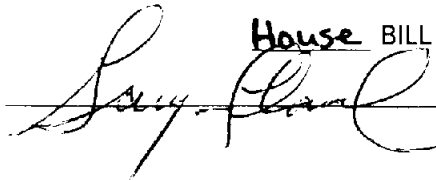


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House BILL NO. 90

INTRODUCED BY



A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING THE FIRST 3 BARRELS A DAY OF STRIPPER WELL PRODUCTION FROM THE STATE SEVERANCE TAX IF THE AVERAGE PRICE PER BARREL OF OIL RECEIVED DURING A CALENDAR QUARTER IS LESS THAN \$30; 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~~ Each person ~~engaging in or carrying on the business of producing~~ who produces 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~~ who owns, controls, manages, leases, or operates 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 deposit in the state general fund, ~~of the state of Montana~~ plus a local government severance tax in lieu of a tax on net proceeds for replacement of property taxes formerly levied on net proceeds. 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) through (1)(f) 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 (8)(a)(iii), 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 the person's operations in prospecting for, developing, and producing the petroleum or crude or mineral oil;

1 (b) a 2.65% state severance tax on the gross taxable value of all natural gas produced by the
2 person, plus the local government severance tax of 15.25% on the gross taxable value, as defined in
3 subsection (8)(a)(ii), of all natural gas produced by the person, other than new production, from each lease
4 or unit; but in determining the amount of the state severance tax and the local government severance tax,
5 there must be excluded from consideration all gas produced and used by the person during the year in
6 connection with the person's operations in prospecting for, developing, and producing the gas or petroleum
7 or crude or mineral oil; and there must also be excluded from consideration all gas, including carbon dioxide
8 gas, recycled or reinjected into the ground;

9 (c) except as provided in subsection (4)(a), a 3% state severance tax on the gross taxable value
10 of the incremental production of petroleum and other mineral or crude oil produced from a secondary
11 recovery project commenced or expanded after December 31, 1993, and before January 1, 2002, plus the
12 local government severance tax of 5% on the gross taxable value, as defined in subsection (8)(a)(ii), of the
13 incremental petroleum and other mineral or crude oil produced by the person, other than new production,
14 from each lease or unit in a secondary recovery project commenced or expanded after December 31, 1993,
15 and before January 1, 2002. For purposes of this section, a secondary recovery project must meet each
16 of the following requirements:

17 (i) The project must be certified as a secondary recovery project to the department by the board.
18 The certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.

19 (ii) The property to be affected by the project must be adequately delineated according to the
20 specifications required by the board.

21 (iii) The project must involve the application of secondary recovery methods that can reasonably
22 be expected to result in an increase, determined by the board to be significant in light of all the facts and
23 circumstances, in the amount of petroleum or mineral or crude oil that may potentially be recovered. For
24 purposes of this section, secondary recovery methods include but are not limited to:

25 (A) the injection of water into the producing formation for the purposes of maintaining pressure
26 in that formation or for the purpose of increasing the flow of petroleum or mineral or crude oil from the
27 producing formation to a producing well bore; or

28 (B) any other method approved by the board as a secondary recovery method.

29 (d) a 2.5% state severance tax on the gross taxable value of the incremental petroleum and other
30 mineral or crude oil produced by the person, plus the local government severance tax of 5% on the gross

1 taxable value, as defined in subsection (8)(a)(ii), of the incremental petroleum and other mineral or crude
2 oil produced by the person, other than new production, from each lease or unit in a tertiary recovery project
3 after July 1, 1985. For purposes of this section, a tertiary recovery project must meet each of the following
4 requirements:

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

8 (ii) The property to be affected by the project must be adequately delineated according to the
9 specifications required by the board.

10 (iii) The project must involve the application of one or more tertiary recovery methods that can
11 reasonably be expected to result in an increase, determined by the board to be significant in light of all the
12 facts and circumstances, in the amount of crude oil that may potentially be recovered. For purposes of this
13 section, tertiary recovery methods include but are not 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 board as a tertiary recovery method.

24 (e) except as provided in subsection (4)(b), a 2% state severance tax on the gross taxable value
25 of the incremental petroleum and other mineral or crude oil produced by the person, plus the local
26 government severance tax of 3.3% on the gross taxable value, as defined in subsection (8)(a)(ii), of the
27 incremental petroleum and other mineral or crude oil produced by the person, other than new production,
28 from each lease or unit in a tertiary recovery project commenced or expanded after December 31, 1993,
29 and before January 1, 2002. The tertiary recovery project must meet the requirements of subsections
30 (1)(d)(i) through (1)(d)(iii).

1 (f) a 5% local government severance tax on the gross taxable value, as defined in subsection
2 (8)(a)(ii), of all petroleum and other mineral or crude oil produced by the person other than new production
3 ~~produced by~~ from a stripper well, as defined in subsection (9).

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

5 (a) "Board" means the board of oil and gas conservation.

6 (b) "Enhanced recovery project" means the use of any process for the displacement of oil from the
7 earth other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or
8 biological process.

9 (c) "Existing enhanced recovery project" means an enhanced recovery project that began
10 development before January 1, 1994.

11 (d) "Expanded enhanced recovery project" or "expansion" means the addition of injection wells or
12 production wells, the change of injection pattern, or other operating changes to an existing enhanced
13 recovery project that will result in the recovery of oil that would not otherwise be recovered.

14 (e) "Incremental production" means:

15 (i) the volume of oil produced by either a well in primary recovery recompleted as a horizontally
16 completed well or by an expanded enhanced recovery project, which volume of production is in excess of
17 the production decline rate established under the conditions existing before:

18 (A) the commencement of the recompletion of a well as a horizontally completed well;

19 (B) expansion of the existing enhanced recovery project; or

20 (C) commencing a new enhanced recovery project; or

21 (ii) in the case of any project that had no taxable production prior to commencing the enhanced
22 recovery project, all production of petroleum or mineral or crude oil from the enhanced recovery project.

23 (f) "New enhanced recovery project" means an enhanced recovery project that began development
24 after December 31, 1993, and before January 1, 2002.

