all property in the district plus the  
 23 taxable value of oil and gas net proceeds determined under  
 24 15-23-607(4) and the taxable value of coal gross proceeds  
 25 determined under 15-23-703(3) plus all the taxable value of

1 nontax nonlevy revenue for the support of schools, other  
 2 than Public Law 81-874 funds, divided by 1,000, with the  
 3 quotient divided by the ANB count of the district used to  
 4 calculate the district's current year foundation program  
 5 schedule amount. The taxable value of nonlevy revenue for  
 6 the purpose of computing guaranteed tax base aid for schools  
 7 is the amount of nontax nonlevy revenue received by a  
 8 district in the previous year, including for fiscal year  
 9 1991 the revenue received in fiscal year 1990 from the net  
 10 proceeds taxation of oil and natural gas and including for  
 11 fiscal year 1992 and thereafter the local government  
 12 severance tax, divided by the number of mills levied by the  
 13 district in the previous year, multiplied by 1,000--divided  
 14 by--1,000--with-the-quotient-divided-by-the-ANB-count-of--the  
 15 district--used--to--calculate--the--district's--current-year  
 16 foundation-program-schedule-amount.

17 (3) "Guaranteed overschedule general fund budget" means  
 18 that portion of a district's general fund budget in excess  
 19 of the foundation program amount for the district, as  
 20 provided in 20-9-316 through 20-9-321, but not exceeding  
 21 135% of the district's foundation program amount, and which  
 22 excess is authorized under the provisions of 20-9-145 and  
 23 20-9-353.

24 (4) "Statewide mill value per elementary ANB" or  
 25 "statewide mill value per high school ANB" means the sum of

1 the current taxable valuation of all property in the state  
 2 plus the taxable value of oil and gas net proceeds  
 3 determined under 15-23-607(4) and the taxable value of coal  
 4 gross proceeds determined under 15-23-703(3) plus all the  
 5 taxable value of nontax nonlevy revenue for the support of  
 6 schools, other than Public Law 81-874 funds, divided by  
 7 1,000, with the quotient divided by the total state  
 8 elementary ANB count or the total state high school ANB  
 9 count used to calculate the elementary school districts' and  
 10 high school districts' current year foundation program  
 11 amounts. The taxable value of nonlevy revenue for the  
 12 purpose of computing guaranteed tax base aid for schools is  
 13 the amount of nontax nonlevy revenue received by a district  
 14 in the previous year, including for fiscal year 1991 the  
 15 revenue received in fiscal year 1990 from the net proceeds  
 16 taxation of oil and natural gas and including for fiscal  
 17 year 1992 and thereafter the local government severance tax,  
 18 divided by the number of mills levied by the district in the  
 19 previous year, multiplied by 1,000, divided by 1,000, with  
 20 the quotient divided by the total state elementary ANB count  
 21 or the total state high school ANB count used to calculate  
 22 the elementary school districts' and high school districts'  
 23 current year foundation program amounts."

24 NEW SECTION. Section 5. Severability. If a part of  
 25 [this act] is invalid, all valid parts that are severable

1 from the invalid part remain in effect. If a part of [this  
 2 act] is invalid in one or more of its applications, the part  
 3 remains in effect in all valid applications that are  
 4 severable from the invalid applications.

5 NEW SECTION. Section 6. Effective date. [This act] is  
 6 effective on passage and approval.

7 NEW SECTION. Section 7. Retroactive applicability.  
 8 [Sections 1 and 3] apply retroactively, within the meaning  
 9 of 1-2-109, to all local government severance taxes on oil  
 10 and natural gas produced after December 31, 1988.

11 -End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0001, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising oil and natural gas local government severance tax rates; imposing a revenue neutral local government severance tax rate on nonworking interest owners of oil and natural gas production; 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 the local government severance tax on oil stripper wells; clarifying that local production taxes on oil, natural gas, and coal are included in the guaranteed tax base calculation; and providing an immediate effective date and a retroactive applicability date.

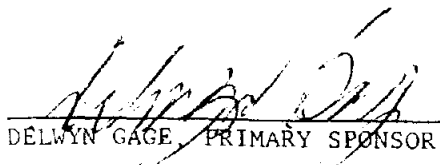
ASSUMPTIONS:

1. For purposes of comparing fund information, the total taxable value of all property will be \$1,491,091,000 in fiscal year 1991. (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 \$33,144,000 based on 1989 production for fiscal year 1991.
4. The average mill levy for 1988 (FY90) 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 (GTB) 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 payments should be minimal.

FISCAL IMPACT:

The proposal would have increased revenues on 1987 production by approximately \$1.522 million. The net proceeds system produced revenues of \$40.385 million on 1987 oil and gas production. The proposal would have generated \$41.907 million on that production.

 DATE 5/21/90  
W. DAVID DARBY, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

 DATE 5-21-90  
DELYWN GAGE, PRIMARY SPONSOR  
Fiscal Note for SB0001, as introduced

**SB 1**

Fiscal Note Request SB0001  
Form BD-15 page 2  
(continued)

Revenue Impact:

	<u>FY90</u>			<u>FY91</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Local Gov. Sev. Tax	\$ 0	\$ 0	\$ 0	\$ 27,662,000	\$ 33,144,000	\$ 5,482,000

Fund Information:

	<u>FY90</u>			<u>FY91</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
University Levy	0	0	0	879,000	1,053,000	174,000
School Equalization	0	0	0	6,592,000	7,898,000	1,306,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The proposal will increase revenues to the counties and local schools by \$4,002,000.

1989 PRODUCTION-ESTIMATED LGST COUNTY IMPACT  
NO 30 MCF EXEMPTION

LC-3-89  
MAY 16, 1990

	OIL RATE	GAS RATES
*****	*****	*****
REGULAR NON-ROYALTY	8.11%	17.44%
STRIPPER NON-ROYALTY	4.06%	8.72%
REGULAR ROYALTY	15.00%	17.90%
STRIPPER ROYALTY	15.00%	17.90%

COUNTY	1989 BARRELS	PROPOSED LGST OIL DISTRIBUTION	GAS MCF	PROPOSED LGST GAS DISTRIBUTION	PROPOSED LGST TOTAL DISTRIBUTION	TOTAL FINAL DISTRIBUTION	PROPOSED LGST MINUS CURRENT LAW
*****	*****	*****	*****	*****	*****	*****	*****
BIG HORN	60,732	\$28,422	0	\$0	\$28,422	\$29,568	(\$1,147)
BLAINE	159,324	\$146,660	6,985,406	\$2,065,007	\$2,211,666	\$1,880,158	\$331,508
CARBON	581,151	\$1,076,564	903,376	\$262,278	\$1,338,842	\$1,200,669	\$138,173
CARTER	5,946	\$0	0	\$0	\$0	\$0	\$0
CHOUTEAU	0	\$0	963,658	\$222,307	\$222,307	\$158,278	\$64,030
CUSTER	0	\$0	68,765	\$50,895	\$50,895	\$26,384	\$24,511
DANIELS	2,756	\$0	0	\$0	\$0	\$0	\$0
DAWSON	242,300	\$512,412	17,944	\$595	\$513,007	\$465,660	\$47,347
FALLON	4,489,599	\$6,581,737	1,010,626	\$259,605	\$6,841,342	\$6,100,626	\$740,716
FERGUS	0	\$0	39,730	\$10,665	\$10,665	\$10,644	\$21
GARFIELD	40,650	\$57,190	0	\$0	\$57,190	\$53,019	\$4,171
GLACIER	947,925	\$1,614,187	2,878,041	\$835,639	\$2,449,826	\$1,908,307	\$541,519
GOLDEN VALLEY	3,704	\$548	47,500	\$10,502	\$11,050	\$9,359	\$1,691
HILL	1,241	\$998	4,234,994	\$1,784,648	\$1,785,646	\$1,582,344	\$203,302
LIBERTY	183,249	\$346,555	1,755,061	\$350,265	\$696,820	\$467,218	\$229,601
MCCONE	44,011	\$99,569	0	\$0	\$99,569	\$90,214	\$9,354
MUSSELSHELL	600,253	\$953,163	0	\$0	\$953,163	\$877,669	\$75,494
PETROLEUM	61,593	\$101,996	0	\$0	\$101,996	\$93,706	\$8,289
PHILLIPS	0	\$0	5,371,046	\$1,702,075	\$1,702,075	\$410,600	\$1,291,475
PONDERA	251,557	\$480,948	361,064	\$60,945	\$541,892	\$448,451	\$93,441
POWDER RIVER	661,445	\$1,122,577	0	\$0	\$1,122,577	\$1,030,012	\$92,565
PRAIRIE	53,540	\$48,936	190	\$55	\$48,991	\$46,857	\$2,134
RICHLAND	2,694,375	\$3,440,953	1,151,357	\$102,000	\$3,542,953	\$3,254,948	\$288,005
ROOSEVELT	1,419,430	\$2,370,610	383,856	\$22,140	\$2,392,750	\$2,184,629	\$208,121
ROSEBUD	533,156	\$313,828	0	\$0	\$313,828	\$315,391	(\$1,563)
SHERIDAN	1,984,285	\$2,849,645	669,273	\$53,921	\$2,903,566	\$2,662,781	\$240,786
STILLWATER	0	\$0	295,575	\$104,395	\$104,395	\$45,827	\$58,567
TETON	111,675	\$131,403	55,408	\$1,231	\$132,634	\$123,325	\$9,309
TOOLE	584,052	\$654,357	5,022,346	\$918,160	\$1,572,517	\$1,010,020	\$562,497
VALLEY	294,874	\$129,989	366,388	\$152,087	\$282,077	\$141,273	\$140,803
WIBAUX	899,469	\$1,031,921	42,061	\$9,052	\$1,040,973	\$969,989	\$70,984
YELLOWSTONE	42,081	\$70,594	0	\$0	\$70,594	\$64,564	\$6,030
*****	*****	*****	*****	*****	*****	*****	*****
	16,954,373	\$24,165,759	32,623,665	\$8,978,466	\$33,144,225	\$27,662,491	\$5,481,735

APPROVED BY COMMITTEE  
ON TAXATION AS AMENDED

1 SENATE BILL NO. 1  
2 INTRODUCED BY GAGE  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING--OIL--AND  
5 NATURAL-GAS-LOCAL-GOVERNMENT-SEVERANCE-TAX-RATES;-IMPOSING-A  
6 REVENUE--NEUTRAL--LOCAL--GOVERNMENT--SEVERANCE--TAX--RATE-ON  
7 NONWORKING--INTEREST--OWNERS--OF--OIL--AND--NATURAL--GAS  
8 PRODUCTION; ESTABLISHING A BASE YEAR FOR THE DISTRIBUTION OF  
9 LOCAL GOVERNMENT SEVERANCE TAXES; DISTRIBUTING LOCAL  
10 GOVERNMENT SEVERANCE TAXES TO ELIGIBLE TAXING UNITS;  
11 PROVIDING FOR A PERCENTAGE DISTRIBUTION MECHANISM FOR LOCAL  
12 GOVERNMENT SEVERANCE TAXES UNDER CERTAIN CONDITIONS;  
13 CLARIFYING THE APPLICATION OF THE LOCAL GOVERNMENT SEVERANCE  
14 TAX TO NATURAL GAS STRIPPER WELLS; CLARIFYING THE LOCAL  
15 GOVERNMENT-SEVERANCE-TAX-ON-OIL-STRIPPER--WELLS; CLARIFYING  
16 THAT LOCAL PRODUCTION TAXES ON OIL, NATURAL GAS, AND COAL  
17 ARE INCLUDED IN THE GUARANTEED TAX BASE CALCULATION;  
18 CLARIFYING THE DEFINITION OF THE GUARANTEED TAX BASE;  
19 AMENDING SECTIONS 15-36-101, 15-36-112, 15-36-121, AND  
20 20-9-366, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND  
21 A RETROACTIVE APPLICABILITY DATE."  
22  
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
24 Section-1--Section-15-36-101-MCA-is-amended-to-read:  
25 ----"15-36-101-Definitions--and--rate--of--tax ----state

1 ~~severance---tax -----local--government--severance--tax --~~  
2 ~~assessment-of-nonworking-interest-owner-----exemption;--(1)~~  
3 ~~Every--person--engaging--in--or--carrying-on-the-business-of~~  
4 ~~producing-petroleum,other-mineral-or-crude-oil-or--natural~~  
5 ~~gas--within--this--state--or--engaging-in-or-carrying-on-the~~  
6 ~~business--of--owning,--controlling,--managing,--leasing,--or~~  
7 ~~operating-within-this-state-any-well-or-wells-from-which-any~~  
8 ~~merchantable-or-marketable-petroleum,other-mineral-or-crude~~  
9 ~~oil,or-natural-gas-is-extracted-or-produced sufficient--in~~  
10 ~~quantity--to--justify--the-marketing-of-the-same-must shall,~~  
11 ~~except-as-provided-in-15-36-121,each-year-when--engaged--in~~  
12 ~~or--carrying-on--the--business--in--this--state--pay-to-the~~  
13 ~~department--of--revenue--a state severance--tax--for--the~~  
14 ~~exclusive--use--and--benefit--of-the-state-of-Montana-plus-a~~  
15 ~~local-government-severance-tax-in-lieu--of--a--tax--on--net~~  
16 ~~proceeds---for--the--exclusive--use--and--benefit--of--local~~  
17 ~~government. The Except-as-provided-in-subsection--(3)--the~~  
18 ~~state severance--tax-and-the-local-government-severance-tax~~  
19 ~~are computed-at-the-following-rates as-follows:~~  
20 ~~----(a)--except-as-provided-in-subsections--(1)(b)--(1)(c),~~  
21 ~~and (1)(d), and-(1)(e)--a 5%of state-severance-tax-on the~~  
22 ~~total-gross taxable value-of-all--the--petroleum--and--other~~  
23 ~~mineral--or-crude-oil-produced-by-the-person,plus-the-local~~  
24 ~~government-severance-tax-of 8.4% 8.11% on production the~~  
25 ~~gross--taxable--value-of-all-the-petroleum-and-other-mineral~~

1 or crude oil produced by the person other than interim  
 2 production and new production from each lease or unit, but  
 3 in determining the amount of the state severance tax and  
 4 local government severance tax, there must be excluded from  
 5 consideration all petroleum or other crude or mineral oil  
 6 produced and used by the person during the year in  
 7 connection with his operations in prospecting for,  
 8 developing, and producing the petroleum or crude or mineral  
 9 oil;  
 10 ----(b) a 2.65% of state severance tax on the total gross  
 11 taxable value of all natural gas produced by the person,  
 12 plus the local government severance tax of 15.25% 17.44% on  
 13 the total gross taxable value of all natural gas production  
 14 produced by the person other than interim production or new  
 15 production, from each lease or unit, but in determining the  
 16 amount of the state severance tax and the local government  
 17 severance tax, there must be excluded from consideration all  
 18 gas produced and used by the person during the year in  
 19 connection with his operations in prospecting for,  
 20 developing, and producing the gas or petroleum or crude or  
 21 mineral oil, and there must also be excluded from  
 22 consideration all gas, including carbon dioxide gas,  
 23 recycled or reinjected into the ground;  
 24 ----(c) a 2.5% of state severance tax on the total gross  
 25 taxable value of the incremental petroleum and other mineral

