HOUSE BILL 322

Introduced by Feland

1/22	Introduced
1/22	Referred to Taxation
1/22	First Reading
1/22	Fiscal Note Requested
1/26	Fiscal Note Received
1/27	Fiscal Note Printed
1/29	Hearing
3/19	Committee Report--Bill Passed as Amended
3/27	2nd Reading Passed
3/30	3rd Reading Passed
	Transmitted to Senate
4/01	First Reading
4/01	Referred to Taxation
4/06	Hearing
4/08	Committee Report--Bill Concurred as Amended
4/12	2nd Reading Concur Motion Failed
4/12	2nd Reading Indefinitely Postponed (Bill Returned to the House)
4/13	Reconsidered Previous Action and Placed on 2nd Reading
4/14	(House Returned Bill to Senate at Senate's Request)
4/15	2nd Reading Concurred as Amended
4/15	3rd Reading Concurred
	Returned to House with Amendments
4/16	2nd Reading Amendments Not Concurred
4/17	Conference Committee Appointed
	Senate
4/20	Conference Committee Appointed Died in Process

House BILL NO. 322

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING STRIPPER OIL PRODUCTION FROM THE STATE SEVERANCE TAX IF THE AVERAGE PRICE PER BARREL OF OIL RECEIVED DURING A CALENDAR QUARTER IS LESS THAN $25; AMENDING SECTIONS 15-36-101 AND 15-36-121, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN 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 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. Except as provided in subsection (3), the state severance tax and the local government severance tax are as follows:

(a) except as provided in subsections (1)(b), (1)(c), and (1)(d), a 5% state severance tax on the 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 the gross taxable value, as defined in subsection (6)(a)(ii), of all the petroleum and other mineral or crude oil produced by the person other than 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% state severance tax on the gross taxable value of all natural gas produced by the person, plus the local government severance tax of 15.25% on the gross taxable value, as defined in subsection (6)(a)(ii), of all natural gas produced by the person other than new production, from each lease or unit; but in determining the amount of the state severance tax and the local government

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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% state severance tax on the gross taxable value of the incremental petroleum and other mineral or crude oil produced by the person, plus the local government severance tax of 5% on the gross taxable value, as defined in subsection (6)(a)(ii), of the incremental petroleum and other mineral or crude oil produced by the person other than 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 board of oil and gas conservation. 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 board; 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 board to be significant in light of all the facts and circumstances, in the amount of crude oil which may potentially be recovered. For 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, a 5% local government severance tax on the gross taxable value, as defined in subsection (6)(a)(ii), of all petroleum and other mineral or crude oil produced by the person other than new production ~~produced--by~~ from a stripper well, as defined in subsection (7).

(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 board, to be in excess of what would have been produced by primary and secondary methods. The determination arrived at by the board 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(2) and under subsections (1)(a) through (1)(d) of this section.

(4) ~~Nothing in this~~ This part may not 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, 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, 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, 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, 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, other mineral or crude oil, or natural gas within this state within the meaning of this section.

(5) Every person required to pay the state or local government severance tax under this section shall pay the tax in full for ~~his~~ the person's 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) (i) "Gross taxable value", for the purpose of computing the state severance tax, means the gross value of the product as determined in 15-36-103.

(ii) "Gross taxable value", for the purpose of computing the local government severance tax, 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.

(7) For the purposes of this section, "stripper well" means a well that produces less than 10 barrels a 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."

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

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

(2) All 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~~ must 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% on the gross taxable value, as defined in 15-36-101(6)(a)(ii). Everything over 30,000 cubic feet of gas produced is taxed at 1.59% on the gross taxable value for the state severance tax plus a local government severance tax of 10% on the gross taxable value, as defined in 15-36-101(6)(a)(ii).

(3) (a) All petroleum and other mineral or crude oil produced by a stripper well is exempt from the state severance tax imposed by 15-36-101(1)(d), but not from the local government severance tax, if the average price per barrel received during a quarter from production occurring on a lease or unitized area located in this state is less than $25 per barrel.

