Senate BILL NO. 4

INTRODUCED BY

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; AMENDING SECTION 15-36-101, 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% 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,

INTRODUCED BILL
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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 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 4.2% 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 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 ~~oils~~ 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.

(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.)"

NEW SECTION. Section 2. 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 3. **Effective date.** [This act] is effective on passage and approval.

NEW SECTION. Section 4. **Retroactive applicability.** [Section 1] applies retroactively, within the meaning of 1-2-109, to all local government severance taxes on oil and natural gas produced after December 31, 1988.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15
In compliance with a written request, there is hereby submitted a Fiscal Note for SB0004 , 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; 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 $29,325,000 based on 1989 production for fiscal year 1991 because the correction of the 30 MCF gas exemptions is not contained in the bill.
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.

FISCAL IMPACT:
The proposal would have decreased revenues on 1987 production by approximately $1.851 million. The net proceeds system produced revenues of $40.385 million on 1987 oil and gas production. The proposal would have generated $38.534 million on that production. (Assuming the 30 MCF exemption is corrected by other legislation the proposal would have increased revenues on 1987 production by $77,000).

Revenue Impact:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Local Gov. Sev. Tax	$ 0	$ 0	$ 0	$ 27,662,000	$ 29,325,000	$ 1,663,000

(Assuming the 30 MCF exemption is corrected by other legislation, the proposal would increase FY91 revenues by $4,153,000).

Fund Distribution:						
University Levy	0	0	0	879,000	932,000	53,000
School Equalization	0	0	0	6,592,000	6,988,000	396,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The proposal will increase revenues to the counties and local schools by $1,214,000.

W. David Darby DATE 5/23/90
W. DAVID DARBY, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

Delwyn Gage DATE 5/23/90
DELWYN GAGE, PRIMARY SPONSOR

Fiscal Note for SB0004, as introduced
SB 4

1989 PRODUCTION-ESTIMATED LGST COUNTY IMPACT
30 MCF EXEMPTION

SB4-1
MAY 22, 1990

	OIL RATE	GAS RATES
REGULAR NON-ROYALTY	8.40%	15.25%
STRIPPER NON-ROYALTY	4.20%	7.625%
REGULAR ROYALTY	12.50%	15.25%
STRIPPER ROYALTY	12.50%	15.25%

COUNTY	1989 BARRELLS	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	$28,225	0	$0	$28,225	$29,568	($1,343)
BLAINE	159,324	$145,646	6,341,430	$1,729,798	$1,875,444	$1,880,158	($4,714)
CARBON	581,151	$1,069,120	825,876	$218,075	$1,287,196	$1,200,669	$86,527
CARTER	5,946	$0	0	$0	$0	$0	$0
CHOUTEAU	0	$0	797,944	$166,177	$166,177	$158,278	$7,899
CUSTER	0	$0	37,392	$25,088	$25,088	$26,384	($1,296)
DANIELS	2,756	$0	0	$0	$0	$0	$0
DAWSON	242,300	$508,869	17,944	$539	$509,408	$465,660	$43,748
FALLON	4,489,599	$6,536,231	42,281	$12,214	$6,548,445	$6,100,626	$447,819
FERGUS	0	$0	39,730	$9,668	$9,668	$10,644	($976)
GARFIELD	40,650	$56,794	0	$0	$56,794	$53,019	$3,775
GLACIER	947,925	$1,603,027	1,631,267	$429,362	$2,032,389	$1,908,307	$124,082
GOLDEN VALLEY	3,704	$544	40,202	$8,058	$8,602	$9,359	($757)
HILL	1,241	$991	3,981,007	$1,527,117	$1,528,108	$1,582,344	($54,236)
LIBERTY	183,249	$344,159	917,127	$166,696	$510,855	$467,218	$43,636
MCCONE	44,011	$98,880	0	$0	$98,880	$90,214	$8,666
MUSSELSHELL	600,253	$946,573	0	$0	$946,573	$877,669	$68,904
PETROLEUM	61,593	$101,290	0	$0	$101,290	$93,706	$7,584
PHILLIPS	0	$0	1,474,890	$420,460	$420,460	$410,600	$9,860
PONDERA	251,557	$477,622	60,459	$10,861	$488,484	$448,451	$40,033
POWDER RIVER	661,445	$1,114,815	0	$0	$1,114,815	$1,030,012	$84,804
PRAIRIE	53,540	$48,598	0	$0	$48,598	$46,857	$1,740
RICHLAND	2,694,375	$3,417,162	841,613	$67,489	$3,484,651	$3,254,948	$229,703
ROOSEVELT	1,419,430	$2,354,220	297,973	$15,342	$2,369,562	$2,184,629	$184,933
ROSEBUD	533,156	$311,658	0	$0	$311,658	$315,391	($3,733)
SHERIDAN	1,984,285	$2,829,943	505,290	$37,383	$2,867,326	$2,662,781	$204,545
STILLWATER	0	$0	149,936	$46,587	$46,587	$45,827	$759
TETON	111,675	$130,494	2,747	$55	$130,550	$123,325	$7,225
TOOLE	584,052	$649,833	2,628,152	$431,425	$1,081,258	$1,010,020	$71,238
VALLEY	294,874	$129,090	12,414	$4,655	$133,746	$141,273	($7,527)
WIBAUX	899,469	$1,024,786	0	$0	$1,024,786	$969,989	$54,797
YELLOWSTONE	42,081	$70,106	0	$0	$70,106	$64,564	$5,542
	16,954,373	$23,998,677	20,645,674	$5,327,049	$29,325,726	$27,662,491	$1,663,235

SB4

51st Legislature
Special Session 5/90

LC 0018/01

APPROVED BY COMMITTEE
ON TAXATION

Senate BILL NO. 4

INTRODUCED BY [illegible]

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THERE ARE NO CHANGES IN SB 4
PLEASE REFER TO INTRODUCED COPY
FOR COMPLETE TEXT.

SECOND READING
SB 4