1 or crude oil produced by the person, plus the local  
 2 government severance tax of 4.2% 4.06% on production the  
 3 total gross taxable value of the incremental petroleum and  
 4 other mineral or crude oil produced by the person other than  
 5 interim production and new production, from each lease or  
 6 unit in a tertiary recovery project after July 1, 1985. For  
 7 purposes of this section, a tertiary recovery project must  
 8 meet the following requirements:  
 9 ----(i) the project must be approved as a tertiary recovery  
 10 project by the department of revenue. The approval may be  
 11 extended only after notice and hearing in accordance with  
 12 Title 2, chapter 4;  
 13 ----(ii) the property to be affected by the project must be  
 14 adequately delineated according to the specifications  
 15 required by the department; and  
 16 ----(iii) the project must involve the application of one or  
 17 more tertiary recovery methods that can reasonably be  
 18 expected to result in an increase, determined by the  
 19 department to be significant in light of all the facts and  
 20 circumstances, in the amount of crude oil which may  
 21 potentially be recovered. For the purpose purposes of this  
 22 section, tertiary recovery methods include but are not  
 23 limited to:  
 24 ----(A) miscible fluid displacement;  
 25 ----(B) steam drive injection;



1 ----(C)--micellar/emulsion-flooding;  
 2 ----(D)--in-situ-combustion;  
 3 ----(E)--polymer-augmented-water-flooding;  
 4 ----(F)--cyclic-steam-injection;  
 5 ----(G)--alkaline-or-caustic-flooding;  
 6 ----(H)--carbon-dioxide-water-flooding;  
 7 ----(I)--immiscible-carbon-dioxide-displacement;-or  
 8 ----(J)--any-other-method-approved-by-the--department--as--a  
 9 tertiary-recovery-method;  
 10 ----(d)--except--as--provided-in-15-36-121(2), a 3% of state  
 11 severance-tax-on the-total-gross taxable value--of--all--the  
 12 petroleum-and-other-mineral-or-crude-oil production produced  
 13 by--the--person after--the--first-5-barrels;-plus-the-local  
 14 government-severance-tax-of-4.2%--on--all--production--other  
 15 than-interim-production-and-new-production;-produced-by from  
 16 a-stripper-well;-as-defined-in-15-36-121;-that-produces-more  
 17 than--5--barrels--a-day-during-the-period-beginning-April-1,  
 18 1989;-and-ending-March-31;-1991;-  
 19 (e)--a-4.06%-local-government-severance-tax-on-the-total  
 20 gross-taxable-value-of-all-petroleum-and--other--mineral--or  
 21 crude--oil-produced-by-the-person-other-than-interim-and-new  
 22 production-produced--by--a--stripper--well;-as--defined--in  
 23 15-36-121;-  
 24 (2)--For-purposes-of-this-section;-the-term-"incremental  
 25 petroleum--and--other-mineral-or-crude-oil"--means-the-amount

1 of-oil;-as-determined-by-the-department-of-revenue;-to-be-in  
 2 excess-of-what-would--have--been--produced--by--primary--and  
 3 secondary--methods--The--determination--arrived--at--by-the  
 4 department-must-be-made-only-after-notice--and--hearing--and  
 5 shall--specify--through--the--life--of--a--tertiary-project;-  
 6 calendar-year-by--calendar--year;-the-combined--amount--of  
 7 primary--and--secondary--production--that--must--be--used-to  
 8 establish-the-incremental-production-from-each-lease-or-unit  
 9 in-a-tertiary-recovery-project;  
 10 (3)--(a)-A-local-government-severance-tax-is-imposed--on  
 11 the--gross--value--paid--in-cash-or-apportioned-in-kind-to-a  
 12 nonworking-interest-owner-by-the-operator--or--producer--of  
 13 extracted-marketable-petroleum;-other-mineral-or-crude-oil;-  
 14 or-natural-gas-subject-to-local-government--severance--taxes  
 15 imposed--under--this-chapter;-The-local-government-severance  
 16 tax--on--nonworking--interest--owners--is--computed--at--the  
 17 following-rates:  
 18 ----(i)--15%--on-the-gross-value-paid-in-cash-or--apportioned  
 19 in--kind--to--a-nonworking-interest-owner-by-the-operator-or  
 20 producer-of-extracted-marketable-petroleum-and-other-mineral  
 21 or-crude-oil;-  
 22 ----(ii)-17.9%--on-the-gross-value--paid--in--cash--or  
 23 apportioned--in--kind--to-a-nonworking-interest-owner-by-the  
 24 operator-or-producer-of-extracted-or-marketable-natural-gas;-  
 25 ----(b)--The--amounts--paid--or--apportioned--in--kind--to

1 nonworking--interest--owners--are--exempt--from--the--local  
 2 government--severance--taxes--imposed--under--15-36-121(3)--and  
 3 (4)--and--under--subsections--(1)(a)--through--(1)(e)--of--this  
 4 section:

5 (3)(4)--Nothing--in--this--part--may--be--construed--as  
 6 requiring--laborers--or--employees--hired--or--employed--by--any  
 7 person--to--drill--any--oil--or--natural--gas--well--or--to--work--in--or  
 8 about--any--oil--or--natural--gas--well--or--prospect--or--explore--for  
 9 or--do--any--work--for--the--purpose--of--developing--any--petroleum,  
 10 or--other--mineral--or--crude--oil--or--natural--gas--to--pay--the  
 11 severance--tax,--nor--may--work--done--or--the--drilling--of--a--well  
 12 or--wells--for--the--purpose--of--prospecting--or--exploring--for  
 13 petroleum, or other--mineral--or--crude--oil, oil,--or--natural  
 14 gas--or--for--the--purpose--of--developing--them--be--considered--to  
 15 be--the--engaging--in--or--carrying--on--of--the--business.--If,--in  
 16 the--doing--of--any--work,--in--the--drilling--of--any--oil--or--natural  
 17 gas--well,--or--in--prospecting,--exploring,--or--development--work,  
 18 any--merchantable--or--marketable--petroleum, or other--mineral  
 19 or--crude--oil,--or--natural--gas--in--excess--of--the--quantity  
 20 required--by--the--person--for--carrying--on--the--operation--is  
 21 produced--sufficient--in--quantity--to--justify--the--marketing--of  
 22 the--petroleum, or other--mineral--or--crude--oil, or--natural  
 23 gas, the--work,--drilling,--prospecting,--exploring,--or  
 24 development--work--is--considered--to--be--the--engaging--in--and  
 25 carrying--on--of--the--business--of--producing--petroleum, or other

1 mineral--or--crude--oil,--or--natural--gas within--this--state  
 2 within--the--meaning--of--this--section:

3 (4)(5)--Every--person--required--to--pay--the--state--or--local  
 4 government--severance--tax--under--this--section--shall--pay--the  
 5 tax--in--full--for--his--own--account--and--for--the--account--of--each  
 6 of--the--other--owner--or--owners--of--the--gross--proceeds--in--value  
 7 or--in--kind--of--all--the--marketable--petroleum--or--other--mineral  
 8 or--crude--oil--or--natural--gas--extracted--and--produced,  
 9 including--owner--or--owners--of--working--interest, royalty  
 10 interest,--overriding--royalty--interest,--carried--working  
 11 interest,--net--proceeds--interest,--production--payments,--and  
 12 all--other--interest--or--interests--owned--or--carved--out--of--the  
 13 total--gross--proceeds--in--value--or--in--kind--of--the--extracted  
 14 marketable--petroleum--or--other--mineral--or--crude--oil--or  
 15 natural--gas,--except--that--any--of--the--interests--that--are--owned  
 16 by--the--federal,--state,--county,--or--municipal--governments--are  
 17 exempt--from--taxation--under--this--chapter,--Unless--otherwise  
 18 provided--in--a--contract--or--lease,--the--pro-rata--share--of--any  
 19 royalty--owner--or--owners--will--be--deducted--from--any  
 20 settlements--under--the--lease--or--leases--or--division--of  
 21 proceeds--orders--or--other--contracts:

22 (6)--For--purposes--of--this--section,--the--following  
 23 definitions--apply:  
 24 (a)--"Gross-taxable-value"--means--the--gross--value--of--the  
 25 product--as--determined--in--15-36-103--less--the--gross--value--paid

in--cash--or--apportioned--in--kind--to--a--nonworking--interest  
owner--by--the--operator--or--producer--of--extracted--marketable  
petroleum,--other--mineral--or--crude--oil--or--natural--gas--

----(b)---"Nonworking--interest--owner"--means--any--interest  
owner--who--does--not--share--in--the--development--and--operation  
costs--of--the--lease--or--unit; (Subsection--(1)--(d)--terminates--on  
occurrence--of--contingency--sec--77--Ch--6567--B--1987--)"

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

"15-36-112. Disposition of oil and gas state and local  
government 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, excluding new and interim  
production.

(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,  
excluding new and interim production.

(3) The state and local government 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)(i);

(b) ~~Any--amount--not--allocated--to--the--county--under  
subsection--(3)(a)~~ The state severance tax is allocated to  
the state general fund.

(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 the local government 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 the local government 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

1 production of natural gas, petroleum, and other mineral and  
2 crude oil within the state.

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

11 (3) All the natural gas produced from any well that has  
12 produced 60,000 cubic feet or less of natural gas a day for  
13 the calendar year prior to the current year shall be taxed  
14 as provided in this section. Production must be determined  
15 by dividing the amount of production from a lease or  
16 unitized area for the year prior to the current calendar  
17 year by the number of producing wells in the lease or  
18 unitized area and by dividing the resulting quotient by 365.  
19 The first 30,000 cubic feet of average daily production per  
20 well is exempt from all of the state severance tax imposed  
21 by 15-36-101. The first 30,000 cubic feet of average daily  
22 production per well is subject to a local government  
23 severance tax of ~~8.72%~~ 7.625%. Everything over 30,000 cubic  
24 feet of gas produced is taxed at 1.59% plus a local  
25 government severance tax of ~~7.625%~~ ~~8.72%~~ 7.625%.

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

5 (5) For the purposes of this section, "stripper well"  
6 means a well that produces less than 10 barrels per day,  
7 determined by dividing the amount of production from a lease  
8 or unitized area for the year prior to the current calendar  
9 year by the number of producing wells in the lease or  
10 unitized area, and by dividing the resulting quotient by  
11 365.

12 (6) Notwithstanding the provisions of subsections (2)  
13 through (4), all reporting requirements under the state  
14 severance tax remain in effect. (Subsections (2) and (4)  
15 terminate on occurrence of contingency--sec. 7, Ch. 656, L.  
16 1987.)"

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

18 "20-9-366. (Effective July 1, 1990) Definitions. As  
19 used in 20-9-366 through 20-9-369, the following definitions  
20 apply:

21 (1) "County mill value per elementary ANB" or "county  
22 mill value per high school ANB" means the sum of the current  
23 taxable valuation of all property in the county plus the  
24 taxable value of oil and gas net proceeds determined under  
25 15-23-607(4) and FOR PRODUCTION OCCURRING AFTER MARCH 31,

1 1990, PLUS the taxable value of coal gross proceeds  
 2 determined under 15-23-703(3) plus all the taxable value of  
 3 nontax nonlevy revenue for the support of schools, other  
 4 than Public Law 81-874 funds, divided by 1,000, with the  
 5 quotient divided by the total county elementary ANB count or  
 6 the total county high school ANB count used to calculate the  
 7 elementary school districts' and high school districts'  
 8 current year foundation program amounts. The taxable value  
 9 of nonlevy revenue for the purpose of computing guaranteed  
 10 tax base aid for schools is the amount of nontax nonlevy  
 11 revenue received by a district in the previous year,  
 12 including for fiscal year 1991 the revenue received in  
 13 fiscal year 1990 from the net proceeds taxation of oil and  
 14 natural gas and including for fiscal year 1992 and  
 15 thereafter the local government severance tax, divided by  
 16 the number of mills levied by the district in the previous  
 17 year, multiplied by 1,000,--divided--by--1,000,--with-the  
 18 quotient-divided-by-the-total-county-elementary-ANB-count-or  
 19 the-total-county-high-school-ANB-count-used-to-calculate-the  
 20 elementary-school--districts'--and--high--school--districts'  
 21 current-year-foundation-program-amounts.

22 (2) "District mill value per ANB" means the current  
 23 taxable valuation of all property in the district plus the  
 24 taxable value of oil and gas net proceeds determined under  
 25 15-23-607(4) and FOR PRODUCTION OCCURRING AFTER MARCH 31,

1 1990, PLUS the taxable value of coal gross proceeds  
 2 determined under 15-23-703(3) plus all the taxable value of  
 3 nontax nonlevy revenue for the support of schools, other  
 4 than Public Law 81-874 funds, divided by 1,000, with the  
 5 quotient divided by the ANB count of the district used to  
 6 calculate the district's current year foundation program  
 7 schedule amount. The taxable value of nonlevy revenue for  
 8 the purpose of computing guaranteed tax base aid for schools  
 9 is the amount of nontax nonlevy revenue received by a  
 10 district in the previous year, including for fiscal year  
 11 1991 the revenue received in fiscal year 1990 from the net  
 12 proceeds taxation of oil and natural gas and including for  
 13 fiscal year 1992 and thereafter the local government  
 14 severance tax, divided by the number of mills levied by the  
 15 district in the previous year, multiplied by 1,000,--divided  
 16 by--1,000,--with-the-quotient-divided-by-the-ANB-count-of-the  
 17 district-used--to--calculate--the--district's--current--year  
 18 foundation-program-schedule-amount.

19 (3) "Guaranteed overschedule general fund budget" means  
 20 that portion of a district's general fund budget in excess  
 21 of the foundation program amount for the district, as  
 22 provided in 20-9-316 through 20-9-321, but not exceeding  
 23 135% of the district's foundation program amount, and which  
 24 excess is authorized under the provisions of 20-9-145 and  
 25 20-9-353.