(b) The average price per barrel must be computed by

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dividing the total gross value of product received from all petroleum and other mineral or crude oil sold in the quarter from the lease or unitized area in which stripper production occurs by the number of barrels sold in the quarter from the lease or unitized area in which stripper production occurs.

~~(3)~~(4) Notwithstanding the provisions of ~~subsection~~ subsections (2) and (3), all reporting requirements under the state severance tax remain in effect."

NEW SECTION. **Section 3.** Effective date -- applicability. [This act] is effective July 1, 1993, and applies to all oil produced during the quarters beginning on or after July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15
In compliance with a written request, there is hereby submitted a Fiscal Note for HB0322, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act exempting stripper oil production from the state severance tax if the average price per barrel of oil received during a calendar quarter is less than $25; and providing an effective date and an applicability date.

ASSUMPTIONS:
1. Oil severance tax collections will be $15,160,000 in FY94 and $15,328,000 in FY95 (ROC).
2. Montana oil price per barrel will be $16.82 in FY94 and $16.32 in FY95 (ROC).
3. "Stripper" oil production is approximately 10.81% of total oil production for severance tax purposes (MDOR).
4. Revenue attributable to a particular fiscal year that is received within 60 days of the close of that fiscal year is accrued as a receipt of that fiscal year (MDOR).

FISCAL IMPACT:

Expenditures:
Given the oil price assumptions for the biennium, there are no Department of Revenue expenditures under the proposed legislation. However, should the price of oil approach $25 per barrel, the department would incur administrative expense in order to monitor taxpayer compliance with the conditions for tax exemption contained in the proposed legislation.

Revenues:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Oil Severance Tax	15,160,000	13,520,000	(1,640,000)	15,328,000	13,670,000	(1,658,000)

Net Impact:

General Fund	15,160,000	13,520,000	(1,640,000)	15,328,000	13,670,000	(1,658,000)

Dave Lewis 1-26-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Gary Feland 1-27-93
GARY FELAND, ~~PRIMARY~~ SPONSOR DATE

Fiscal Note for HB0322, as introduced

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APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 322

INTRODUCED BY FELAND

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING THE FIRST THREE BARRELS A DAY OF STRIPPER OIL PRODUCTION FROM THE STATE SEVERANCE TAX ~~IF THE AVERAGE PRICE PER BARREL OF OIL RECEIVED DURING A CALENDAR QUARTER IS LESS THAN $25~~; AMENDING SECTIONS 15-36-101 AND 15-36-121, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN 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 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. Except as provided in subsection (3), the state severance tax and the local government severance tax are as follows:

(a) except as provided in 15-36-121 AND IN subsections (1)(b), (1)(c), and (1)(d) OF THIS SECTION, a 5% state severance tax on the 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 the gross taxable value, as defined in subsection (6)(a)(ii), of all the petroleum and other mineral or crude oil produced by the person other than 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% state severance tax on the gross taxable value of all natural gas produced by the person, plus the local government severance tax of 15.25% on the gross taxable value, as defined in subsection (6)(a)(ii), of all natural gas produced by the person other than new

SECOND READING

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% state severance tax on the gross taxable value of the incremental petroleum and other mineral or crude oil produced by the person, plus the local government severance tax of 5% on the gross taxable value, as defined in subsection (6)(a)(ii), of the incremental petroleum and other mineral or crude oil produced by the person other than 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 board of oil and gas conservation. 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 board; 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 board to be significant in light of all the facts and circumstances, in the amount of crude oil which may potentially be recovered. For 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,~~ a 5% local government severance tax on the gross taxable value, as defined in subsection (6)(a)(ii), of all petroleum and other mineral or crude oil produced by the person other than new production ~~produced-by~~ <u>from</u> a stripper well, as defined in subsection (7).

(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 board, to be in excess of what would have been produced by primary and secondary methods. The determination arrived at by the board 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(2) and under subsections (1)(a) through (1)(d) of this section.

(4) ~~Nothing--in--this~~ <u>This</u> part may <u>not</u> 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, 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, 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, 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, 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, other mineral or crude oil,

or natural gas within this state within the meaning of this section.