25 (g) "Operator" or "producer" means the person responsible for the actual physical operation of an
26 enhanced recovery project.

27 (h) "Primary recovery" means the displacement of oil from the earth into the well bore by means
28 of the natural pressure of the oil reservoir and includes artificial lift.

29 (i) "Production decline rate" means the projected rate of future oil production, extrapolated by a
30 method approved by the board, that must be determined for a project area prior to commencing a new or

1 expanded secondary recovery project or the recompletion of a well as a horizontally completed well. The
2 approved production decline rate must be certified in writing to the department of revenue by the board.
3 In that certification, the board shall identify the project area and shall specify the projected rate of future
4 oil production by calendar year and by calendar quarter within each year. The certified rate of future oil
5 production must be used to determine the volume of incremental production that qualifies for the tax rate
6 imposed under subsection (1)(c) or (1)(e).

7 (j) "Secondary recovery project" means an enhanced recovery project that is not a tertiary recovery
8 project.

9 (k) "Tertiary recovery project" means an enhanced recovery project using a tertiary recovery
10 method described in subsection (1)(d)(iii).

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

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

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

20 (b) The amounts paid or apportioned in kind to nonworking interest owners are exempt from the
21 local government severance taxes imposed under 15-36-121(2) and under subsections (1)(a) through (1)(f)
22 of this section.

23 (4) (a) Incremental production from a secondary recovery project is subject to the tax rate imposed
24 in subsection (1)(c) if the average price per barrel of oil as reported in the Wall Street Journal for west
25 Texas intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal
26 to or greater than \$30 per barrel in a calendar quarter as determined in subsection (5), incremental
27 production from a secondary recovery project is taxed as provided in subsection (1)(a) for production
28 occurring in that quarter.

29 (b) Incremental production from a tertiary recovery project is subject to the tax rate imposed in
30 subsection (1)(e) if the average price per barrel of oil as reported in the Wall Street Journal for west Texas

1 intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or
2 greater than \$30 per barrel in a calendar quarter as determined in subsection (5), incremental production
3 from a tertiary recovery project is taxed as provided in subsection (1)(d) for production occurring in that
4 quarter.

5 (5) For the purposes of 15-36-121(3) and for the purposes of subsections (4)(a) and (4)(b) of this
6 section, the average price per barrel must be computed by dividing the sum of the daily price for west
7 Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number
8 of days on which the price was reported in the quarter.

9 (6) ~~Nothing in this~~ This part may not be construed as requiring laborers or employees hired or
10 employed by any person to drill any oil or natural gas well or to work in or about any oil or natural gas well
11 or prospect or explore for or do any work for the purpose of developing any petroleum, other mineral or
12 crude oil, or natural gas to pay the severance tax, nor may work done or the drilling of a well or wells for
13 the purpose of prospecting or exploring for petroleum, other mineral or crude oil, or natural gas or for the
14 purpose of developing them be considered to be the engaging in or carrying on of the business. If, in the
15 doing of any work, in the drilling of any oil or natural gas well, or in prospecting, exploring, or development
16 work, any merchantable or marketable petroleum, other mineral or crude oil, or natural gas in excess of the
17 quantity required by the person for carrying on the operation is produced sufficient in quantity to justify the
18 marketing of the petroleum, other mineral or crude oil, or natural gas, the work, drilling, prospecting,
19 exploring, or development work is considered to be the engaging in and carrying on of the business of
20 producing petroleum, other mineral or crude oil, or natural gas within this state within the meaning of this
21 section.

22 (7) ~~Every~~ Each person required to pay the state or local government severance tax under this
23 section shall pay the tax in full for the person's own account and for the account of each of the other
24 owners of the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude
25 oil or natural gas extracted and produced, including an owner or owners of working interest, royalty
26 interest, overriding royalty interest, carried working interest, net proceeds interest, production payments,
27 and all other interest or interests owned or carved out of the total gross proceeds in value or in kind of the
28 extracted marketable petroleum or other mineral or crude oil or natural gas, except that any of the interests
29 that are owned by the federal, state, county, or municipal governments are exempt from taxation under
30 this chapter. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or

1 owners will be deducted from any settlements under the lease or leases or division of proceeds orders or
2 other contracts.

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

4 (a) (i) "Gross taxable value", for the purpose of computing the state severance tax, means the
5 gross value of the product as determined in 15-36-103.

6 (ii) "Gross taxable value", for the purpose of computing the local government severance tax, means
7 the gross value of the product as determined in 15-36-103 less the gross value paid in cash or apportioned
8 in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum,
9 other mineral or crude oil, or natural gas.

10 (b) "Nonworking interest owner" means any interest owner who does not share in the development
11 and operation costs of the lease or unit.

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

16

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

18 **"15-36-121. Exemption from state severance tax -- imposition of local government severance tax.**

19 (1) It is the public policy of this state to promote a sufficient supply of natural gas to provide for the
20 residents of this state, to lessen Montana's dependence on imported natural gas, and to encourage the
21 exploration for and development and production of natural gas, petroleum, and other mineral and crude oil
22 within the state.

23 (2) All the natural gas produced from any well that has produced 60,000 cubic feet or less of
24 natural gas a day for the calendar year prior to the current year ~~shall~~ must be taxed as provided in this
25 section. Production must be determined by dividing the amount of production from a lease or unitized area
26 for the year prior to the current calendar year by the number of producing wells in the lease or unitized area
27 and by dividing the resulting quotient by 365. The first 30,000 cubic feet of average daily production per
28 well is exempt from all of the state severance tax imposed by 15-36-101. The first 30,000 cubic feet of
29 average daily production per well is subject to a local government severance tax of 10% on the gross
30 taxable value, as defined in 15-36-101(6)(a)(iii). Everything over 30,000 cubic feet of gas produced is taxed

1 at 1.59% on the gross taxable value for the state severance tax, plus a local government severance tax
2 of 10% on the gross taxable value, as defined in 15-36-101(6)(a)(ii)(8)(a)(ii).