1 (4) "Statewide mill value per elementary ANB" or  
 2 "statewide mill value per high school ANB" means the sum of  
 3 the current taxable valuation of all property in the state  
 4 plus the taxable value of oil and gas net proceeds  
 5 determined under 15-23-607(4) and FOR PRODUCTION OCCURRING  
 6 AFTER MARCH 31, 1990, PLUS the taxable value of coal gross  
 7 proceeds determined under 15-23-703(3) plus all the taxable  
 8 value of nontax nonlevy revenue for the support of schools,  
 9 other than Public Law 81-874 funds, divided by 1,000, with  
 10 the quotient divided by the total state elementary ANB count  
 11 or the total state high school ANB count used to calculate  
 12 the elementary school districts' and high school districts'  
 13 current year foundation program amounts. The taxable value  
 14 of nonlevy revenue for the purpose of computing guaranteed  
 15 tax base aid for schools is the amount of nontax nonlevy  
 16 revenue received by a district in the previous year,  
 17 including for fiscal year 1991 the revenue received in  
 18 fiscal year 1990 from the net proceeds taxation of oil and  
 19 natural gas and including for fiscal year 1992 and  
 20 thereafter the local government severance tax, divided by  
 21 the number of mills levied by the district in the previous  
 22 year, multiplied by 1,000,--divided--by--1,000,--with--the  
 23 quotient--divided--by--the--total--state--elementary--ANB--count--or  
 24 the--total--state--high--school--ANB--count--used--to--calculate--the  
 25 elementary--school--districts'--and--high--school--districts'

1 current-year-foundation-program-amounts."

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

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

10 NEW SECTION. Section 6. Retroactive applicability.  
 11 [Sections-1-and-3 SECTION 2] apply APPLIES retroactively,  
 12 within the meaning of 1-2-109, to all local government  
 13 severance taxes on oil--and natural gas produced after  
 14 December 31, 1988.

15 -End-

SENATE BILL NO. 1

INTRODUCED BY GAGE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING--OIL--AND  
NATURAL-GAS-LOCAL-GOVERNMENT-SEVERANCE-TAX-RATES; IMPOSING-A  
REVENUE-NEUTRAL-LOCAL-GOVERNMENT-SEVERANCE-TAX-RATE-ON  
NONWORKING--INTEREST-OWNERS-OF--OIL--AND--NATURAL--GAS  
PRODUCTION; REVISING OIL AND NATURAL GAS LOCAL GOVERNMENT  
SEVERANCE TAX RATES; IMPOSING A REVENUE NEUTRAL LOCAL  
GOVERNMENT SEVERANCE TAX RATE ON NONWORKING INTEREST OWNERS  
OF OIL AND NATURAL GAS PRODUCTION; 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--THE--LOCAL--GOVERNMENT--SEVERANCE--TAX--ON--OIL  
STRIPPER-WELLS; CLARIFYING THE LOCAL GOVERNMENT SEVERANCE  
TAX ON OIL 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 15-36-101,  
15-36-101, 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-15-36-101,--MCA,--is-amended-to-read:  
----"15-36-101--Definitions--and--rate--of--tax ----state  
severance--tax ----local-government--severance--tax --  
assessment--of--nonworking--interest-owner--exemption--(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 shall,  
except--as--provided-in-15-36-121,--each-year-when-engaged-in  
or-carrying-on--the--business--in--this--state--pay--to--the  
department--of--revenue--a state severance--tax--for--the  
exclusive-use-and-benefit-of-the-state--of--Montana--plus--a  
local-government--severance--tax--in-lieu-of-a-tax-on-net  
proceeds--for--the--exclusive--use--and--benefit--of--local  
government. The Except--as-provided-in-subsection-(3),--the  
state severance-tax-and-the-local-government--severance--tax  
are computed-at-the-following-rates as follows:  
----(a)--except--as--provided-in-subsections-(1)(b),--(1)(c),



1 and (i)(d), and (i)(e), a 5% of state severance tax on the  
 2 total gross taxable value of all the petroleum and other  
 3 mineral or crude oil produced by the person, plus the local  
 4 government severance tax of 8.4% ~~8.11%~~ on production the  
 5 gross taxable value of all the petroleum and other mineral  
 6 or crude oil produced by the person other than interim  
 7 production and new production, from each lease or unit, but  
 8 in determining the amount of the state severance tax and  
 9 local government severance tax, there must be excluded from  
 10 consideration all petroleum or other crude or mineral oil  
 11 produced and used by the person during the year in  
 12 connection with his operations in prospecting for,  
 13 developing, and producing the petroleum or crude or mineral  
 14 oil;

15 ----(b)---a 2.65% of state severance tax on the total gross  
 16 taxable value of all natural gas produced by the person,  
 17 plus the local government severance tax of 15.25% ~~17.44%~~ on  
 18 the total gross taxable value of all natural gas production  
 19 produced by the person other than interim production or new  
 20 production, from each lease or unit, but in determining the  
 21 amount of the state severance tax and the local government  
 22 severance tax, there must be excluded from consideration all  
 23 gas produced and used by the person during the year in  
 24 connection with his operations in prospecting for,  
 25 developing, and producing the gas or petroleum or crude or

1 mineral oil, and there must also be excluded from  
 2 consideration all gas, including carbon dioxide gas,  
 3 recycled or reinjected into the ground;

4 ----(c)---a 2.5% of state severance tax on the total gross  
 5 taxable value of the incremental petroleum and other mineral  
 6 or crude oil produced by the person, plus the local  
 7 government severance tax of 4.2% ~~4.06%~~ on production the  
 8 total gross taxable value of the incremental petroleum and  
 9 other mineral or crude oil produced by the person other than  
 10 interim production and new production, from each lease or  
 11 unit in a tertiary recovery project after July 17, 1985. For  
 12 purposes of this section, a tertiary recovery project must  
 13 meet the following requirements:

14 ----(i)---the project must be approved as a tertiary recovery  
 15 project by the department of revenue. The approval may be  
 16 extended only after notice and hearing in accordance with  
 17 Title 2, chapter 4;

18 ----(ii)---the property to be affected by the project must be  
 19 adequately delineated according to the specification  
 20 required by the department, and

21 ----(iii)---the project must involve the application of one or  
 22 more tertiary recovery methods that can reasonably be  
 23 expected to result in an increase, determined by the  
 24 department to be significant in light of all the facts and  
 25 circumstances, in the amount of crude oil which may

1 potentially--be--recovered. For the purpose purposes of this  
2 section, tertiary--recovery--methods--include--but--are--not  
3 limited to:

4 ----(A)--miscible fluid displacement;  
5 ----(B)--steam drive injection;  
6 ----(C)--micellar/emulsion flooding;  
7 ----(D)--in-situ combustion;  
8 ----(E)--polymer-augmented water flooding;  
9 ----(F)--cyclic steam injection;  
10 ----(G)--alkaline or caustic flooding;  
11 ----(H)--carbon dioxide water flooding;  
12 ----(I)--immiscible carbon dioxide displacement; or  
13 ----(J)--any--other--method--approved by the department as a  
14 tertiary recovery method.

15 ----(d)--except as provided in 15-36-121(2), a 3% of state  
16 severance tax on the total gross taxable value of all the  
17 petroleum and other mineral or crude oil production produced  
18 by the person after the first 5 barrels, plus the local  
19 government severance tax of 4.2% on all production other  
20 than interim production and new production, produced by from  
21 a stripper well, as defined in 15-36-121, that produces more  
22 than 5 barrels a day during the period beginning April 1,  
23 1989, and ending March 31, 1991.

24 (e)--a 4.06% local government severance tax on the total  
25 gross taxable value of all petroleum and other mineral or

1 crude oil produced by the person other than interim and new  
2 production produced by a stripper well, as defined in  
3 15-36-121.

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

15 (3)--(a) A local government severance tax is imposed on  
16 the gross value paid in cash or apportioned in kind to a  
17 nonworking interest owner by the operator or producer of  
18 extracted marketable petroleum, other mineral or crude oil,  
19 or natural gas subject to local government severance taxes  
20 imposed under this chapter. The local government severance  
21 tax on nonworking interest owners is computed at the  
22 following rates:

23 ----(i)--15% on the gross value paid in cash or apportioned  
24 in kind to a nonworking interest owner by the operator or  
25 producer of extracted marketable petroleum and other mineral

1 or crude oil,  
 2 ---(ii) 17.9% on the gross value paid in cash or  
 3 apportioned in kind to a nonworking interest owner by the  
 4 operator or producer of extracted or marketable natural gas,  
 5 ---(b) The amounts paid or apportioned in kind to  
 6 nonworking interest owners are exempt from the local  
 7 government severance taxes imposed under 15-36-121(3) and  
 8 (4) and under subsections (1)(a) through (1)(e) of this  
 9 section.

10 (3)(4) Nothing in this part may be construed as  
 11 requiring laborers or employees hired or employed by any  
 12 person to drill any oil or natural gas well or to work in or  
 13 about any oil or natural gas well or prospect or explore for  
 14 or do any work for the purpose of developing any petroleum  
 15 or other mineral or crude oil or natural gas to pay the  
 16 severance tax, nor may work done or the drilling of a well  
 17 or wells for the purpose of prospecting or exploring for  
 18 petroleum or other mineral or crude oil or natural  
 19 gas or for the purpose of developing them be considered to  
 20 be the engaging in or carrying on of the business. If in  
 21 the doing of any work, in the drilling of any oil or natural  
 22 gas well, or in prospecting, exploring, or development work,  
 23 any merchantable or marketable petroleum or other mineral  
 24 or crude oil or natural gas in excess of the quantity  
 25 required by the person for carrying on the operation is

1 produced sufficient in quantity to justify the marketing of  
 2 the petroleum or other mineral or crude oil or natural  
 3 gas, the work, drilling, prospecting, exploring, or  
 4 development work is considered to be the engaging in and  
 5 carrying on of the business of producing petroleum or other  
 6 mineral or crude oil or natural gas within this state  
 7 within the meaning of this section.

8 (4)(5) Every person required to pay the state or local  
 9 government severance tax under this section shall pay the  
 10 tax in full for his own account and for the account of each  
 11 of the other owner or owners of the gross proceeds in value  
 12 or in kind of all the marketable petroleum or other mineral  
 13 or crude oil or natural gas extracted and produced,  
 14 including owner or owners of working interest, royalty  
 15 interest, overriding royalty interest, carried working  
 16 interest, net proceeds interest, production payments, and  
 17 all other interest or interests owned or carved out of the  
 18 total gross proceeds in value or in kind of the extracted  
 19 marketable petroleum or other mineral or crude oil or  
 20 natural gas, except that any of the interests that are owned  
 21 by the federal, state, county, or municipal governments are  
 22 exempt from taxation under this chapter. Unless otherwise  
 23 provided in a contract or lease, the pro-rata share of any  
 24 royalty owner or owners will be deducted from any  
 25 settlements under the lease or leases or division of

proceeds orders or other contracts.

~~{6}--For--purposes--of--this--section,--the--following definitions apply:~~

~~----(a)--"Gross--taxable--value"--means--the--gross--value--of--the product--as--determined--in--15-36-103--less--the--gross--value--paid in--cash--or--apportioned--in--kind--to--a--nonworking--interest owner--by--the--operator--or--producer--of--extracted--marketable petroleum,--other--mineral--or--crude--oil,--or--natural--gas.~~

~~----(b)--"Nonworking--interest--owner"--means--any--interest owner--who--does--not--share--in--the--development--and--operation costs--of--the--lease--or--unit; {Subsection--(1)}(d)--terminates--on occurrence--of--contingency--sec--77--Ch--656,--B--1987.}"~~

SECTION 1. SECTION 15-36-101, MCA, IS AMENDED TO READ:

"15-36-101. Definitions and rate of tax -- state severance tax -- local government severance tax -- assessment of nonworking interest owner -- exemption. (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 shall, except as provided in 15-36-121, each year when engaged in

or carrying on the business in this state pay to the department of revenue a state severance tax for the exclusive use and benefit of the state of Montana plus a local government severance tax in lieu of a tax on net proceeds for the exclusive use and benefit of local government. The Except as provided in subsection (3), the state severance tax and the local government severance tax are computed at the following rates as follows:

(a) except as provided in subsections (1)(b), (1)(c), and (1)(d), and (1)(e), a 5% of state severance tax on the total gross taxable value of all the petroleum and other mineral or crude oil produced by the person, plus the local government severance tax of 8.4% on production the gross taxable value of all the petroleum and other mineral or crude oil produced by the person other than interim production and new production, from each lease or unit; but in determining the amount of the state severance tax and local government severance tax, there must be excluded from consideration all petroleum or other crude or mineral oil produced and used by the person during the year in connection with his operations in prospecting for, developing, and producing the petroleum or crude or mineral oil;

(b) a 2.65% of state severance tax on the total gross taxable value of all natural gas produced by the person,

plus the local government severance tax of 15.25% on the total gross taxable value of all natural gas production produced by the person other than interim production or new production, from each lease or unit; but in determining the amount of the state severance tax and the local government severance tax, there must be excluded from consideration all gas produced and used by the person during the year in connection with his operations in prospecting for, developing, and producing the gas or petroleum or crude or mineral oil; and there must also be excluded from consideration all gas, including carbon dioxide gas, recycled or reinjected into the ground;

(c) a 2.5% of state severance tax on the total gross taxable value of the incremental petroleum and other mineral or crude oil produced by the person, plus the local government severance tax of 4.2% on production the total gross taxable value of the incremental petroleum and other mineral or crude oil produced by the person other than interim production and new production, from each lease or unit in a tertiary recovery project after July 1, 1985. For purposes of this section, a tertiary recovery project must meet the following requirements:

(i) the project must be approved as a tertiary recovery project by the department of revenue. The approval may be extended only after notice and hearing in accordance with

Title 2, chapter 4.

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

(iii) the project must involve the application of one or more tertiary recovery methods that can reasonably be expected to result in an increase, determined by the department to be significant in light of all the facts and circumstances, in the amount of crude oil which may potentially be recovered. ~~For the purpose~~ purposes of this section, tertiary recovery methods include but are not limited to:

- (A) miscible fluid displacement;
- (B) steam drive injection;
- (C) micellar/emulsion flooding;
- (D) in situ combustion;
- (E) polymer augmented water flooding;
- (F) cyclic steam injection;
- (G) alkaline or caustic flooding;
- (H) carbon dioxide water flooding;
- (I) immiscible carbon dioxide displacement; or
- (J) any other method approved by the department as a tertiary recovery method.

(d) except as provided in 15-36-121(2), a 3% of state severance tax on the total gross taxable value of all the

1 petroleum and other mineral or crude oil ~~production produced~~  
 2 ~~by the person after the first 5 barrels; plus the local~~  
 3 ~~government severance tax of 4.2% on all production other~~  
 4 ~~than interim production and new production; produced by from~~  
 5 a stripper well, as defined in 15-36-121, that produces more  
 6 than 5 barrels a day during the period beginning April 1,  
 7 1989, and ending March 31, 1991;

8 (e) a 4.2% local government severance tax on the total  
 9 gross taxable value of all petroleum and other mineral or  
 10 crude oil produced by the person other than interim and new  
 11 production produced by a stripper well, as defined in  
 12 15-36-121.