(5) Every person required to pay the state or local government severance tax under this section shall pay the tax in full for ~~his~~ the person's 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) (i) "Gross taxable value", for the purpose of computing the state severance tax, means the gross value of

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the product as determined in 15-36-103.

(ii) "Gross taxable value", for the purpose of computing the local government severance tax, 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.

(7) For the purposes of this section, "stripper well" means a well that produces less than 10 barrels a 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."

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

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

(2) All 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~~ must 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% on the gross taxable value, as defined in 15-36-101(6)(a)(ii). Everything over 30,000 cubic feet of gas produced is taxed at 1.59% on the gross taxable value for the state severance tax plus a local government severance tax of 10% on the gross taxable value, as defined in 15-36-101(6)(a)(ii).

(3) ~~(a) All~~ THE FIRST 3 BARRELS A DAY OF petroleum and other mineral or crude oil produced by a stripper well ~~is~~ ARE exempt from the state severance tax imposed by 15-36-101~~(1)(d)~~, but not from the local government severance tax~~, if the average price per barrel received during a quarter from production occurring on a lease or unitized~~

~~area located in this state is less than $25 per barrel.~~

~~(b) The average price per barrel must be computed by dividing the total gross value of product received from all petroleum and other mineral or crude oil sold in the quarter from the lease or unitized area in which stripper production occurs by the number of barrels sold in the quarter from the lease or unitized area in which stripper production occurs.~~

~~(3)~~(4) Notwithstanding the provisions of ~~subsection~~ subsections (2) and (3), all reporting requirements under the state severance tax remain in effect."

NEW SECTION. **Section 3.** **Effective date -- applicability.** [This act] is effective July 1, 1993, and applies to all oil produced during the quarters beginning on or after July 1, 1993.

-End-

HOUSE BILL NO. 322

INTRODUCED BY PELAND

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING THE FIRST THREE BARRELS A DAY OF STRIPPER OIL PRODUCTION FROM THE STATE SEVERANCE TAX ~~IF THE AVERAGE PRICE PER BARREL OF OIL RECEIVED DURING A CALENDAR QUARTER IS LESS THAN $25~~; AMENDING SECTIONS 15-36-101 AND 15-36-121, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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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. Except as provided in subsection (3), the state severance tax and the local government severance tax are as follows:

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(b) a 2.65% state severance tax on the gross taxable value of all natural gas produced by the person, plus the local government severance tax of 15.25% on the gross taxable value, as defined in subsection (6)(a)(ii), of all natural gas produced by the person other than new

THIRD READING

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% state severance tax on the gross taxable value of the incremental petroleum and other mineral or crude oil produced by the person, plus the local government severance tax of 5% on the gross taxable value, as defined in subsection (6)(a)(ii), of the incremental petroleum and other mineral or crude oil produced by the person other than 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 board of oil and gas conservation. 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 board; 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 board to be significant in light of all the facts and circumstances, in the amount of crude oil which may potentially be recovered. For 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,~~ a 5% local government severance tax on the gross taxable value, as defined in subsection (6)(a)(ii), of all petroleum and other mineral or crude oil produced by the person other than new production ~~produced-by~~ from a stripper well, as defined in subsection (7).

(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 board, to be in excess of what would have been produced by primary and secondary methods. The determination arrived at by the board 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(2) and under subsections (1)(a) through (1)(d) of this section.

(4) ~~Nothing--in--this~~ This part may not 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, 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, 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, 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, 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, other mineral or crude oil,

or natural gas within this state within the meaning of this section.

(5) Every person required to pay the state or local government severance tax under this section shall pay the tax in full for ~~his~~ the person's 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) (i) "Gross taxable value", for the purpose of computing the state severance tax, means the gross value of

the product as determined in 15-36-103.

(ii) "Gross taxable value", for the purpose of computing the local government severance tax, 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.

(7) For the purposes of this section, "stripper well" means a well that produces less than 10 barrels a 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."