3 (3) The first 3 barrels a day of petroleum and other mineral or crude oil produced by a stripper well
4 are exempt from the state severance tax imposed by 15-36-101, but not from the local government
5 severance tax, if the average price per barrel of oil as reported in the Wall Street Journal for west Texas
6 intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or
7 greater than \$30 per barrel in a calendar quarter as determined in 15-36-101(5), the first 3 barrels a day
8 of stripper well production are taxed as provided in 15-36-101(1)(a) for production occurring in that quarter.

9 ~~(3)(4)~~ Notwithstanding the provisions of ~~subsection~~ subsections (2) and (3), all reporting
10 requirements under the state severance tax remain in effect."

11

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

14

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0090, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act exempting the first 3 barrels a day of stripper well production from the state severance tax if the average price per barrel of oil received during a calendar quarter is less than \$30; and providing an effective date and an applicability date.

ASSUMPTIONS:

1. Taxable oil production is 14,968,000 barrels in CY95, 14,248,000 barrels in CY96, and 13,575,000 barrels in CY97 (ROC).
2. Montana oil price per barrel is \$14.24 in CY95, \$14.89 in CY96, and \$16.27 in CY97 (ROC).
3. Total CY93 oil production was 17,320,803 barrels (MDOR).
4. Total non-taxable royalties were 4.2% of total production in CY93 (MDOR).
5. The first 3 barrels of production from stripper wells totalled 745,409 in CY93 (MDOR).
6. Non-taxable royalties were 2.4% of production from leases producing 3 barrels per day or less in CY93 (MDOR).
7. Oil severance tax revenue received within 60 days of the close of the fiscal year is accrued back to that fiscal year (MDOR).
8. All oil severance tax collections are deposited in the state general fund.

FISCAL IMPACT:

Expenditures:

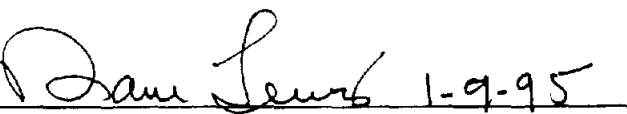
There is no impact to department expenditures under the proposed legislation.

Revenues:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Oil Severance Tax	(\$466,000)	(\$475,000)

Net Impact:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
General Fund	(\$466,000)	(\$475,000)


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


GARY FELAND, PRIMARY SPONSOR DATE

Fiscal Note for HB0090, as introduced

STATE OF MONTANA - FISCAL NOTE (REVISED)

Fiscal Note for HB-90, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act exempting the first 3 barrels a day of stripper well production from the state severance tax if the average price per barrel of oil received during a calendar quarter is less than \$30; and providing an effective date and an applicability date.

ASSUMPTIONS:

1. Taxable oil production is 14,968,000 barrels in CY95, 14,248,000 barrels in CY96, and 13,575,000 barrels in CY97 (ROC).
2. Montana oil price per barrel is \$14.24 in CY95, \$14.89 in CY96, and \$16.27 in CY97 (ROC).
3. Total CY93 oil production was 17,320,803 barrels (MDOR).
4. Total non-taxable royalties were 4.2% of total production in CY93 (MDOR).
5. The first 3 barrels of production from stripper wells totalled 1,518,507 in CY93 (MDOR).
6. Non-taxable royalties were 2.4% of production from leases producing 3 barrels per day or less in CY93 (MDOR).
7. Oil severance tax revenue received within 60 days of the close of the fiscal year is accrued back to that fiscal year (MDOR).
8. All oil severance tax collections are deposited in the state general fund.

FISCAL IMPACT:

Expenditures:


There is no impact to department expenditures under the proposed legislation.


Revenues:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Oil Severance Tax	(\$973,000)	(\$991,000)

Net Impact:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
General Fund	(\$973,000)	(\$991,000)


 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning


 GARY FELAND, PRIMARY SPONSOR DATE

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB-90, 3rd reading, as amended.

DESCRIPTION OF PROPOSED LEGISLATION: An act exempting the first 2 barrels a day of stripper well production from the state severance tax if the average price per barrel of oil received during a calendar quarter is less than \$30; and providing an effective date and an applicability date.

ASSUMPTIONS:

1. Taxable oil production is 14,968,000 barrels in CY95, 14,248,000 barrels in CY96, and 13,575,000 barrels in CY97 (ROC).
2. Montana oil price per barrel is \$14.24 in CY95, \$14.89 in CY96, and \$16.27 in CY97 (ROC).
3. Total CY93 oil production was 17,320,803 barrels (MDOR).
4. Total non-taxable royalties were 4.2% of total production in CY93 (MDOR).
5. The first 2 barrels of production from stripper wells totalled 1,202,050 in CY93 (MDOR).
6. Non-taxable royalties were 2.4% of production from leases producing 3 barrels per day or less in CY93 (MDOR).
7. Oil severance tax revenue received within 60 days of the close of the fiscal year is accrued back to that fiscal year (MDOR).
8. All oil severance tax collections are deposited in the state general fund.
9. **Senate Bill 412 is passed by the Legislature and signed into law (MDOR).**
10. Royalty owners will not receive the 2 barrel per day exemption (MDOR).
11. Royalty production accounts for 13.14% of statewide oil production (MDOR).

FISCAL IMPACT:

Expenditures:

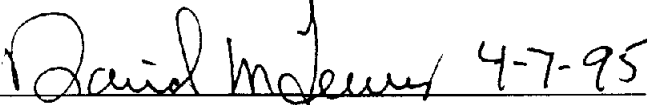
There is no impact to department expenditures under the proposed legislation.

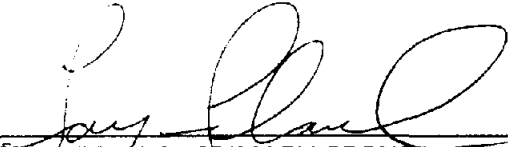
Revenues:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Oil Severance Tax	(\$679,000)	(\$707,000)

Net Impact:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
General Fund	(\$679,000)	(\$707,000)

 4-7-95
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning


 GARY FELAND, PRIMARY SPONSOR DATE
 Fiscal Note for HB-90, 3rd, as amended.