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

24 (3) (a) A local government severance tax is imposed on  
 25 the gross value paid in cash or apportioned in kind to a

1 nonworking interest owner by the operator or producer of  
 2 extracted marketable petroleum, other mineral or crude oil,  
 3 or natural gas subject to local government severance taxes  
 4 imposed under this chapter. The local government severance  
 5 tax on nonworking interest owners is computed at the  
 6 following rates:

7 (i) 12.5% on the gross value paid in cash or  
 8 apportioned in kind to a nonworking interest owner by the  
 9 operator or producer of extracted marketable petroleum and  
 10 other mineral or crude oil;

11 (ii) 15.25% on the gross value paid in cash or  
 12 apportioned in kind to a nonworking interest owner by the  
 13 operator or producer of extracted or marketable natural gas.

14 (b) The amounts paid or apportioned in kind to  
 15 nonworking interest owners are exempt from the local  
 16 government severance taxes imposed under 15-36-121(3) and  
 17 (4) and under subsections (1)(a) through (1)(e) of this  
 18 section.

19 {3}(4) Nothing in this part may be construed as  
 20 requiring laborers or employees hired or employed by any  
 21 person to drill any oil or natural gas well or to work in or  
 22 about any oil or natural gas well or prospect or explore for  
 23 or do any work for the purpose of developing any petroleum,  
 24 or other mineral or crude oil, or natural gas to pay the  
 25 severance tax, nor may work done or the drilling of a well

or wells for the purpose of prospecting or exploring for petroleum, or other mineral or crude oil, or natural gas or for the purpose of developing them be considered to be the engaging in or carrying on of the business. If, in the doing of any work, in the drilling of any oil or natural gas well, or in prospecting, exploring, or development work, any merchantable or marketable petroleum, or other mineral or crude oil, or natural gas in excess of the quantity required by the person for carrying on the operation is produced sufficient in quantity to justify the marketing of the petroleum, or other mineral or crude oil, or natural gas, the work, drilling, prospecting, exploring, or development work is considered to be the engaging in and carrying on of the business of producing petroleum, or other mineral or crude oil, or natural gas within this state within the meaning of this section.

(4)(5) Every person required to pay the state or local government severance tax under this section shall pay the tax in full for his own account and for the account of each of the other owner or owners of the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude oil or natural gas extracted and produced, including owner or owners of working interest, royalty interest, overriding royalty interest, carried working interest, net proceeds interest, production payments, and

all other interest or interests owned or carved out of the total gross proceeds in value or in kind of the extracted marketable petroleum or other mineral or crude oil or natural gas, except that any of the interests that are owned by the federal, state, county, or municipal governments are exempt from taxation under this chapter. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners will be deducted from any settlements under the lease or leases or division of proceeds orders or other contracts.

(5) For purposes of this section, the following definitions apply:

(a) "Gross taxable value" means the gross value of the product as determined in 15-36-103 less the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum, other mineral or crude oil, or natural gas.

(b) "Nonworking interest owner" means any interest owner who does not share in the development and operation costs of the lease or unit. (Subsection (1)(d) terminates on occurrence of contingency--sec. 7, Ch. 656, L. 1987.)"

Section 2. Section 15-36-112, MCA, is amended to read:

"15-36-112. Disposition of oil and gas state and local government severance taxes -- calculation of unit value for local government severance tax. (1) Each year the department

1 of revenue shall determine the amount of tax collected under  
2 this chapter from within each school-district taxing unit.

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

7 (a) The unit value for petroleum and other mineral or  
8 crude oil for each district taxing unit is the quotient  
9 obtained by dividing the net proceeds taxes calculated on  
10 petroleum or mineral or crude oil produced in that district  
11 taxing unit in calendar year 1988 by the number of barrels  
12 of petroleum or other mineral or crude oil produced in that  
13 district taxing unit during 1988, excluding new and interim  
14 production.

15 (b) The unit value for natural gas is the quotient  
16 obtained by dividing the net proceeds taxes calculated on  
17 natural gas produced in that district taxing unit in  
18 calendar year 1988 by the number of cubic feet of natural  
19 gas produced in that district taxing unit during 1988,  
20 excluding new and interim production.

21 (3) The state and local government severance taxes  
22 collected under this chapter are allocated as follows:

23 (a) The local government severance tax is statutorily  
24 appropriated, as provided in 17-7-502, for allocation to the  
25 county for distribution as provided in subsection

1 (4)(a)(iii);

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

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

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

22 (ii) By May 31 of each year, the department shall  
23 calculate and distribute to each eligible county the amount  
24 of local government severance tax, determined by multiplying  
25 unit value as adjusted in this subsection (4)(a) times the



1 units of production on which the local government severance  
 2 tax was owed during the 2 calendar quarters immediately  
 3 following those quarters referred to in subsection  
 4 (4)(a)(i).

5 (b) Any amount by which the total tax liability exceeds  
 6 or is less than the total distributions determined in  
 7 subsections (4)(a)(i) and (4)(a)(ii) must be calculated and  
 8 distributed in the following manner:

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

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

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

25 (5) The county treasurer shall distribute the money

1 received under subsection ~~(3)(a)~~ (4) to the taxing  
 2 jurisdictions units that levied mills in fiscal year 1990  
 3 against calendar year 1988 production during-fiscal-year  
 4 1989 in the same manner that all other property tax proceeds  
 5 were distributed during fiscal year 1989 1990 in the taxing  
 6 jurisdiction unit, except that no distribution may be made  
 7 to a municipal taxing jurisdiction unit."

8 Section 3. Section 15-36-121, MCA, is amended to read:

9 "15-36-121. Exemption from state severance tax --  
 10 imposition of local government severance tax. (1) It is the  
 11 public policy of this state to promote a sufficient supply  
 12 of natural gas to provide for the residents of this state,  
 13 to lessen Montana's dependence on imported natural gas, and  
 14 to encourage the exploration for and development and  
 15 production of natural gas, petroleum, and other mineral and  
 16 crude oil within the state.

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

25 (3) All the natural gas produced from any well that has

1 produced 60,000 cubic feet or less of natural gas a day for  
 2 the calendar year prior to the current year shall be taxed  
 3 as provided in this section. Production must be determined  
 4 by dividing the amount of production from a lease or  
 5 unitized area for the year prior to the current calendar  
 6 year by the number of producing wells in the lease or  
 7 unitized area and by dividing the resulting quotient by 365.  
 8 The first 30,000 cubic feet of average daily production per  
 9 well is exempt from all of the state severance tax imposed  
 10 by 15-36-101. The first 30,000 cubic feet of average daily  
 11 production per well is subject to a local government  
 12 severance tax of ~~8.72%~~ 7.625%. Everything over 30,000 cubic  
 13 feet of gas produced is taxed at 1.59% plus a local  
 14 government severance tax of ~~7.625%~~ ~~8.72%~~ 7.625%.

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

19 (5) For the purposes of this section, "stripper well"  
 20 means a well that produces less than 10 barrels per day,  
 21 determined by dividing the amount of production from a lease  
 22 or unitized area for the year prior to the current calendar  
 23 year by the number of producing wells in the lease or  
 24 unitized area, and by dividing the resulting quotient by  
 25 365.

1 (6) Notwithstanding the provisions of subsections (2)  
 2 through (4), all reporting requirements under the state  
 3 severance tax remain in effect. (Subsections (2) and (4)  
 4 terminate on occurrence of contingency--sec. 7, Ch. 656, L.  
 5 1987.)"

6 Section 4. Section 20-9-366, MCA, is amended to read:

7 "20-9-366. (Effective July 1, 1990) Definitions. As  
 8 used in 20-9-366 through 20-9-369, the following definitions  
 9 apply:

10 (1) "County mill value per elementary ANB" or "county  
 11 mill value per high school ANB" means the sum of the current  
 12 taxable valuation of all property in the county plus the  
 13 taxable value of oil and gas net proceeds determined under  
 14 15-23-607(4) and FOR PRODUCTION OCCURRING AFTER MARCH 31,  
 15 1990, PLUS the taxable value of coal gross proceeds  
 16 determined under 15-23-703(3) plus all the taxable value of  
 17 nontax nonlevy revenue for the support of schools, other  
 18 than Public Law 81-874 funds, divided by 1,000, with the  
 19 quotient divided by the total county elementary ANB count or  
 20 the total county high school ANB count used to calculate the  
 21 elementary school districts' and high school districts'  
 22 current year foundation program amounts. The taxable value  
 23 of nonlevy revenue for the purpose of computing guaranteed  
 24 tax base aid for schools is the amount of nontax nonlevy  
 25 revenue received by a district in the previous year,

1 including for fiscal year 1991 the revenue received in  
 2 fiscal year 1990 from the net proceeds taxation of oil and  
 3 natural gas and including for fiscal year 1992 and  
 4 thereafter the local government severance tax, divided by  
 5 the number of mills levied by the district in the previous  
 6 year, multiplied by 1,000,--divided--by--1,000,--with--the  
 7 quotient--divided--by--the--total--county--elementary--ANB--count--or  
 8 the--total--county--high--school--ANB--count--used--to--calculate--the  
 9 elementary--school--districts'--and--high--school--districts'  
 10 current--year--foundation--program--amounts.

11 (2) "District mill value per ANB" means the current  
 12 taxable valuation of all property in the district plus the  
 13 taxable value of oil and gas net proceeds determined under  
 14 15-23-607(4) and FOR PRODUCTION OCCURRING AFTER MARCH 31,  
 15 1990, PLUS the taxable value of coal gross proceeds  
 16 determined under 15-23-703(3) plus all the taxable value of  
 17 nontax nonlevy revenue for the support of schools, other  
 18 than Public Law 81-874 funds, divided by 1,000, with the  
 19 quotient divided by the ANB count of the district used to  
 20 calculate the district's current year foundation program  
 21 schedule amount. The taxable value of nonlevy revenue for  
 22 the purpose of computing guaranteed tax base aid for schools  
 23 is the amount of nontax nonlevy revenue received by a  
 24 district in the previous year, including for fiscal year  
 25 1991 the revenue received in fiscal year 1990 from the net

1 proceeds taxation of oil and natural gas and including for  
 2 fiscal year 1992 and thereafter the local government  
 3 severance tax, divided by the number of mills levied by the  
 4 district in the previous year, multiplied by 1,000,--divided  
 5 by--1,000,--with--the--quotient--divided--by--the--ANB--count--of--the  
 6 district--used--to--calculate--the--district's--current--year  
 7 foundation--program--schedule--amount.

8 (3) "Guaranteed overschedule general fund budget" means  
 9 that portion of a district's general fund budget in excess  
 10 of the foundation program amount for the district, as  
 11 provided in 20-9-316 through 20-9-321, but not exceeding  
 12 135% of the district's foundation program amount, and which  
 13 excess is authorized under the provisions of 20-9-145 and  
 14 20-9-353.

15 (4) "Statewide mill value per elementary ANB" or  
 16 "statewide mill value per high school ANB" means the sum of  
 17 the current taxable valuation of all property in the state  
 18 plus the taxable value of oil and gas net proceeds  
 19 determined under 15-23-607(4) and FOR PRODUCTION OCCURRING  
 20 AFTER MARCH 31, 1990, PLUS the taxable value of coal gross  
 21 proceeds determined under 15-23-703(3) plus all the taxable  
 22 value of nontax nonlevy revenue for the support of schools,  
 23 other than Public Law 81-874 funds, divided by 1,000, with  
 24 the quotient divided by the total state elementary ANB count  
 25 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 5. 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 6. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 7. Retroactive applicability. [Sections-1-and-3 SECTION-2 SECTIONS 1 AND 3] apply APPLIES

APPLY retroactively, within the meaning of 1-2-109, to all local government severance taxes on ~~oil~~-and OIL AND natural gas produced after December 31, 1988.

-End-

STANDING COMMITTEE REPORT

May 23, 1990  
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May 23, 1990  
Page 1 of 3

Mr. Speaker: We, the committee on Taxation report that SB0001  
(first reading copy -- blue) do pass as amended.

Signed: 

Dan Harrington, Chairman

And, that such amendments read:

1. Title, line 8.  
Following: "GAS"  
Insert: "STATE AND"
2. Title, lines 9 through 11.  
Strike: "IMPOSING" on line 9 through "PRODUCTION;" on line 11
3. Title, lines 16 and 17.  
Strike: "CLARIFYING" on line 16 through "WELLS;" on line 17
4. Title, lines 19 and 20.  
Strike: "CLARIFYING" on line 16 through "WELLS;" on line 20
5. Title, line 23.  
Following: "BASE;"  
Insert: "PROVIDING A STUDY OF THE FLAT TAX SYSTEM BY THE REVENUE  
OVERSIGHT COMMITTEE,"
6. Page 9, lines 15 and 16.  
Strike: "--" on line 15 through "exemption" on line 16
7. Page 10, line 6.  
Strike: "Except as provided in subsection (3), the"  
Insert: "The"

8. Page 10, line 9.  
Following: "in"  
Strike: "subsections"  
Insert: "subsection"  
Following: "(b)"  
Strike: remainder of line 9 in its entirety

9. Page 10, line 10.  
Strike: "(1) (d), and (1) (e),"

10. Page 10, line 11.  
Strike: "taxable"

11. Page 10, line 13.  
Strike: "8.4%"  
Insert: "8.93%"

12. Page 10, line 14.  
Strike: "taxable"

13. Page 10, line 25.  
Strike: "taxable"

14. Page 11, line 1.  
Strike: "15.25%"  
Insert: "16.21%"

15. Page 11, line 2.  
Strike: "taxable"

16. Page 11, line 12.  
Strike: ";"  
Insert: "."

17. Page 11, line 13 through page 13, line 12.  
Strike: subsections (1) (c) through (1) (e) in their entirety

18. Page 13, line 24 through page 14, line 18.  
Strike: subsection (3) in its entirety  
Renumber: subsequent subsections

19. Page 16, lines 11 through 21.  
Strike: line 16 through ")" on line 21

20. Page 20, lines 9 and 10.  
Strike: "-- imposition of local government severance tax"

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(RT)

HOUSE

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21. Page 20, line 25 through page 22, line 3.  
Strike: subsections (3) through (6) in their entirety

22. Page 22, line 3.  
Strike: "Subsections"  
Insert: "Subsection"  
Following: "(2)"  
Strike: remainder of line 3 in its entirety

23. Page 22, line 4.  
Strike: "terminate"  
Insert: "terminates"

24. Page 25.  
Following: line 15  
Insert: " NEW SECTION. Section 5. Revenue oversight study. The  
revenue oversight committee shall study the new methods of  
taxing coal, oil, and natural gas production that were  
mandated by House Bill No. 28, Special Laws of June 1989,  
and as amended by [this act]. The committee shall report  
its findings to the 52nd legislature."  
Renumber: subsequent sections

SB0001.1

(RT)