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

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

(2) All 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~~ must 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% on the gross taxable value, as defined in 15-36-101(6)(a)(ii). Everything over 30,000 cubic feet of gas produced is taxed at 1.59% on the gross taxable value for the state severance tax plus a local government severance tax of 10% on the gross taxable value, as defined in 15-36-101(6)(a)(ii).

(3) ~~(a) All~~ THE FIRST 3 BARRELS A DAY OF petroleum and other mineral or crude oil produced by a stripper well ~~is~~ ARE exempt from the state severance tax imposed by 15-36-101~~(1)(d)~~, but not from the local government severance tax~~, if the average price per barrel received during a quarter from production occurring on a lease or unitized~~

~~area located in this state is less than $25 per barrel.~~

~~(b) The average price per barrel must be computed by dividing the total gross value of product received from all petroleum and other mineral or crude oil sold in the quarter from the lease or unitized area in which stripper production occurs by the number of barrels sold in the quarter from the lease or unitized area in which stripper production occurs.~~

~~(3)~~(4) Notwithstanding the provisions of ~~subsection~~ subsections (2) and (3), all reporting requirements under the state severance tax remain in effect."

NEW SECTION. **Section 3.** Effective date — applicability. [This act] is effective July 1, 1993, and applies to all oil produced during the quarters beginning on or after July 1, 1993.

-End-

SENATE STANDING COMMITTEE REPORT

April 8, 1993

MR. PRESIDENT:
We, your committee on Taxation having had under consideration House Bill No. 322 (third reading copy -- blue), respectfully report that House Bill No. 322 be amended as follows and as so amended be concurred in.

Signed: ______________________
Senator Mike Halligan, Chair

That such amendments read:

1. Title, line 9.
Strike: "AN"
Insert: "A DELAYED"

2. Page 10, lines 12 and 14.
Strike: "1993"
Insert: "1995"

-END-

SENATE

HB 322

Amd. Coord.
Sec. of Senate

Gage
Senator Carrying Bill

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SENATE COMMITTEE OF THE WHOLE AMENDMENT

April 15, 1993 1:01 pm

Mr. Chairman: I move to amend House Bill No. 322 (third reading copy -- blue).

ADOPT

REJECT

Signed: Senator Delwyn Gage

That such amendments read:

1. Title, line 7.
Following: "~~$25~~"
Insert: "IF THE AVERAGE PRICE PER BARREL OF OIL RECEIVED DURING A CALENDAR QUARTER IS LESS THAN $25"

2. Page 9, line 20.
Following: "(3)"
Insert: "(a)"

3. Page 10, line 7.
Following: "~~occurs~~"
Insert: ", if the average price per barrel received during a quarter from production occurring on a lease or unitized area located in this state is less than $25 per barrel.

(b) The average price per barrel must be computed by dividing the total gross value of product received from all petroleum and other mineral or crude oil sold in the quarter from the lease or unitized area in which stripper production occurs by the number of barrels sold in the quarter from the lease or unitized area in which stripper production occurs"

-END-

HB 322

SENATE

M- Amd. Coord.

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HOUSE BILL NO. 322

INTRODUCED BY FELAND

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING THE FIRST THREE BARRELS A DAY OF STRIPPER OIL PRODUCTION FROM THE STATE SEVERANCE TAX ~~IF THE AVERAGE PRICE PER BARREL OF OIL RECEIVED DURING A CALENDAR QUARTER IS LESS THAN $25~~ IF THE AVERAGE PRICE PER BARREL OF OIL RECEIVED DURING A CALENDAR QUARTER IS LESS THAN $25; AMENDING SECTIONS 15-36-101 AND 15-36-121, MCA; AND PROVIDING ~~AN~~ A DELAYED EFFECTIVE DATE AND AN 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 shall, except as provided in 15-36-121, each year when engaged in or

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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. Except as provided in subsection (3), the state severance tax and the local government severance tax are as follows:

(a) except as provided in 15-36-121 AND IN subsections (1)(b), (1)(c), and (1)(d) OF THIS SECTION, a 5% state severance tax on the 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 the gross taxable value, as defined in subsection (6)(a)(ii), of all the petroleum and other mineral or crude oil produced by the person other than 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% state severance tax on the gross taxable value of all natural gas produced by the person, plus the local government severance tax of 15.25% on the gross taxable value, as defined in subsection (6)(a)(ii), of all natural gas produced by the person other than 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% state severance tax on the gross taxable value of the incremental petroleum and other mineral or crude oil produced by the person, plus the local government severance tax of 5% on the gross taxable value, as defined in subsection (6)(a)(ii), of the incremental petroleum and other mineral or crude oil produced by the person other than 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 board of oil and gas conservation. 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 board; 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 board to be significant in light of all the facts and circumstances, in the amount of crude oil which may potentially be recovered. For 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,~~ a 5% local government severance tax on the gross taxable value, as defined in subsection (6)(a)(ii), of all petroleum and other mineral or crude oil produced by the person other than new production ~~produced--by~~ from a stripper well, as defined in subsection (7).

(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 board, to be in excess of what would have been produced by primary and secondary methods. The determination arrived at by the board 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(2) and under subsections (1)(a) through (1)(d) of this section.

(4) ~~Nothing-in-this~~ This part may not 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, 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, 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, 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, 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, other mineral or crude oil, or natural gas within this state within the meaning of this section.

(5) Every person required to pay the state or local government severance tax under this section shall pay the tax in full for ~~his~~ the person's 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) (i) "Gross taxable value", for the purpose of computing the state severance tax, means the gross value of the product as determined in 15-36-103.

(ii) "Gross taxable value", for the purpose of computing the local government severance tax, 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.

(7) For the purposes of this section, "stripper well" means a well that produces less than 10 barrels a 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."

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

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

(2) All 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~~ must 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% on the gross taxable value, as defined in 15-36-101(6)(a)(ii). Everything over 30,000 cubic feet of gas produced is taxed at 1.59% on the gross taxable value for the state severance tax plus a local government severance tax of 10% on the gross taxable value, as defined in 15-36-101(6)(a)(ii).

(3) (A)~~(a)-All~~ THE FIRST 3 BARRELS A DAY OF petroleum and other mineral or crude oil produced by a stripper well ~~is~~ ARE exempt from the state severance tax imposed by 15-36-101~~(1)(d)~~, but not from the local government severance

~~tax,--if--the--average--price--per--barrel-received-during-a quarter-from-production-occurring-on--a--lease--or--unitized area-located-in-this-state-is-less-than-$25-per-barrel.~~

~~(b)--The--average--price--per-barrel-must-be-computed-by dividing-the-total-gross-value-of-product-received-from--all petroleum-and-other-mineral-or-crude-oil-sold-in-the-quarter from-the-lease-or-unitized-area-in-which-stripper-production occurs-by-the-number-of-barrels-sold-in-the-quarter-from-the lease--or-unitized-area-in-which-stripper-production-occurs,~~ IF THE AVERAGE PRICE PER BARREL RECEIVED DURING A QUARTER FROM PRODUCTION OCCURRING ON A LEASE OR UNITIZED AREA LOCATED IN THIS STATE IS LESS THAN $25 PER BARREL.

(B) THE AVERAGE PRICE PER BARREL MUST BE COMPUTED BY DIVIDING THE TOTAL GROSS VALUE OF PRODUCT RECEIVED FROM ALL PETROLEUM AND OTHER MINERAL OR CRUDE OIL SOLD IN THE QUARTER FROM THE LEASE OR UNITIZED AREA IN WHICH STRIPPER PRODUCTION OCCURS BY THE NUMBER OF BARRELS SOLD IN THE QUARTER FROM THE LEASE OR UNITIZED AREA IN WHICH STRIPPER PRODUCTION OCCURS.

~~(3)~~(4) Notwithstanding the provisions of ~~subsection~~ subsections (2) and (3), all reporting requirements under the state severance tax remain in effect."

NEW SECTION. **Section 3. Effective date -- applicability.** [This act] is effective July 1, ~~1993~~ 1995, and applies to all oil produced during the quarters beginning on or after July 1, ~~1993~~ 1995.

-End-