HB 90 #3

1 HOUSE BILL NO. 90

2 INTRODUCED BY FELAND

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING THE FIRST 3 BARRELS A DAY OF STRIPPER WELL
5 PRODUCTION FROM THE STATE SEVERANCE TAX IF THE AVERAGE PRICE PER BARREL OF OIL
6 RECEIVED DURING A CALENDAR QUARTER IS LESS THAN \$30; AMENDING SECTIONS 15-36-101 AND
7 15-36-121, MCA; AND PROVIDING AN EFFECTIVE DATE AND, AN APPLICABILITY DATE, AND A
8 CONTINGENT VOIDNESS PROVISION."

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

11
12 **Section 1.** Section 15-36-101, MCA, is amended to read:

13 **"15-36-101. Definitions and rate of tax -- state severance tax -- local government severance tax**
14 **-- assessment of nonworking interest owner -- exemption.** (1) ~~Every~~ Each person ~~engaging in or carrying~~
15 ~~on the business of producing~~ who produces petroleum, other mineral or crude oil, or natural gas within this
16 state or ~~engaging in or carrying on the business of owning, controlling, managing, leasing, or operating~~ who
17 owns, controls, manages, leases, or operates within this state any well or wells from which any
18 ~~merchantable or marketable~~ petroleum, other mineral or crude oil, or natural gas is ~~extracted or produced~~
19 shall, except as provided in 15-36-121, ~~each year when engaged in or carrying on the business in this state~~
20 pay to the department of revenue a state severance tax for deposit in the state general fund, ~~of the state~~
21 ~~of Montana~~ plus a local government severance tax in lieu of a tax on net proceeds for replacement of
22 property taxes formerly levied on net proceeds. Except as provided in subsection (3), the state severance
23 tax and the local government severance tax are as follows:

24 (a) except as provided in 15-36-121 and in subsections (1)(b) through (1)(f) of this section, a 5%
25 state severance tax on the gross taxable value of all the petroleum and other mineral or crude oil produced
26 by the person, plus the local government severance tax of 8.4% on the gross taxable value, as defined in
27 subsection (8)(a)(iii), of all the petroleum and other mineral or crude oil produced by the person, other than
28 new production, from each lease or unit; but in determining the amount of the state severance tax and local
29 government severance tax, there must be excluded from consideration all petroleum or other crude or
30 mineral oil produced and used by the person during the year in connection with the person's operations in

1 prospecting for, developing, and producing the petroleum or crude or mineral oil;

2 (b) a 2.65% state severance tax on the gross taxable value of all natural gas produced by the
3 person, plus the local government severance tax of 15.25% on the gross taxable value, as defined in
4 subsection (8)(a)(ii), of all natural gas produced by the person, other than new production, from each lease
5 or unit; but in determining the amount of the state severance tax and the local government severance tax,
6 there must be excluded from consideration all gas produced and used by the person during the year in
7 connection with the person's operations in prospecting for, developing, and producing the gas or petroleum
8 or crude or mineral oil; and there must also be excluded from consideration all gas, including carbon dioxide
9 gas, recycled or reinjected into the ground;

10 (c) except as provided in subsection (4)(a), a 3% state severance tax on the gross taxable value
11 of the incremental production of petroleum and other mineral or crude oil produced from a secondary
12 recovery project commenced or expanded after December 31, 1993, and before January 1, 2002, plus the
13 local government severance tax of 5% on the gross taxable value, as defined in subsection (8)(a)(ii), of the
14 incremental petroleum and other mineral or crude oil produced by the person, other than new production,
15 from each lease or unit in a secondary recovery project commenced or expanded after December 31, 1993,
16 and before January 1, 2002. For purposes of this section, a secondary recovery project must meet each
17 of the following requirements:

18 (i) The project must be certified as a secondary recovery project to the department by the board.
19 The certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.

20 (ii) The property to be affected by the project must be adequately delineated according to the
21 specifications required by the board.

22 (iii) The project must involve the application of secondary recovery methods that can reasonably
23 be expected to result in an increase, determined by the board to be significant in light of all the facts and
24 circumstances, in the amount of petroleum or mineral or crude oil that may potentially be recovered. For
25 purposes of this section, secondary recovery methods include but are not limited to:

26 (A) the injection of water into the producing formation for the purposes of maintaining pressure
27 in that formation or for the purpose of increasing the flow of petroleum or mineral or crude oil from the
28 producing formation to a producing well bore; or

29 (B) any other method approved by the board as a secondary recovery method.

30 (d) a 2.5% state severance tax on the gross taxable value of the incremental petroleum and other

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

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

9 (ii) The property to be affected by the project must be adequately delineated according to the
10 specifications required by the board.

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

15 (A) miscible fluid displacement;

16 (B) steam drive injection;

17 (C) micellar/emulsion flooding;

18 (D) in situ combustion;

19 (E) polymer augmented water flooding;

20 (F) cyclic steam injection;

21 (G) alkaline or caustic flooding;

22 (H) carbon dioxide water flooding;

23 (I) immiscible carbon dioxide displacement; or

24 (J) any other method approved by the board as a tertiary recovery method.

25 (e) except as provided in subsection (4)(b), a 2% state severance tax on the gross taxable value
26 of the incremental petroleum and other mineral or crude oil produced by the person, plus the local
27 government severance tax of 3.3% on the gross taxable value, as defined in subsection (8)(a)(ii), of the
28 incremental petroleum and other mineral or crude oil produced by the person, other than new production,
29 from each lease or unit in a tertiary recovery project commenced or expanded after December 31, 1993,
30 and before January 1, 2002. The tertiary recovery project must meet the requirements of subsections

1 (1)(d)(i) through (1)(d)(iii).

2 (f) a 5% local government severance tax on the gross taxable value, as defined in subsection
3 (8)(a)(ii), of all petroleum and other mineral or crude oil produced by the person other than new production
4 ~~produced by~~ from a stripper well, as defined in subsection (9).