031338SC.HRT

1 SENATE BILL NO. 1  
2 INTRODUCED BY GAGE  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING--OIL--AND  
5 NATURAL-GAS-LOCAL-GOVERNMENT-SEVERANCE-TAX-RATES; IMPOSING-A  
6 REVENUE--NEUTRAL--LOCAL--GOVERNMENT--SEVERANCE--TAX--RATE-ON  
7 NONWORKING--INTEREST--OWNERS--OF--OIL--AND--NATURAL--GAS  
8 PRODUCTION; REVISING OIL AND NATURAL GAS STATE AND LOCAL  
9 GOVERNMENT SEVERANCE TAX RATES; IMPOSING-A--REVENUE--NEUTRAL  
10 LOCAL--GOVERNMENT--SEVERANCE-TAX-RATE-ON-NONWORKING-INTEREST  
11 OWNERS-OF-OIL-AND-NATURAL--GAS--PRODUCTION; ESTABLISHING A  
12 BASE YEAR FOR THE DISTRIBUTION OF LOCAL GOVERNMENT SEVERANCE  
13 TAXES; DISTRIBUTING LOCAL GOVERNMENT SEVERANCE TAXES TO  
14 ELIGIBLE TAXING UNITS; PROVIDING FOR A PERCENTAGE  
15 DISTRIBUTION MECHANISM FOR LOCAL GOVERNMENT SEVERANCE TAXES  
16 UNDER CERTAIN CONDITIONS; CLARIFYING-THE-APPLICATION-OF--THE  
17 LOCAL--GOVERNMENT--SEVERANCE-TAX--TO--NATURAL--GAS-STRIPPER  
18 WELLS; CLARIFYING-THE-LOCAL-GOVERNMENT-SEVERANCE-TAX-ON--OIL  
19 STRIPPER--WELLS; CLARIFYING--THE-LOCAL-GOVERNMENT-SEVERANCE  
20 TAX-ON-OIL-STRIPPER-WELLS; CLARIFYING THAT LOCAL PRODUCTION  
21 TAXES ON OIL, NATURAL GAS, AND COAL ARE INCLUDED IN THE  
22 GUARANTEED TAX BASE CALCULATION; CLARIFYING THE DEFINITION  
23 OF THE GUARANTEED TAX BASE; PROVIDING A STUDY OF THE FLAT  
24 TAX SYSTEM BY THE REVENUE OVERSIGHT COMMITTEE; AMENDING  
25 SECTIONS 15-36-101, 15-36-101, 15-36-112, 15-36-121, AND

1 20-9-366, MCA; AND PROVIDING A IMMEDIATE EFFECTIVE DATE AND  
2 A RETROACTIVE APPLICABILITY DATE."  
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 ----state  
7 severance--tax ----local--government--severance--tax --  
8 assessment-of-nonworking-interest-owner-----exemption,--(1)  
9 Every--person--engaging--in--or--carrying--on--the--business--of  
10 producing-petroleum,--other-mineral--or--crude-oil,--or--natural  
11 gas--within--this--state--or--engaging--in--or--carrying--on--the  
12 business--of--owning,--controlling,--managing,--leasing,--or  
13 operating--within--this--state--any--well--or--wells--from--which--any  
14 merchantable--or--marketable--petroleum,--other-mineral--or--crude  
15 oil,--or--natural--gas--is--extracted--or--produced sufficient--in  
16 quantity--to--justify--the--marketing--of--the--same--must shall,  
17 except--as--provided--in--15-36-121,--each--year--when--engaged--in  
18 or--carrying--on--the--business--in--this--state--pay--to--the  
19 department--of--revenue--a state severance--tax--for--the  
20 exclusive--use--and--benefit--of--the--state--of--Montana--plus--a  
21 local-government-severance-tax--in--lieu--of--a--tax--on--net  
22 proceeds--for--the--exclusive--use--and--benefit--of--local  
23 government; The Except-as-provided-in-subsection--(3),--the  
24 state severance--tax--and--the--local-government-severance-tax  
25 are computed-at-the-following-rates as-follows:

1 ----(a)---except-as-provided-in-subsections--(1)(b)7--(1)(c)7  
 2 and (1)(d)7 and (1)(e)7, a 5% of state-severance-tax-on the  
 3 total-gross taxable value-of-all--the--petroleum--and--other  
 4 mineral--or-crude-oil-produced-by-the-person7-plus-the-local  
 5 government-severance-tax-of 8.4% ~~8.11%~~ on production the  
 6 gross--taxable--value-of-all-the-petroleum-and-other-mineral  
 7 or-crude-oil-produced--by--the--person other--than--interim  
 8 production--and-new-production7-from-each-lease-or-unit7-but  
 9 in-determining-the-amount-of the--state severance--tax and  
 10 local--government-severance-tax7 there-must-be-excluded-from  
 11 consideration-all-petroleum-or-other-crude--or--mineral--oil  
 12 produced---and--used--by--the--person--during--the--year--in  
 13 connection--with--his---operations---in---prospecting---for7  
 14 developing7--and-producing-the-petroleum-or-crude-or-mineral  
 15 oil7  
 16 ----(b)---a 2.65% of state-severance-tax-on the--total--gross  
 17 taxable value--of--all--natural-gas-produced by-the-person7  
 18 plus-the-local-government-severance-tax-of 15.25% ~~17.44%~~ on  
 19 the--total-gross-taxable-value-of-all natural-gas production  
 20 produced-by-the-person other-than-interim-production-or--new  
 21 production7--from-each-lease-or-unit7-but-in-determining-the  
 22 amount-of the-state severance-tax and-the--local--government  
 23 severance-tax7 there-must-be-excluded-from-consideration-all  
 24 gas--produced--and--used--by--the--person-during-the-year-in  
 25 connection--with--his---operations---in---prospecting---for7

1 developing7--and--producing-the-gas-or-petroleum-or-crude-or  
 2 mineral--oil7--and--there--must--also---be---excluded---from  
 3 consideration---all---gas7--including--carbon--dioxide--gas7  
 4 recycled-or-reinjected-into-the-ground7  
 5 ----(c)---a 2.5% of state-severance-tax-on the--total--gross  
 6 taxable value-of-the-incremental-petroleum-and-other-mineral  
 7 or--crude--oil--produced by--the--person7--plus--the--local  
 8 government--severance--tax--of 4.2% ~~4.06%~~ on production the  
 9 total-gross-taxable-value-of-the-incremental--petroleum--and  
 10 other-mineral-or-crude-oil-produced-by-the-person other-than  
 11 interim--production--and--new-production7-from-each-lease-or  
 12 unit-in-a-tertiary-recovery-project-after-July-17-1985--For  
 13 purposes--of--this-section7-a-tertiary-recovery-project-must  
 14 meet-the-following-requirements:  
 15 ----(i)---the-project-must-be-approved-as-a-tertiary-recovery  
 16 project-by-the-department-of-revenue7-The--approval--may--be  
 17 extended--only--after--notice-and-hearing-in-accordance-with  
 18 Title-27-chapter-47  
 19 ----(ii)---the-property-to-be-affected-by-the-project-must--be  
 20 adequately---delineated---according--to--the--specifications  
 21 required-by-the-department7-and  
 22 ----(iii)---the-project-must-involve-the-application-of-one-or  
 23 more--tertiary--recovery--methods--that--can--reasonably--be  
 24 expected--to--result--in--an--increase7--determined--by--the  
 25 department-to-be-significant-in-light-of-all-the--facts--and



1 circumstances,---in---the---amount---of---crude---oil---which---may  
 2 potentially-be-recovered. For the purpose purposes of---this  
 3 section,---tertiary---recovery---methods---include---but---are-not  
 4 limited-to:  
 5 ----(A)---miscible-fluid-displacement;  
 6 ----(B)---steam-drive-injection;  
 7 ----(C)---micellar/emulsion-flooding;  
 8 ----(D)---in-situ-combustion;  
 9 ----(E)---polymer-augmented-water-flooding;  
 10 ----(F)---cyclic-steam-injection;  
 11 ----(G)---alkaline-or-caustic-flooding;  
 12 ----(H)---carbon-dioxide-water-flooding;  
 13 ----(I)---immiscible-carbon-dioxide-displacement; or  
 14 ----(J)---any-other-method-approved-by-the-department-as-a  
 15 tertiary-recovery-method.  
 16 ----(d)---except-as-provided-in-15-36-121(2), a 3% of state  
 17 severance-tax-on the-total-gross taxable value--of--all--the  
 18 petroleum-and-other-mineral-or-crude-oil production produced  
 19 by--the--person after--the--first-5-barrels, plus the local  
 20 government-severance-tax-of-4.2%--on--all--production--other  
 21 than-interim-production-and-new-production, produced-by from  
 22 a-stripper-well, as-defined-in-15-36-121, that-produces-more  
 23 than--5--barrels--a-day-during-the-period-beginning-April-17  
 24 1989, and-ending-March-31, 1991;  
 25 (e)---a-4.06% local-government-severance-tax-on-the-total

1 gross-taxable-value-of-all-petroleum-and--other--mineral--or  
 2 crude--oil-produced-by-the-person-other-than-interim-and-new  
 3 production-produced-by--a--stripper-well,--as--defined--in  
 4 15-36-121.  
 5 (2)---For purposes of this section, the term "incremental  
 6 petroleum--and--other-mineral-or-crude-oil" means the amount  
 7 of oil, as determined by the department of revenue, to be in  
 8 excess of what would--have--been--produced--by--primary--and  
 9 secondary--methods. The--determination--arrived--at--by-the  
 10 department must be made only after notice--and--hearing--and  
 11 shall--specify--through--the--life--of--a--tertiary-project,  
 12 calendar-year-by--calendar--year, the--combined--amount--of  
 13 primary--and--secondary--production--that--must--be--used-to  
 14 establish the incremental production from each lease or unit  
 15 in a tertiary-recovery project.  
 16 (3)---(a) A local government severance tax is imposed on  
 17 the--gross--value--paid--in-cash-or-apportioned-in-kind-to-a  
 18 nonworking-interest-owner-by-the--operator--or--producer--of  
 19 extracted--marketable-petroleum, other-mineral-or-crude-oil,  
 20 or-natural-gas-subject-to-local-government--severance--taxes  
 21 imposed--under--this-chapter. The local government severance  
 22 tax--on--nonworking--interest--owners--is--computed--at--the  
 23 following rates:  
 24 ----(i)---15% on the gross value paid in cash or apportioned  
 25 in-kind-to--a-nonworking-interest-owner-by-the-operator-or

1 producer-of-extracted-marketable-petroleum-and-other-mineral  
 2 or-crude-oil;  
 3 ----(ii)--17.9%--on--the--gross--value--paid---in---cash---or  
 4 apportioned--in--kind--to-a-nonworking-interest-owner-by-the  
 5 operator-or-producer-of-extracted-or-marketable-natural-gas;  
 6 ----(b)--The--amounts--paid--or--apportioned--in---kind---to  
 7 nonworking---interest--owners--are--exempt--from--the--local  
 8 government-severance-taxes-imposed--under--15-36-121(3)--and  
 9 (4)--and--under--subsections--(1)(a)--through--(1)(e)--of--this  
 10 section;

11 (3)(4)--Nothing--in--this--part--may--be--construed---as  
 12 requiring--laborers--or--employees--hired-or-employed-by-any  
 13 person-to-drill-any-oil or-natural-gas well-or-to-work-in-or  
 14 about-any-oil or-natural-gas well-or-prospect-or-explore-for  
 15 or-do-any-work-for-the-purpose-of-developing-any--petroleum,  
 16 or other--mineral--or--crude-oil, or-natural-gas to-pay-the  
 17 severance-tax, nor may work done or the drilling of--a--well  
 18 or--wells--for--the--purpose-of-prospecting-or-exploring-for  
 19 petroleum, or other-mineral-or-crude oils oil,--or--natural  
 20 gas or--for-the-purpose-of-developing-them-be-considered-to  
 21 be-the-engaging-in-or-carrying-on-of-the--business--If--in  
 22 the-doing-of-any-work, in-the-drilling-of-any-oil or-natural  
 23 gas well, or-in-prospecting, exploring, or-development-work,  
 24 any--merchantable--or-marketable-petroleum, or other-mineral  
 25 or-crude-oil, or-natural-gas in--excess--of--the--quantity

1 required--by--the--person--for--carrying-on-the-operation-is  
 2 produced-sufficient-in-quantity-to-justify-the-marketing--of  
 3 the--petroleum, or other--mineral-or-crude-oil, or-natural  
 4 gas, the--work,--drilling,--prospecting,--exploring,--or  
 5 development--work--is--considered--to-be-the-engaging-in-and  
 6 carrying-on-of-the-business-of-producing-petroleum, or other  
 7 mineral-or-crude-oil, or-natural-gas within--this--state  
 8 within-the-meaning-of-this-section;

9 (4)(5)--Every--person-required-to-pay-the state-or-local  
 10 government severance-tax-under-this-section--shall--pay--the  
 11 tax--in-full-for-his-own-account-and-for-the-account-of-each  
 12 of-the-other-owner-or-owners-of-the-gross-proceeds-in--value  
 13 or--in-kind-of-all-the-marketable-petroleum-or-other-mineral  
 14 or--crude--oil--or--natural--gas--extracted--and--produced,  
 15 including--owner--or--owners--of--working--interest, royalty  
 16 interest,--overriding--royalty--interest,--carried--working  
 17 interest,--net- proceeds--interest, production-payments, and  
 18 all-other-interest-or-interests-owned-or-carved-out--of--the  
 19 total--gross--proceeds--in-value-or-in-kind-of-the-extracted  
 20 marketable-petroleum--or--other--mineral--or--crude--oil--or  
 21 natural-gas, except-that-any-of-the-interests-that-are-owned  
 22 by--the-federal, state, county, or-municipal-governments-are  
 23 exempt-from-taxation-under-this--chapter--Unless--otherwise  
 24 provided--in--a-contract-or-lease, the-pro-rata-share-of-any  
 25 royalty--owner--or--owners--will--be--deducted--from--any

1 settlements--under--the--lease--or--leases--or--division--of  
2 proceeds--orders--or--other--contracts--

3 {6}--For--purposes--of--this--section,--the--following  
4 definitions--apply:

5 ----{a}--"Gross-taxable-value"--means--the--gross--value--of--the  
6 product--as--determined--in--15-36-103--less--the--gross--value--paid  
7 in--cash--or--apportioned--in--kind--to--a--nonworking--interest  
8 owner--by--the--operator--or--producer--of--extracted--marketable  
9 petroleum,--other--mineral--or--crude--oil,--or--natural--gas--

10 ----{b}--"Nonworking--interest--owner"--means--any--interest  
11 owner--who--does--not--share--in--the--development--and--operation  
12 costs--of--the--lease--or--unit, {Subsection--(1)(d)--terminates--on  
13 occurrence--of--contingency--sec--77-Chr--6567-b7-1987--}"

14 SECTION 1. SECTION 15-36-101, MCA, IS AMENDED TO READ:

15 "15-36-101. Definitions and rate of tax -- state  
16 severance tax -- local government severance tax --  
17 assessment-of-nonworking-interest-owner-----exemption. (1)  
18 Every person engaging in or carrying on the business of  
19 producing petroleum, other mineral or crude oil, or natural  
20 gas within this state or engaging in or carrying on the  
21 business of owning, controlling, managing, leasing, or  
22 operating within this state any well or wells from which any  
23 merchantable or marketable petroleum, other mineral or crude  
24 oil, or natural gas is extracted or produced sufficient--in  
25 quantity--to--justify--the--marketing--of--the--same--must shall,

1 except as provided in 15-36-121, each year when engaged in  
2 or carrying on the business in this state pay to the  
3 department of revenue a state severance tax for the  
4 exclusive use and benefit of the state of Montana plus a  
5 local government severance tax in lieu of a tax on net  
6 proceeds for the exclusive use and benefit of local  
7 government. The Except-as-provided-in-subsection--(3),--the  
8 THE state severance tax and the local government severance  
9 tax are computed-at-the-following-rates as follows:

10 (a) except as provided in subsections SUBSECTION  
11 (1)(b), {1}(c), and {1}(d), and--{1}(e), a 5% of state  
12 severance tax on the total gross taxable value of all the  
13 petroleum and other mineral or crude oil produced by the  
14 person, plus the local government severance tax of ~~0.4%~~  
15 8.93% on production the gross taxable value of all the  
16 petroleum and other mineral or crude oil produced by the  
17 person other than interim production and new production,  
18 from each lease or unit; but in determining the amount of  
19 the state severance tax and local government severance tax,  
20 there must be excluded from consideration all petroleum or  
21 other crude or mineral oil produced and used by the person  
22 during the year in connection with his operations in  
23 prospecting for, developing, and producing the petroleum or  
24 crude or mineral oil;

25 (b) a 2.65% of state severance tax on the total gross

1 taxable value of all natural gas produced by the person,  
 2 plus the local government severance tax of 15.25% 16.21% on  
 3 the total gross taxable value of all natural gas production  
 4 produced by the person other than interim production or new  
 5 production, from each lease or unit; but in determining the  
 6 amount of the state severance tax and the local government  
 7 severance tax, there must be excluded from consideration all  
 8 gas produced and used by the person during the year in  
 9 connection with his operations in prospecting for,  
 10 developing, and producing the gas or petroleum or crude or  
 11 mineral oil; and there must also be excluded from  
 12 consideration all gas, including carbon dioxide gas,  
 13 recycled or reinjected into the ground.

14 (c)--a 2.5% of state-severance-tax-on-the-total-gross  
 15 taxable value-of-the-incremental-petroleum-and-other-mineral  
 16 or-crude-oil-produced by-the-person, plus the local  
 17 government-severance-tax-of-4.2% on production the-total  
 18 gross-taxable-value-of-the-incremental-petroleum-and-other  
 19 mineral-or-crude-oil-produced-by-the-person other than  
 20 interim-production-and-new-production, from each lease or  
 21 unit in a tertiary-recovery project after July 1, 1985. For  
 22 purposes of this section, a tertiary-recovery project must  
 23 meet the following requirements:  
 24 ----(i)--the project must be approved as a tertiary-recovery  
 25 project by the department of revenue. The approval may be

1 extended--only--after--notice-and-hearing-in-accordance-with  
 2 Title-2, chapter-4.  
 3 ----(ii)--the property-to-be-affected-by-the-project-must--be  
 4 adequately--delineated--according--to--the--specifications  
 5 required-by-the-department, and  
 6 ----(iii)--the project-must-involve-the-application-of-one-or  
 7 more--tertiary--recovery--methods--that--can--reasonably--be  
 8 expected--to--result--in--an--increase,--determined--by--the  
 9 department-to-be-significant-in-light-of-all-the-facts--and  
 10 circumstances,--in--the--amount--of--crude--oil--which--may  
 11 potentially-be-recovered. For the purpose purposes of--this  
 12 section,--tertiary--recovery--methods--include--but--are-not  
 13 limited-to:  
 14 ----(A)--miscible-fluid-displacement;  
 15 ----(B)--steam-drive-injection;  
 16 ----(C)--micellar/emulsion-flooding;  
 17 ----(D)--in-situ-combustion;  
 18 ----(E)--polymer-augmented-water-flooding;  
 19 ----(F)--cyclic-steam-injection;  
 20 ----(G)--alkaline-or-caustic-flooding;  
 21 ----(H)--carbon-dioxide-water-flooding;  
 22 ----(I)--immiscible-carbon-dioxide-displacement; or  
 23 ----(J)--any-other-method-approved-by-the--department--as--a  
 24 tertiary-recovery-method;  
 25 ----(d)--except--as--provided-in-15-36-121(2), a 3% of state

1 severance tax on the total gross taxable value of all the  
 2 petroleum and other mineral or crude oil production produced  
 3 by the person after the first 5 barrels, plus the local  
 4 government severance tax of 4.2% on all production other  
 5 than interim production and new production, produced by from  
 6 a stripper well, as defined in 15-36-121, that produces more  
 7 than 5 barrels a day during the period beginning April 1,  
 8 1989, and ending March 31, 1991.

9 (e) a 4.2% local government severance tax on the total  
 10 gross taxable value of all petroleum and other mineral or  
 11 crude oil produced by the person other than interim and new  
 12 production produced by a stripper well, as defined in  
 13 15-36-121.

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

25 (3)-(a) A local government severance tax is imposed on

1 the gross value paid in cash or apportioned in kind to a  
 2 nonworking interest owner by the operator or producer of  
 3 extracted marketable petroleum, other mineral or crude oil,  
 4 or natural gas subject to local government severance taxes  
 5 imposed under this chapter. The local government severance  
 6 tax on nonworking interest owners is computed at the  
 7 following rates:

8 ----(i) 12.5% on the gross value paid in cash or  
 9 apportioned in kind to a nonworking interest owner by the  
 10 operator or producer of extracted marketable petroleum and  
 11 other mineral or crude oil,

12 ----(ii) 15.25% on the gross value paid in cash or  
 13 apportioned in kind to a nonworking interest owner by the  
 14 operator or producer of extracted or marketable natural gas.

15 ----(b) The amounts paid or apportioned in kind to  
 16 nonworking interest owners are exempt from the local  
 17 government severance taxes imposed under 15-36-121(3) and  
 18 (4) and under subsections (i)(a) through (i)(e) of this  
 19 section.

20 (3)(4)(3) Nothing in this part may be construed as  
 21 requiring laborers or employees hired or employed by any  
 22 person to drill any oil or natural gas well or to work in or  
 23 about any oil or natural gas well or prospect or explore for  
 24 or do any work for the purpose of developing any petroleum,  
 25 or other mineral or crude oil, or natural gas to pay the

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

18 ~~(4)+(5)~~(4) Every person required to pay the state or  
 19 local government severance tax under this section shall pay  
 20 the tax in full for his own account and for the account of  
 21 each of the other owner or owners of the gross proceeds in  
 22 value or in kind of all the marketable petroleum or other  
 23 mineral or crude oil or natural gas extracted and produced,  
 24 including owner or owners of working interest, royalty  
 25 interest, overriding royalty interest, carried working

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

12 ~~(6)---For---purposes---of---this---section,---the---following~~  
 13 ~~definitions-apply:~~

14 ~~---(a)---"Gross-taxable-value"---means---the---gross-value-of---the~~  
 15 ~~product-as-determined-in-15-36-103-less-the-gross-value-paid~~  
 16 ~~in-cash---or---apportioned---in---kind-to-a-nonworking-interest~~  
 17 ~~owner-by-the-operator-or-producer---of---extracted---marketable~~  
 18 ~~petroleum,---other-mineral-or-crude-oil,---or-natural-gas.~~

19 ~~---(b)---"Nonworking-interest-owner"---means---any---interest~~  
 20 ~~owner---who---does---not-share-in-the-development-and-operation~~  
 21 ~~costs-of-the-lease-or-unit. (Subsection-(1)(d)-terminates-on~~  
 22 ~~occurrence-of-contingency---sec-77-Eh-6567-B7-19877)"~~

23 Section 2. Section 15-36-112, MCA, is amended to read:

24 "15-36-112. Disposition of oil and gas state and local  
 25 government severance taxes -- calculation of unit value for

1 local government severance tax. (1) Each year the department  
2 of revenue shall determine the amount of tax collected under  
3 this chapter from within each school-district taxing unit.

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

8 (a) The unit value for petroleum and other mineral or  
9 crude oil for each district taxing unit is the quotient  
10 obtained by dividing the net proceeds taxes calculated on  
11 petroleum or mineral or crude oil produced in that district  
12 taxing unit in calendar year 1988 by the number of barrels  
13 of petroleum or other mineral or crude oil produced in that  
14 district taxing unit during 1988, excluding new and interim  
15 production.

16 (b) The unit value for natural gas is the quotient  
17 obtained by dividing the net proceeds taxes calculated on  
18 natural gas produced in that district taxing unit in  
19 calendar year 1988 by the number of cubic feet of natural  
20 gas produced in that district taxing unit during 1988,  
21 excluding new and interim production.

22 (3) The state and local government severance taxes  
23 collected under this chapter are allocated as follows:

24 (a) The local government severance tax is statutorily  
25 appropriated, as provided in 17-7-502, for allocation to the

1 county for distribution as provided in subsection  
2 (4)(a)(ii);

3 (b) Any--amount--not--allocated--to--the--county--under  
4 subsection--(3)(a) The state severance tax is allocated to  
5 the state general fund.

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

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

23 (ii) By May 31 of each year, the department shall  
24 calculate and distribute to each eligible county the amount  
25 of local government severance tax, determined by multiplying

unit value as adjusted in this subsection (4)(a) times the units of production on which the local government 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 3. 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.



1     ~~{3}--All the natural gas produced from any well that has~~  
2     ~~produced 60,000 cubic feet or less of natural gas a day for~~  
3     ~~the calendar year prior to the current year shall be taxed~~  
4     ~~as provided in this section. Production must be determined~~  
5     ~~by dividing the amount of production from a lease or~~  
6     ~~unitized area for the year prior to the current calendar~~  
7     ~~year by the number of producing wells in the lease or~~  
8     ~~unitized area and by dividing the resulting quotient by 365.~~  
9     ~~The first 30,000 cubic feet of average daily production per~~  
10    ~~well is exempt from all of the state severance tax imposed~~  
11    ~~by 15-36-101. The first 30,000 cubic feet of average daily~~  
12    ~~production per well is subject to a local government~~  
13    ~~severance tax of 8.72% 7.625%. Everything over 30,000 cubic~~  
14    ~~feet of gas produced is taxed at 11.59% plus a local~~  
15    ~~government severance tax of 7.625% 8.72% 7.625%.~~  
16    ~~----{4}--The first 5 barrels of average daily production~~  
17    ~~from a stripper well are exempt from all of the state~~  
18    ~~severance tax imposed by 15-36-101, except but not from the~~  
19    ~~local government severance tax.~~  
20    ~~----{5}--For the purposes of this section, "stripper well"~~  
21    ~~means a well that produces less than 10 barrels per day,~~  
22    ~~determined by dividing the amount of production from a lease~~  
23    ~~or unitized area for the year prior to the current calendar~~  
24    ~~year by the number of producing wells in the lease or~~  
25    ~~unitized area, and by dividing the resulting quotient by~~

1     365.  
2     ~~----{6}--Notwithstanding the provisions of subsections {2}~~  
3     ~~through {4}, all reporting requirements under the state~~  
4     ~~severance tax remain in effect. (Subsections SUBSECTION (2)~~  
5     ~~and {4} terminate TERMINATES on occurrence of~~  
6     ~~contingency--sec. 7, Ch. 656, L. 1987.)"~~  
7     Section 4. Section 20-9-366, MCA, is amended to read:  
8     "20-9-366. (Effective July 1, 1990) Definitions. As  
9     used in 20-9-366 through 20-9-369, the following definitions  
10    apply:  
11       (1) "County mill value per elementary ANB" or "county  
12       mill value per high school ANB" means the sum of the current  
13       taxable valuation of all property in the county plus the  
14       taxable value of oil and gas net proceeds determined under  
15       15-23-607(4) and FOR PRODUCTION OCCURRING AFTER MARCH 31,  
16       1990, PLUS the taxable value of coal gross proceeds  
17       determined under 15-23-703(3) plus all the taxable value of  
18       nontax nonlevy revenue for the support of schools, other  
19       than Public Law 81-874 funds, divided by 1,000, with the  
20       quotient divided by the total county elementary ANB count or  
21       the total county high school ANB count used to calculate the  
22       elementary school districts' and high school districts'  
23       current year foundation program amounts. The taxable value  
24       of nonlevy revenue for the purpose of computing guaranteed  
25       tax base aid for schools is the amount of nontax nonlevy

1 revenue received by a district in the previous year,  
 2 including for fiscal year 1991 the revenue received in  
 3 fiscal year 1990 from the net proceeds taxation of oil and  
 4 natural gas and including for fiscal year 1992 and  
 5 thereafter the local government severance tax, divided by  
 6 the number of mills levied by the district in the previous  
 7 year, multiplied by 1,000,--divided--by--1,000,--with-the  
 8 quotient-divided-by-the-total-county-elementary-ANB-count-or  
 9 the-total-county-high-school-ANB-count-used-to-calculate-the  
 10 elementary-school--districts'--and--high--school--districts'  
 11 current-year-foundation-program-amounts.

12 (2) "District mill value per ANB" means the current  
 13 taxable valuation of all property in the district plus the  
 14 taxable value of oil and gas net proceeds determined under  
 15 15-23-607(4) and FOR PRODUCTION OCCURRING AFTER MARCH 31,  
 16 1990, PLUS the taxable value of coal gross proceeds  
 17 determined under 15-23-703(3) plus all the taxable value of  
 18 nontax nonlevy revenue for the support of schools, other  
 19 than Public Law 81-874 funds, divided by 1,000, with the  
 20 quotient divided by the ANB count of the district used to  
 21 calculate the district's current year foundation program  
 22 schedule amount. The taxable value of nonlevy revenue for  
 23 the purpose of computing guaranteed tax base aid for schools  
 24 is the amount of nontax nonlevy revenue received by a  
 25 district in the previous year, including for fiscal year

1 1991 the revenue received in fiscal year 1990 from the net  
 2 proceeds taxation of oil and natural gas and including for  
 3 fiscal year 1992 and thereafter the local government  
 4 severance tax, divided by the number of mills levied by the  
 5 district in the previous year, multiplied by 1,000,--divided  
 6 by--1,000,--with-the-quotient-divided-by-the-ANB-count-of-the  
 7 district-used--to--calculate--the--district's--current--year  
 8 foundation-program-schedule-amount.

9 (3) "Guaranteed overschedule general fund budget" means  
 10 that portion of a district's general fund budget in excess  
 11 of the foundation program amount for the district, as  
 12 provided in 20-9-316 through 20-9-321, but not exceeding  
 13 135% of the district's foundation program amount, and which  
 14 excess is authorized under the provisions of 20-9-145 and  
 15 20-9-353.