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

6 (a) "Board" means the board of oil and gas conservation.

7 (b) "Enhanced recovery project" means the use of any process for the displacement of oil from the
8 earth other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or
9 biological process.

10 (c) "Existing enhanced recovery project" means an enhanced recovery project that began
11 development before January 1, 1994.

12 (d) "Expanded enhanced recovery project" or "expansion" means the addition of injection wells or
13 production wells, the change of injection pattern, or other operating changes to an existing enhanced
14 recovery project that will result in the recovery of oil that would not otherwise be recovered.

15 (e) "Incremental production" means:

16 (i) the volume of oil produced by either a well in primary recovery recompleted as a horizontally
17 completed well or by an expanded enhanced recovery project, which volume of production is in excess of
18 the production decline rate established under the conditions existing before:

19 (A) the commencement of the recompletion of a well as a horizontally completed well;

20 (B) expansion of the existing enhanced recovery project; or

21 (C) commencing a new enhanced recovery project; or

22 (ii) in the case of any project that had no taxable production prior to commencing the enhanced
23 recovery project, all production of petroleum or mineral or crude oil from the enhanced recovery project.

24 (f) "New enhanced recovery project" means an enhanced recovery project that began development
25 after December 31, 1993, and before January 1, 2002.

26 (g) "Operator" or "producer" means the person responsible for the actual physical operation of an
27 enhanced recovery project.

28 (h) "Primary recovery" means the displacement of oil from the earth into the well bore by means
29 of the natural pressure of the oil reservoir and includes artificial lift.

30 (i) "Production decline rate" means the projected rate of future oil production, extrapolated by a

1 method approved by the board, that must be determined for a project area prior to commencing a new or
2 expanded secondary recovery project or the recompletion of a well as a horizontally completed well. The
3 approved production decline rate must be certified in writing to the department of revenue by the board.
4 In that certification, the board shall identify the project area and shall specify the projected rate of future
5 oil production by calendar year and by calendar quarter within each year. The certified rate of future oil
6 production must be used to determine the volume of incremental production that qualifies for the tax rate
7 imposed under subsection (1)(c) or (1)(e).

8 (j) "Secondary recovery project" means an enhanced recovery project that is not a tertiary recovery
9 project.

10 (k) "Tertiary recovery project" means an enhanced recovery project using a tertiary recovery
11 method described in subsection (1)(d)(iii).

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

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

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

21 (b) The amounts paid or apportioned in kind to nonworking interest owners are exempt from the
22 local government severance taxes imposed under 15-36-121(2) and under subsections (1)(a) through (1)(f)
23 of this section.

24 (4) (a) Incremental production from a secondary recovery project is subject to the tax rate imposed
25 in subsection (1)(c) if the average price per barrel of oil as reported in the Wall Street Journal for west
26 Texas intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal
27 to or greater than \$30 per barrel in a calendar quarter as determined in subsection (5), incremental
28 production from a secondary recovery project is taxed as provided in subsection (1)(a) for production
29 occurring in that quarter.

30 (b) Incremental production from a tertiary recovery project is subject to the tax rate imposed in

1 subsection (1)(e) if the average price per barrel of oil as reported in the Wall Street Journal for west Texas
 2 intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or
 3 greater than \$30 per barrel in a calendar quarter as determined in subsection (5), incremental production
 4 from a tertiary recovery project is taxed as provided in subsection (1)(d) for production occurring in that
 5 quarter.

6 (5) For the purposes of 15-36-121(3) and for the purposes of subsections (4)(a) and (4)(b) of this
 7 section, the average price per barrel must be computed by dividing the sum of the daily price for west
 8 Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number
 9 of days on which the price was reported in the quarter.

10 (6) ~~Nothing in this~~ This part may not be construed as requiring laborers or employees hired or
 11 employed by any person to drill any oil or natural gas well or to work in or about any oil or natural gas well
 12 or prospect or explore for or do any work for the purpose of developing any petroleum, other mineral or
 13 crude oil, or natural gas to pay the severance tax, nor may work done or the drilling of a well or wells for
 14 the purpose of prospecting or exploring for petroleum, other mineral or crude oil, or natural gas or for the
 15 purpose of developing them be considered to be the engaging in or carrying on of the business. If, in the
 16 doing of any work, in the drilling of any oil or natural gas well, or in prospecting, exploring, or development
 17 work, any merchantable or marketable petroleum, other mineral or crude oil, or natural gas in excess of the
 18 quantity required by the person for carrying on the operation is produced sufficient in quantity to justify the
 19 marketing of the petroleum, other mineral or crude oil, or natural gas, the work, drilling, prospecting,
 20 exploring, or development work is considered to be the engaging in and carrying on of the business of
 21 producing petroleum, other mineral or crude oil, or natural gas within this state within the meaning of this
 22 section.

23 (7) ~~Every~~ Each person required to pay the state or local government severance tax under this
 24 section shall pay the tax in full for the person's own account and for the account of each of the other
 25 owners of the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude
 26 oil or natural gas extracted and produced, including an owner or owners of working interest, royalty
 27 interest, overriding royalty interest, carried working interest, net proceeds interest, production payments,
 28 and all other interest or interests owned or carved out of the total gross proceeds in value or in kind of the
 29 extracted marketable petroleum or other mineral or crude oil or natural gas, except that any of the interests
 30 that are owned by the federal, state, county, or municipal governments are exempt from taxation under

1 this chapter. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or
 2 owners will be deducted from any settlements under the lease or leases or division of proceeds orders or
 3 other contracts.

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

5 (a) (i) "Gross taxable value", for the purpose of computing the state severance tax, means the
 6 gross value of the product as determined in 15-36-103.

7 (ii) "Gross taxable value", for the purpose of computing the local government severance tax, means
 8 the gross value of the product as determined in 15-36-103 less the gross value paid in cash or apportioned
 9 in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum,
 10 other mineral or crude oil, or natural gas.

11 (b) "Nonworking interest owner" means any interest owner who does not share in the development
 12 and operation costs of the lease or unit.