16 (4) "Statewide mill value per elementary ANB" or  
 17 "statewide mill value per high school ANB" means the sum of  
 18 the current taxable valuation of all property in the state  
 19 plus the taxable value of oil and gas net proceeds  
 20 determined under 15-23-607(4) and FOR PRODUCTION OCCURRING  
 21 AFTER MARCH 31, 1990, PLUS the taxable value of coal gross  
 22 proceeds determined under 15-23-703(3) plus all the taxable  
 23 value of nontax nonlevy revenue for the support of schools,  
 24 other than Public Law 81-874 funds, divided by 1,000, with  
 25 the quotient divided by the total state elementary ANB count

1 or the total state high school ANB count used to calculate  
 2 the elementary school districts' and high school districts'  
 3 current year foundation program amounts. The taxable value  
 4 of nonlevy revenue for the purpose of computing guaranteed  
 5 tax base aid for schools is the amount of nontax nonlevy  
 6 revenue received by a district in the previous year,  
 7 including for fiscal year 1991 the revenue received in  
 8 fiscal year 1990 from the net proceeds taxation of oil and  
 9 natural gas and including for fiscal year 1992 and  
 10 thereafter the local government severance tax, divided by  
 11 the number of mills levied by the district in the previous  
 12 year, multiplied by 1,000--divided--by--1,000,--with-the  
 13 quotient-divided-by-the-total-state-elementary-ANB-count--or  
 14 the--total-state-high-school-ANB-count-used-to-calculate-the  
 15 elementary-school--districts--and--high--school--districts--  
 16 current-year-foundation-program-amounts."

17 NEW SECTION. SECTION 5. REVENUE OVERSIGHT STUDY. THE  
 18 REVENUE OVERSIGHT COMMITTEE SHALL STUDY THE NEW METHODS OF  
 19 TAXING COAL, OIL, AND NATURAL GAS PRODUCTION THAT WERE  
 20 MANDATED BY HOUSE BILL NO. 28, SPECIAL LAWS OF JUNE 1989,  
 21 AND AS AMENDED BY [THIS ACT]. THE COMMITTEE SHALL REPORT ITS  
 22 FINDINGS TO THE 52ND LEGISLATURE.

23 NEW SECTION. Section 6. Severability. If a part of  
 24 [this act] is invalid, all valid parts that are severable  
 25 from the invalid part remain in effect. If a part of [this

1 act] is invalid in one or more of its applications, the part  
 2 remains in effect in all valid applications that are  
 3 severable from the invalid applications.

4 NEW SECTION. Section 7. Effective date. [This act] is  
 5 effective on passage and approval.

6 NEW SECTION. Section 8. Retroactive applicability.  
 7 [Sections--1-and-3 SECTION-2 SECTIONS 1 AND 3] apply APPLIES  
 8 APPLY retroactively, within the meaning of 1-2-109, to all  
 9 local government severance taxes on oil-and OIL AND natural  
 10 gas produced after December 31, 1988.

11 -End-

Free Conference Committee Report  
on Senate Bill 1  
Report No. 1, May 25, 1990

Mr. President and Mr. Speaker:

We, your Free Conference Committee on Senate Bill 1 met and considered:

House Committee on Taxation's report of May 23, 1990 (green sheet) that amended Senate Bill 1 (reference copy -- salmon).

We recommend that Senate Bill 1 (reference copy -- salmon) be amended as follows:

[adopted May 25 at 14:30]

1. Title, line 8.

Following: "~~PRODUCTION,~~"

Insert: "GENERALLY"

Strike: "STATE AND"

2. Title, line 11.

Following: "~~PRODUCTION,~~"

Insert: "IMPOSING A REVENUE NEUTRAL LOCAL GOVERNMENT SEVERANCE  
TAX RATE ON NONWORKING INTEREST OWNERS OF OIL AND NATURAL  
GAS PRODUCTION;"

3. Title, line 20.

Following: "~~WELLS,~~"

Insert: "CLARIFYING THE APPLICATION OF THE LOCAL GOVERNMENT  
SEVERANCE TAX TO NATURAL GAS STRIPPER WELLS; CLARIFYING THE  
LOCAL GOVERNMENT SEVERANCE TAX ON OIL STRIPPER WELLS;"

4. Title, line 23.

Following: "PROVIDING"

Insert: "FOR"

5. Title, line 24.

Following: "COMMITTEE"

Insert: "AND FOR REPORTS TO THE LEGISLATURE BY THE DEPARTMENT OF  
REVENUE"

6. Pages 2 through 26.

Strike: everything following the enacting clause

Insert: "Section 1. Section 15-36-101, MCA, is amended to read:  
"15-36-101. Definitions and rate of tax -- state

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SB1

severance tax -- local government severance tax --  
assessment of nonworking interest owner -- exemption. (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~~ shall,  
except as provided in 15-36-121, each year when engaged in  
or carrying on the business in this state pay to the  
department of revenue a state severance tax for the  
exclusive use and benefit of the state of Montana plus a  
local government severance tax in lieu of a tax on net  
proceeds for the exclusive use and benefit of local  
government. ~~The Except as provided in subsection (3), the~~  
~~state severance tax and the local government severance tax~~  
~~are computed at the following rates as follows:~~

(a) ~~except as provided in subsections (1)(b), (1)(c),~~  
~~and (1)(d), and (1)(e), a 5% of state severance tax on the~~  
total gross taxable value of all the petroleum and other  
mineral or crude oil produced by the person, plus the local  
government severance tax of 8.4% on ~~production the gross~~  
taxable value of all the petroleum and other mineral or  
crude oil produced by the person other than interim  
production and new production, from each lease or unit; but  
in determining the amount of the state severance tax and  
local government severance tax, there must be excluded from  
consideration all petroleum or other crude or mineral oil  
produced and used by the person during the year in  
connection with his operations in prospecting for,  
developing, and producing the petroleum or crude or mineral  
oil;

(b) ~~a 2.65% of state severance tax on the total gross~~  
taxable value of all natural gas produced by the person,  
plus the local government severance tax of 15.25% on the  
total gross taxable value of all natural gas production  
produced by the person other than interim production or new  
production, from each lease or unit; but in determining the  
amount of the state severance tax and the local government  
severance tax, there must be excluded from consideration all  
gas produced and used by the person during the year in  
connection with his operations in prospecting for,  
developing, and producing the gas or petroleum or crude or  
mineral oil; and there must also be excluded from  
consideration all gas, including carbon dioxide gas,  
recycled or reinjected into the ground;

(c) ~~a 2.5% of state severance tax on the total gross~~  
taxable value of the incremental petroleum and other mineral  
or crude oil produced by the person, plus the local  
government severance tax of ~~4.2%~~ 5% on ~~production the total~~  
gross taxable value of the incremental petroleum and other

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mineral or crude oil produced by the person other than interim production and new production, from each lease or unit in a tertiary recovery project after July 1, 1985. For purposes of this section, a tertiary recovery project must meet the following requirements:

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

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

(iii) the project must involve the application of one or more tertiary recovery methods that can reasonably be expected to result in an increase, determined by the department to be significant in light of all the facts and circumstances, in the amount of crude oil which may potentially be recovered. ~~For the purpose~~ purposes of this section, tertiary recovery methods include but are not limited to:

- (A) miscible fluid displacement;
- (B) steam drive injection;
- (C) micellar/emulsion flooding;
- (D) in situ combustion;
- (E) polymer augmented water flooding;
- (F) cyclic steam injection;
- (G) alkaline or caustic flooding;
- (H) carbon dioxide water flooding;
- (I) immiscible carbon dioxide displacement; or
- (J) any other method approved by the department as a tertiary recovery method.

(d) except as provided in 15-36-121(2), a 3% of state severance tax on the total gross taxable value of all the petroleum and other mineral or crude oil production produced by the person after the first 5 barrels, plus the local government severance tax of 4.2% on all production other than interim production and new production, produced by from a stripper well, as defined in 15-36-121, that produces more than 5 barrels a day during the period beginning April 1, 1989, and ending March 31, 1991;

(e) a 5% local government severance tax on the total gross taxable value of all petroleum and other mineral or crude oil produced by the person other than interim and new production produced by a stripper well, as defined in 15-36-121.

(2) For purposes of this section, the term "incremental petroleum and other mineral or crude oil" means the amount of oil, as determined by the department of revenue, to be in excess of what would have been produced by primary and secondary methods. The determination arrived at by the department must be made only after notice and hearing and shall specify through the life of a tertiary project, calendar year by calendar year, the combined amount of

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primary and secondary production that must be used to establish the incremental production from each lease or unit in a tertiary recovery project.

(3) (a) A local government severance tax is imposed on the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum, other mineral or crude oil, or natural gas subject to local government severance taxes imposed under this chapter. The local government severance tax on nonworking interest owners is computed at the following rates:

(i) 12.5% on the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum and other mineral or crude oil;

(ii) 15.25% on the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted or marketable natural gas.

(b) The amounts paid or apportioned in kind to nonworking interest owners are exempt from the local government severance taxes imposed under 15-36-121(3) and (4) and under subsections (1)(a) through (1)(e) of this section.

~~(3)~~(4) Nothing in this part may be construed as requiring laborers or employees hired or employed by any person to drill any oil or natural gas well or to work in or about any oil or natural gas well or prospect or explore for or do any work for the purpose of developing any petroleum, or other mineral or crude oil, or natural gas to pay the severance tax, nor may work done or the drilling of a well or wells for the purpose of prospecting or exploring for petroleum, or other mineral or crude oil, or natural gas or for the purpose of developing them be considered to be the engaging in or carrying on of the business. If, in the doing of any work, in the drilling of any oil or natural gas well, or in prospecting, exploring, or development work, any merchantable or marketable petroleum, or other mineral or crude oil, or natural gas in excess of the quantity required by the person for carrying on the operation is produced sufficient in quantity to justify the marketing of the petroleum, or other mineral or crude oil, or natural gas, the work, drilling, prospecting, exploring, or development work is considered to be the engaging in and carrying on of the business of producing petroleum, or other mineral or crude oil, or natural gas within this state within the meaning of this section.

~~(4)~~(5) Every person required to pay the state or local government severance tax under this section shall pay the tax in full for his own account and for the account of each of the other owner or owners of the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude oil or natural gas extracted and produced, including owner or owners of working interest, royalty

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interest, overriding royalty interest, carried working interest, net proceeds interest, production payments, and all other interest or interests owned or carved out of the total gross proceeds in value or in kind of the extracted marketable petroleum or other mineral or crude oil or natural gas, except that any of the interests that are owned by the federal, state, county, or municipal governments are exempt from taxation under this chapter. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners will be deducted from any settlements under the lease or leases or division of proceeds orders or other contracts.

(6) For purposes of this section, the following definitions apply:

(a) "Gross taxable value" means the gross value of the product as determined in 15-36-103 less the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum, other mineral or crude oil, or natural gas.

(b) "Nonworking interest owner" means any interest owner who does not share in the development and operation costs of the lease or unit. (Subsection (1)(d) terminates on occurrence of contingency--sec. 7, Ch. 656, L. 1987.)"

Section 2. Section 15-36-112, MCA, is amended to read:

"15-36-112. Disposition of oil and gas state and local government 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, excluding new and interim production.

(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, excluding new and interim production.

(3) The state and local government 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) ~~(i)~~~~;

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6.  
(b) ~~Any amount not allocated to the county under subsection (3)(a)~~ The state severance tax is allocated to the state general fund.

(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 the local government 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 the local government 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

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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 3. 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 10%. Everything over 30,000 cubic feet of gas produced is taxed at 1.59% plus a local government severance tax of ~~7.625%~~ 10%.

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

"20-9-366. (Effective July 1, 1990) Definitions. As

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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) for production occurring after March 31, 1990, plus 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) for production occurring after March 31, 1990, plus 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 ANB count of the district used to calculate the district's current year foundation program schedule amount. 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

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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) for production occurring after March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of ~~non~~tax 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 ~~non~~tax 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 5. Revenue oversight study -- reports by department of revenue. (1) The revenue oversight committee shall study the new methods of taxing coal, oil, and natural gas production that were mandated by House Bill No. 28, Special Laws of June 1989, and amended by [this act]. The committee shall report its findings to the 52nd legislature.

(2) The department of revenue shall report to the 52nd legislature and to the 53rd legislature on any conversion of nonworking interest owner taxpayer status to operator taxpayer status.

NEW SECTION. Section 6. 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 7. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 8. Retroactive applicability. [Sections 1 and 3] apply retroactively, within the meaning of 1-2-109, to all local government severance taxes on oil and natural gas produced after December 31, 1988."

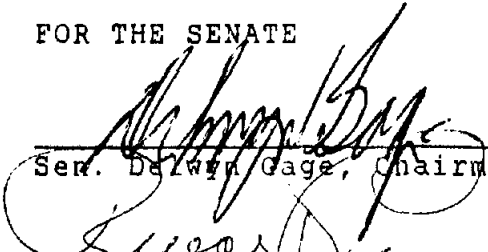
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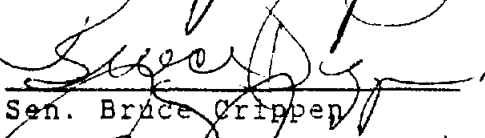
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10.  
And that this Conference Committee Report be adopted.