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

17

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

19 **"15-36-121. Exemption from state severance tax -- imposition of local government severance tax.**

20 (1) It is the public policy of this state to promote a sufficient supply of natural gas to provide for the
 21 residents of this state, to lessen Montana's dependence on imported natural gas, and to encourage the
 22 exploration for and development and production of natural gas, petroleum, and other mineral and crude oil
 23 within the state.

24 (2) All the natural gas produced from any well that has produced 60,000 cubic feet or less of
 25 natural gas a day for the calendar year prior to the current year ~~shall~~ must be taxed as provided in this
 26 section. Production must be determined by dividing the amount of production from a lease or unitized area
 27 for the year prior to the current calendar year by the number of producing wells in the lease or unitized area
 28 and by dividing the resulting quotient by 365. The first 30,000 cubic feet of average daily production per
 29 well is exempt from all of the state severance tax imposed by 15-36-101. The first 30,000 cubic feet of
 30 average daily production per well is subject to a local government severance tax of 10% on the gross

1 taxable value, as defined in 15-36-101(6)(a)(ii). Everything over 30,000 cubic feet of gas produced is taxed
 2 at 1.59% on the gross taxable value for the state severance tax, plus a local government severance tax
 3 of 10% on the gross taxable value, as defined in 15-36-101(6)(a)(ii)(8)(a)(ii).

4 (3) The first 3 barrels a day of petroleum and other mineral or crude oil produced by a stripper well
 5 are exempt from the state severance tax imposed by 15-36-101, but not from the local government
 6 severance tax, if the average price per barrel of oil as reported in the Wall Street Journal for west Texas
 7 intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or
 8 greater than \$30 per barrel in a calendar quarter as determined in 15-36-101(5), the first 3 barrels a day
 9 of stripper well production are taxed as provided in 15-36-101(1)(a) for production occurring in that quarter.

10 ~~(3)(4)~~ Notwithstanding the provisions of subsections (2) and (3), all reporting
 11 requirements under the state severance tax remain in effect."

12
 13 NEW SECTION. SECTION 3. COORDINATION INSTRUCTION. IF SENATE BILL NO. 412 IS
 14 PASSED AND APPROVED, THEN SENATE BILL NO. 412 IS AMENDED AS PROVIDED IN SUBSECTIONS
 15 (1) AND (2) OF THIS SECTION AND THE DISTRIBUTION OF REVENUE MUST BE MODIFIED AS PROVIDED
 16 IN SUBSECTION (3) OF THIS SECTION. IF NECESSARY, THE CODE COMMISSIONER SHALL CORRECT
 17 ALL ERRONEOUS INTERNAL REFERENCES WITHIN SENATE BILL NO. 412 CAUSED BY THIS SECTION.

18 (1) THE DEFINITION SECTION, [SECTION 3], OF SENATE BILL NO. 412, IS AMENDED BY ADDING
 19 THE FOLLOWING DEFINITION, IN ALPHABETICAL ORDER, AND RENUMBERING SUBSEQUENT
 20 SUBSECTIONS:

21 "(20) "STRIPPER EXEMPTION" MEANS THE FIRST 3 BARRELS A DAY FOR PETROLEUM AND
 22 OTHER MINERAL OR CRUDE OIL PRODUCED BY A STRIPPER WELL IF THE AVERAGE PRICE PER BARREL
 23 OF OIL AS REPORTED IN THE WALL STREET JOURNAL FOR WEST TEXAS INTERMEDIATE CRUDE OIL
 24 DURING A CALENDAR QUARTER IS LESS THAN \$30 A BARREL. IF THE PRICE OF OIL IS EQUAL TO OR
 25 GREATER THAN \$30 A BARREL IN A CALENDAR QUARTER, THERE IS NO STRIPPER EXEMPTION IN THAT
 26 QUARTER. THE AVERAGE PRICE PER BARREL IS COMPUTED BY DIVIDING THE SUM OF THE DAILY
 27 PRICE FOR WEST TEXAS INTERMEDIATE CRUDE OIL AS REPORTED IN THE WALL STREET JOURNAL FOR
 28 THE CALENDAR QUARTER BY THE NUMBER OF DAYS ON WHICH THE PRICE WAS REPORTED IN THE
 29 QUARTER."

30 (2)(A) THE SECTION IMPOSING TAX RATES, [SECTION 4], OF SENATE BILL NO. 412, IS

1 AMENDED BY AMENDING SUBSECTION (4)(B) AS FOLLOWS:

2 FOLLOWING: "(B) STRIPPER OIL PRODUCTION"

3 INSERT: "(I)"

4 FOLLOWING: THE ROW ENTITLED "PRE-1985 AND POST-1985 WELLS"

5 INSERT: "(II) STRIPPER EXEMPTION PRODUCTION [A%] [B%]"

6 (B) THE RATE "A%" IS 5 PERCENTAGE POINTS LESS THAN THE RATE FOR STRIPPER OIL
7 PRODUCTION WORKING INTEREST PRE-1985 AND POST-1985, INCLUDING ALL CHANGES TO THAT
8 RATE RESULTING FROM BILLS OTHER THAN [THIS ACT]. THE RATE "B%" IS THE SAME RATE AS
9 STRIPPER OIL PRODUCTION NONWORKING INTEREST PRE-1985 AND POST-1985, INCLUDING ALL
10 CHANGES TO THAT RATE RESULTING FROM BILLS OTHER THAN [THIS ACT].

11 (3) THE DEPARTMENT OF REVENUE SHALL, BY RULE, CHANGE THE FORMULA UNDER [SECTION
12 18] OF SENATE BILL NO. 412 FOR DISTRIBUTION OF TAXES COLLECTED UNDER [SECTION 4] OF
13 SENATE BILL NO. 412. IN RECALCULATING DISTRIBUTION RATES FOR THE REVENUE RAISED BY
14 SENATE BILL NO. 412, THE DEPARTMENT OF REVENUE SHALL DETERMINE THE REVISED RATE
15 ACCORDING TO A FORMULA THAT PRESUMES THAT THE REDUCTION IN THE TAX RATE FOR A
16 WORKING INTEREST BETWEEN SUBSECTIONS (4)(B)(I) AND (4)(B)(II) OF [SECTION 4] OF SENATE BILL
17 NO. 412 IS TO BE BORNE BY THE STATE AND NOT LOCAL GOVERNMENTS.