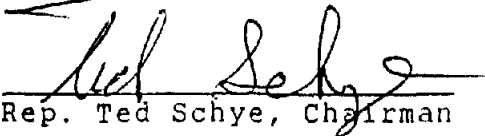
FOR THE SENATE

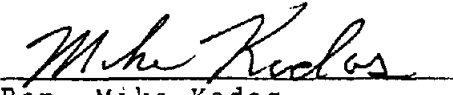
  
Sen. Darwyn Gage, Chairman


  
Sen. Bruce Crippen

  
Sen. Joe Mazurek

FOR THE HOUSE

  
Rep. Ted Schye, Chairman

  
Rep. Mike Kadas

  
Rep. John Patterson

ADOPT

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SENATE BILL NO. 1

INTRODUCED BY GAGE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING--OIL--AND  
NATURAL-GAS-LOCAL-GOVERNMENT-SEVERANCE-TAX-RATES;--IMPOSING-A  
REVENUE--NEUTRAL--LOCAL--GOVERNMENT--SEVERANCE--TAX--RATE-ON  
NONWORKING--INTEREST--OWNERS--OF---OIL---AND---NATURAL---GAS  
PRODUCTION; GENERALLY REVISING OIL AND NATURAL GAS STATE-AND  
LOCAL GOVERNMENT SEVERANCE TAX RATES; IMPOSING-A-REVENUE  
NEUTRAL-LOCAL-GOVERNMENT-SEVERANCE-TAX-RATE-ON--NONWORKING  
INTEREST--OWNERS-OF-OIL-AND-NATURAL-GAS-PRODUCTION; IMPOSING  
A REVENUE NEUTRAL LOCAL GOVERNMENT SEVERANCE TAX RATE ON  
NONWORKING INTEREST OWNERS OF OIL AND NATURAL GAS  
PRODUCTION; 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--THE--LOCAL  
GOVERNMENT--SEVERANCE--TAX-ON-OIL-STRIPPER-WELLS; CLARIFYING  
THE-LOCAL-GOVERNMENT-SEVERANCE-TAX-ON--OIL--STRIPPER--WELLS;  
CLARIFYING THE APPLICATION OF THE LOCAL GOVERNMENT SEVERANCE  
TAX TO NATURAL GAS STRIPPER WELLS; CLARIFYING THE LOCAL  
GOVERNMENT SEVERANCE TAX ON OIL 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;  
PROVIDING FOR A STUDY OF THE FLAT TAX SYSTEM BY THE REVENUE  
OVERSIGHT COMMITTEE AND FOR REPORTS TO THE LEGISLATURE BY  
THE DEPARTMENT OF REVENUE; AMENDING SECTIONS 15-36-101;  
15-36-101, 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:

(Refer to Reference Bill)

Strike everything after the enacting clause and insert:

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

"15-36-101. Definitions and rate of tax -- state  
severance tax -- local government severance tax --  
assessment of nonworking interest owner -- exemption. (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 shall,

1 except as provided in 15-36-121, each year when engaged in  
 2 or carrying on the business in this state pay to the  
 3 department of revenue a state severance tax for the  
 4 exclusive use and benefit of the state of Montana plus a  
 5 local government severance tax in lieu of a tax on net  
 6 proceeds for the exclusive use and benefit of local  
 7 government. The Except as provided in subsection (3), the  
 8 state severance tax and the local government severance tax  
 9 are computed at the following rates as follows:

10 (a) except as provided in subsections (1)(b), (1)(c),  
 11 and (1)(d), and (1)(e), a 5% of state severance tax on the  
 12 total gross taxable value of all the petroleum and other  
 13 mineral or crude oil produced by the person, plus the local  
 14 government severance tax of 8.4% on production the gross  
 15 taxable value of all the petroleum and other mineral or  
 16 crude oil produced by the person other than interim  
 17 production and new production, from each lease or unit; but  
 18 in determining the amount of the state severance tax and  
 19 local government severance tax, there must be excluded from  
 20 consideration all petroleum or other crude or mineral oil  
 21 produced and used by the person during the year in  
 22 connection with his operations in prospecting for,  
 23 developing, and producing the petroleum or crude or mineral  
 24 oil;

25 (b) a 2.65% of state severance tax on the total gross

1 taxable value of all natural gas produced by the person,  
 2 plus the local government severance tax of 15.25% on the  
 3 total gross taxable value of all natural gas production  
 4 produced by the person other than interim production or new  
 5 production, from each lease or unit; but in determining the  
 6 amount of the state severance tax and the local government  
 7 severance tax, there must be excluded from consideration all  
 8 gas produced and used by the person during the year in  
 9 connection with his operations in prospecting for,  
 10 developing, and producing the gas or petroleum or crude or  
 11 mineral oil; and there must also be excluded from  
 12 consideration all gas, including carbon dioxide gas,  
 13 recycled or reinjected into the ground;

14 (c) a 2.5% of state severance tax on the total gross  
 15 taxable value of the incremental petroleum and other mineral  
 16 or crude oil produced by the person, plus the local  
 17 government severance tax of ~~4.2%~~ 5% on production the total  
 18 gross taxable value of the incremental petroleum and other  
 19 mineral or crude oil produced by the person other than  
 20 interim production and new production, from each lease or  
 21 unit in a tertiary recovery project after July 1, 1985. For  
 22 purposes of this section, a tertiary recovery project must  
 23 meet the following requirements:

24 (i) the project must be approved as a tertiary recovery  
 25 project by the department of revenue. The approval may be

1 extended only after notice and hearing in accordance with  
2 Title 2, chapter 4.

3 (ii) the property to be affected by the project must be  
4 adequately delineated according to the specifications  
5 required by the department; and

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

- 14 (A) miscible fluid displacement;
- 15 (B) steam drive injection;
- 16 (C) micellar/emulsion flooding;
- 17 (D) in situ combustion;
- 18 (E) polymer augmented water flooding;
- 19 (F) cyclic steam injection;
- 20 (G) alkaline or caustic flooding;
- 21 (H) carbon dioxide water flooding;
- 22 (I) immiscible carbon dioxide displacement; or
- 23 (J) any other method approved by the department as a  
24 tertiary recovery method.
- 25 (d) except as provided in 15-36-121(2), a 3% of state

1 severance tax on the total gross taxable value of all the  
2 petroleum and other mineral or crude oil production produced  
3 by the person after the first 5 barrels, plus the local  
4 government severance tax of 4.2% on all production other  
5 than interim production and new production, produced by from  
6 a stripper well, as defined in 15-36-121, that produces more  
7 than 5 barrels a day during the period beginning April 1,  
8 1989, and ending March 31, 1991;

9 (e) a 5% local government severance tax on the total  
10 gross taxable value of all petroleum and other mineral or  
11 crude oil produced by the person other than interim and new  
12 production produced by a stripper well, as defined in  
13 15-36-121.

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

25 (3) (a) A local government severance tax is imposed on



1 the gross value paid in cash or apportioned in kind to a  
 2 nonworking interest owner by the operator or producer of  
 3 extracted marketable petroleum, other mineral or crude oil,  
 4 or natural gas subject to local government severance taxes  
 5 imposed under this chapter. The local government severance  
 6 tax on nonworking interest owners is computed at the  
 7 following rates:

8 (i) 12.5% on the gross value paid in cash or  
 9 apportioned in kind to a nonworking interest owner by the  
 10 operator or producer of extracted marketable petroleum and  
 11 other mineral or crude oil;

12 (ii) 15.25% on the gross value paid in cash or  
 13 apportioned in kind to a nonworking interest owner by the  
 14 operator or producer of extracted or marketable natural gas.

15 (b) The amounts paid or apportioned in kind to  
 16 nonworking interest owners are exempt from the local  
 17 government severance taxes imposed under 15-36-121(3) and  
 18 (4) and under subsections (1)(a) through (1)(e) of this  
 19 section.

20 {3}{4} Nothing in this part may be construed as  
 21 requiring laborers or employees hired or employed by any  
 22 person to drill any oil or natural gas well or to work in or  
 23 about any oil or natural gas well or prospect or explore for  
 24 or do any work for the purpose of developing any petroleum,  
 25 or other mineral or crude oil, or natural gas to pay the

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

18 {4}{5} Every person required to pay the state or local  
 19 government severance tax under this section shall pay the  
 20 tax in full for his own account and for the account of each  
 21 of the other owner or owners of the gross proceeds in value  
 22 or in kind of all the marketable petroleum or other mineral  
 23 or crude oil or natural gas extracted and produced,  
 24 including owner or owners of working interest, royalty  
 25 interest, overriding royalty interest, carried working

interest, net proceeds interest, production payments, and all other interest or interests owned or carved out of the total gross proceeds in value or in kind of the extracted marketable petroleum or other mineral or crude oil or natural gas, except that any of the interests that are owned by the federal, state, county, or municipal governments are exempt from taxation under this chapter. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners will be deducted from any settlements under the lease or leases or division of proceeds orders or other contracts.

(6) For purposes of this section, the following definitions apply:

(a) "Gross taxable value" means the gross value of the product as determined in 15-36-103 less the gross value paid in cash or apportioned in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum, other mineral or crude oil, or natural gas.

(b) "Nonworking interest owner" means any interest owner who does not share in the development and operation costs of the lease or unit. (Subsection (1)(d) terminates on occurrence of contingency--sec. 7, Ch. 656, L. 1987.)"

Section 2. Section 15-36-112, MCA, is amended to read:

"15-36-112. Disposition of oil and gas state and local government 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 ~~15-36-103~~ 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, excluding new and interim production.

(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, excluding new and interim production.

(3) The state and local government 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

1 county for distribution as provided in subsection  
2 (4)(a)(iii);

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

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

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

23 (ii) By May 31 of each year, the department shall  
24 calculate and distribute to each eligible county the amount  
25 of local government severance tax, determined by multiplying

1 unit value as adjusted in this subsection (4)(a) times the  
2 units of production on which the local government severance  
3 tax was owed during the 2 calendar quarters immediately  
4 following those quarters referred to in subsection  
5 (4)(a)(i).

6 (b) Any amount by which the total tax liability exceeds  
7 or is less than the total distributions determined in  
8 subsections (4)(a)(i) and (4)(a)(ii) must be calculated and  
9 distributed in the following manner:

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

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

22 (iii) The shortage percentage must be multiplied by the  
23 distribution to each taxing unit, and this amount must be  
24 subtracted from the distribution to each respective taxing  
25 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 3. 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 10%. Everything over 30,000 cubic feet of gas produced is taxed at 1.59% plus a local government severance tax of ~~7-625%~~ 10%.

(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

1 365.

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

7 Section 4. Section 20-9-366, MCA, is amended to read:

8 "20-9-366. (Effective July 1, 1990) Definitions. As  
9 used in 20-9-366 through 20-9-369, the following definitions  
10 apply:

11 (1) "County mill value per elementary ANB" or "county  
12 mill value per high school ANB" means the sum of the current  
13 taxable valuation of all property in the county plus the  
14 taxable value of oil and gas net proceeds determined under  
15 15-23-607(4) for production occurring after March 31, 1990,  
16 plus the taxable value of coal gross proceeds determined  
17 under 15-23-703(3) plus all the taxable value of nontax  
18 nonlevy revenue for the support of schools, other than  
19 Public Law 81-874 funds, divided by 1,000, with the quotient  
20 divided by the total county elementary ANB count or the  
21 total county high school ANB count used to calculate the  
22 elementary school districts' and high school districts'  
23 current year foundation program amounts. The taxable value  
24 of nonlevy revenue for the purpose of computing guaranteed  
25 tax base aid for schools is the amount of nontax nonlevy

1 revenue received by a district in the previous year,  
2 including for fiscal year 1991 the revenue received in  
3 fiscal year 1990 from the net proceeds taxation of oil and  
4 natural gas and including for fiscal year 1992 and  
5 thereafter the local government severance tax, divided by  
6 the number of mills levied by the district in the previous  
7 year, multiplied by 1,000,--divided--by--1,000,--with-the  
8 quotient-divided-by-the-total-county-elementary-ANB-count-or  
9 the-total-county-high-school-ANB-count-used-to-calculate-the  
10 elementary-school--districts'--and--high--school--districts'  
11 current-year-foundation-program-amounts.

12 (2) "District mill value per ANB" means the current  
13 taxable valuation of all property in the district plus the  
14 taxable value of oil and gas net proceeds determined under  
15 15-23-607(4) for production occurring after March 31, 1990,  
16 plus the taxable value of coal gross proceeds determined  
17 under 15-23-703(3) plus all the taxable value of nontax  
18 nonlevy revenue for the support of schools, other than  
19 Public Law 81-874 funds, divided by 1,000, with the quotient  
20 divided by the ANB count of the district used to calculate  
21 the district's current year foundation program schedule  
22 amount. The taxable value of nonlevy revenue for the purpose  
23 of computing guaranteed tax base aid for schools is the  
24 amount of nontax nonlevy revenue received by a district in  
25 the previous year, including for fiscal year 1991 the

1 revenue received in fiscal year 1990 from the net proceeds  
 2 taxation of oil and natural gas and including for fiscal  
 3 year 1992 and thereafter the local government severance tax,  
 4 divided by the number of mills levied by the district in the  
 5 previous year, multiplied by 1,000, divided by 1,000, with  
 6 the quotient divided by the ANB count of the district used  
 7 to calculate the district's current year foundation program  
 8 schedule amount.

9 (3) "Guaranteed overschedule general fund budget" means  
 10 that portion of a district's general fund budget in excess  
 11 of the foundation program amount for the district, as  
 12 provided in 20-9-316 through 20-9-321, but not exceeding  
 13 135% of the district's foundation program amount, and which  
 14 excess is authorized under the provisions of 20-9-145 and  
 15 20-9-353.

16 (4) "Statewide mill value per elementary ANB" or  
 17 "statewide mill value per high school ANB" means the sum of  
 18 the current taxable valuation of all property in the state  
 19 plus the taxable value of oil and gas net proceeds  
 20 determined under 15-23-607(4) for production occurring after  
 21 March 31, 1990, plus the taxable value of coal gross  
 22 proceeds determined under 15-23-703(3) plus all the taxable  
 23 value of nontax nonlevy revenue for the support of schools,  
 24 other than Public Law 81-874 funds, divided by 1,000, with  
 25 the quotient divided by the total state elementary ANB count

1 or the total state high school ANB count used to calculate  
 2 the elementary school districts' and high school districts'  
 3 current year foundation program amounts. The taxable value  
 4 of nonlevy revenue for the purpose of computing guaranteed  
 5 tax base aid for schools is the amount of nontax nonlevy  
 6 revenue received by a district in the previous year,  
 7 including for fiscal year 1991 the revenue received in  
 8 fiscal year 1990 from the net proceeds taxation of oil and  
 9 natural gas and including for fiscal year 1992 and  
 10 thereafter the local government severance tax, divided by  
 11 the number of mills levied by the district in the previous  
 12 year, multiplied by 1,000, divided by 1,000, with the  
 13 quotient divided by the total state elementary ANB count or  
 14 the total state high school ANB count used to calculate the  
 15 elementary school districts' and high school districts'  
 16 current year foundation program amounts."

17 NEW SECTION. Section 5. Revenue oversight study --  
 18 reports by department of revenue. (1) The revenue oversight  
 19 committee shall study the new methods of taxing coal, oil,  
 20 and natural gas production that were mandated by House Bill  
 21 No. 28, Special Laws of June 1989, and amended by [this  
 22 act]. The committee shall report its findings to the 52nd  
 23 legislature.

24 (2) The department of revenue shall report to the 52nd  
 25 legislature and to the 53rd legislature on any conversion of

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1 nonworking interest owner taxpayer status to operator  
2 taxpayer status.

3 NEW SECTION. Section 6. Severability. If a part of  
4 [this act] is invalid, all valid parts that are severable  
5 from the invalid part remain in effect. If a part of [this  
6 act] is invalid in one or more of its applications, the part  
7 remains in effect in all valid applications that are  
8 severable from the invalid applications.

9 NEW SECTION. Section 7. Effective date. [This act] is  
10 effective on passage and approval.

11 NEW SECTION. Section 8. Retroactive applicability.  
12 [Sections 1 and 3] apply retroactively, within the meaning  
13 of 1-2-109, to all local government severance taxes on oil  
14 and natural gas produced after December 31, 1988.

15 -End-