18
19 NEW SECTION. SECTION 4. CONTINGENT VOIDNESS. IN ORDER TO MAINTAIN A BALANCED
20 BUDGET, BECAUSE [THIS ACT] REDUCES REVENUE, IT MAY NOT BE TRANSMITTED TO THE GOVERNOR
21 UNLESS A CORRESPONDING IDENTIFIED REDUCTION IN SPENDING IS CONTAINED IN HOUSE BILL NO.
22 2. IF A CORRESPONDING IDENTIFIED REDUCTION IN SPENDING IS NOT CONTAINED IN HOUSE BILL NO.
23 2, [THIS ACT] IS VOID.

24
25 NEW SECTION. Section 5. Effective date -- applicability. [This act] is effective July 1, 1995, and
26 applies to all oil produced during the quarters beginning on or after July 1, 1995.

27 -END-

1 HOUSE BILL NO. 90

2 INTRODUCED BY FELAND

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING THE FIRST 3 BARRELS A DAY OF STRIPPER WELL
5 PRODUCTION FROM THE STATE SEVERANCE TAX IF THE AVERAGE PRICE PER BARREL OF OIL
6 RECEIVED DURING A CALENDAR QUARTER IS LESS THAN \$30; AMENDING SECTIONS 15-36-101 AND
7 15-36-121, MCA; AND PROVIDING AN EFFECTIVE DATE AND, AN APPLICABILITY DATE, AND A
8 CONTINGENT VOIDNESS PROVISION."

9

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

THERE ARE NO CHANGES IN THIS BILL AND IT WILL
NOT BE REPRINTED. PLEASE REFER TO SECOND
READING COPY (YELLOW) FOR COMPLETE TEXT.

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
April 7, 1995

MR. PRESIDENT:

We, your committee on Taxation having had under consideration HB 90 (third reading copy -- blue), respectfully report that HB 90 be amended as follows and as so amended be concurred in.

Signed: 
Senator Gerry Devlin, Chair

That such amendments read:

1. Title, line 4.

Strike: "3"

Insert: "2"

2. Title, line 6.

Following: "\$30;"

Insert: "EXCLUDING NONWORKING INTEREST OWNERS FROM THE STRIPPER
WELL EXEMPTION;"

3. Page 8, line 4.

Following: "(3)"

Insert: "(a)"

Strike: "The"

Insert: "Except as provided in subsection (3)(b), the"

Strike: "3"

Insert: "2"

4. Page 8, lines 8 and 21.

Strike: "3"

Insert: "2"

5. Page 8.

Following: line 9

Insert: "(b) The exemption allowed under subsection (3)(a) does
not apply to the gross value paid in cash or apportioned in
kind to a nonworking interest owner."

6. Page 9, lines 2 and 3.

Strike: "FOLLOWING" on line 2 through "(I)" on page 3

7. Page 9, line 4.


Strike: "THE" through "AND"

Insert: "(II)"

8. Page 9, line 5.

Strike: "(II)"

Insert: "(iii)"

 Amd. Coord.
Sec. of Senate


Senator Carryng Bill

HB 90

SENATE

Strike: "[A%] [B%]"

9. Page 9.

Following: line 5

Insert: "(A) pre-1985 wells [a%] [b%]
(B) post-1985 wells [a%] [c%]"

10. Page 9, line 9.

Strike: "AND POST-1985"

11. Page 9, line 10.

Following: "ACT."

Insert: "The rate "c%" is the same rate as stripper oil
production nonworking interest post-1985, including all
changes to that rate resulting from bills other than [this
act]."

12. Page 9, line 16.

Strike: "(4) (B) (I)"

Insert: "(4) (b) (iii) (A) "

Strike: "(4) (B) (II)"

Insert: "(4) (b) (iii) (B) "

-END-

1 HOUSE BILL NO. 90

2 INTRODUCED BY FELAND

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING THE FIRST ~~3~~ 2 BARRELS A DAY OF STRIPPER
 5 WELL PRODUCTION FROM THE STATE SEVERANCE TAX IF THE AVERAGE PRICE PER BARREL OF OIL
 6 RECEIVED DURING A CALENDAR QUARTER IS LESS THAN \$30; EXCLUDING NONWORKING INTEREST
 7 OWNERS FROM THE STRIPPER WELL EXEMPTION; AMENDING SECTIONS 15-36-101 AND 15-36-121,
 8 MCA; AND PROVIDING AN EFFECTIVE DATE ~~AND~~, AN APPLICABILITY DATE, AND A CONTINGENT
 9 VOIDNESS PROVISION."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
 13 **Section 1.** Section 15-36-101, MCA, is amended to read:

14 **"15-36-101. Definitions and rate of tax -- state severance tax -- local government severance tax**
 15 **-- assessment of nonworking interest owner -- exemption.** (1) ~~Every~~ Each person ~~engaging in or carrying~~
 16 ~~on the business of producing~~ who produces petroleum, other mineral or crude oil, or natural gas within this
 17 state or ~~engaging in or carrying on the business of owning, controlling, managing, leasing, or operating~~ who
 18 owns, controls, manages, leases, or operates within this state any well or wells from which any
 19 ~~merchandise or marketable~~ petroleum, other mineral or crude oil, or natural gas is ~~extracted or produced~~
 20 shall, except as provided in 15-36-121, ~~each year when engaged in or carrying on the business in this state~~
 21 pay to the department of revenue a state severance tax for deposit in the state general fund, ~~of the state~~
 22 ~~of Montana~~ plus a local government severance tax in lieu of a tax on net proceeds for replacement of
 23 property taxes formerly levied on net proceeds. Except as provided in subsection (3), the state severance
 24 tax and the local government severance tax are as follows:

25 (a) except as provided in 15-36-121 and in subsections (1)(b) through (1)(f) of this section, a 5%
 26 state severance tax on the gross taxable value of all the petroleum and other mineral or crude oil produced
 27 by the person, plus the local government severance tax of 8.4% on the gross taxable value, as defined in
 28 subsection (8)(a)(ii), of all the petroleum and other mineral or crude oil produced by the person, other than
 29 new production, from each lease or unit; but in determining the amount of the state severance tax and local
 30 government severance tax, there must be excluded from consideration all petroleum or other crude or

1 mineral oil produced and used by the person during the year in connection with the person's operations in
2 prospecting for, developing, and producing the petroleum or crude or mineral oil;

3 (b) a 2.65% state severance tax on the gross taxable value of all natural gas produced by the
4 person, plus the local government severance tax of 15.25% on the gross taxable value, as defined in
5 subsection (8)(a)(ii), of all natural gas produced by the person, other than new production, from each lease
6 or unit; but in determining the amount of the state severance tax and the local government severance tax,
7 there must be excluded from consideration all gas produced and used by the person during the year in
8 connection with the person's operations in prospecting for, developing, and producing the gas or petroleum
9 or crude or mineral oil; and there must also be excluded from consideration all gas, including carbon dioxide
10 gas, recycled or reinjected into the ground;

11 (c) except as provided in subsection (4)(a), a 3% state severance tax on the gross taxable value
12 of the incremental production of petroleum and other mineral or crude oil produced from a secondary
13 recovery project commenced or expanded after December 31, 1993, and before January 1, 2002, plus the
14 local government severance tax of 5% on the gross taxable value, as defined in subsection (8)(a)(ii), of the
15 incremental petroleum and other mineral or crude oil produced by the person, other than new production,
16 from each lease or unit in a secondary recovery project commenced or expanded after December 31, 1993,
17 and before January 1, 2002. For purposes of this section, a secondary recovery project must meet each
18 of the following requirements:

19 (i) The project must be certified as a secondary recovery project to the department by the board.
20 The certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.

21 (ii) The property to be affected by the project must be adequately delineated according to the
22 specifications required by the board.

23 (iii) The project must involve the application of secondary recovery methods that can reasonably
24 be expected to result in an increase, determined by the board to be significant in light of all the facts and
25 circumstances, in the amount of petroleum or mineral or crude oil that may potentially be recovered. For
26 purposes of this section, secondary recovery methods include but are not limited to:

27 (A) the injection of water into the producing formation for the purposes of maintaining pressure
28 in that formation or for the purpose of increasing the flow of petroleum or mineral or crude oil from the
29 producing formation to a producing well bore; or

30 (B) any other method approved by the board as a secondary recovery method.

1 (d) a 2.5% state severance tax on the gross taxable value of the incremental petroleum and other
2 mineral or crude oil produced by the person, plus the local government severance tax of 5% on the gross
3 taxable value, as defined in subsection (8)(a)(ii), of the incremental petroleum and other mineral or crude
4 oil produced by the person, other than new production, from each lease or unit in a tertiary recovery project
5 after July 1, 1985. For purposes of this section, a tertiary recovery project must meet each of the following
6 requirements:

7 (i) The project must be approved as a tertiary recovery project by the board of oil and gas
8 conservation. The approval may be extended only after notice and hearing in accordance with Title 2,
9 chapter 4.

10 (ii) The property to be affected by the project must be adequately delineated according to the
11 specifications required by the board.

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

16 (A) miscible fluid displacement;

17 (B) steam drive injection;

18 (C) micellar/emulsion flooding;

19 (D) in situ combustion;

20 (E) polymer augmented water flooding;

21 (F) cyclic steam injection;

22 (G) alkaline or caustic flooding;

23 (H) carbon dioxide water flooding;

24 (I) immiscible carbon dioxide displacement; or

25 (J) any other method approved by the board as a tertiary recovery method.

26 (e) except as provided in subsection (4)(b), a 2% state severance tax on the gross taxable value
27 of the incremental petroleum and other mineral or crude oil produced by the person, plus the local
28 government severance tax of 3.3% on the gross taxable value, as defined in subsection (8)(a)(ii), of the
29 incremental petroleum and other mineral or crude oil produced by the person, other than new production,
30 from each lease or unit in a tertiary recovery project commenced or expanded after December 31, 1993,

1 and before January 1, 2002. The tertiary recovery project must meet the requirements of subsections
2 (1)(d)(i) through (1)(d)(iii).

3 (f) a 5% local government severance tax on the gross taxable value, as defined in subsection
4 (8)(a)(iii), of all petroleum and other mineral or crude oil produced by the person other than new production
5 ~~produced by~~ from a stripper well, as defined in subsection (9).

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

7 (a) "Board" means the board of oil and gas conservation.

8 (b) "Enhanced recovery project" means the use of any process for the displacement of oil from the
9 earth other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or
10 biological process.

11 (c) "Existing enhanced recovery project" means an enhanced recovery project that began
12 development before January 1, 1994.

13 (d) "Expanded enhanced recovery project" or "expansion" means the addition of injection wells or
14 production wells, the change of injection pattern, or other operating changes to an existing enhanced
15 recovery project that will result in the recovery of oil that would not otherwise be recovered.

16 (e) "Incremental production" means:

17 (i) the volume of oil produced by either a well in primary recovery recompleted as a horizontally
18 completed well or by an expanded enhanced recovery project, which volume of production is in excess of
19 the production decline rate established under the conditions existing before:

20 (A) the commencement of the recompletion of a well as a horizontally completed well;

21 (B) expansion of the existing enhanced recovery project; or

22 (C) commencing a new enhanced recovery project; or

23 (ii) in the case of any project that had no taxable production prior to commencing the enhanced
24 recovery project, all production of petroleum or mineral or crude oil from the enhanced recovery project.

25 (f) "New enhanced recovery project" means an enhanced recovery project that began development
26 after December 31, 1993, and before January 1, 2002.

27 (g) "Operator" or "producer" means the person responsible for the actual physical operation of an
28 enhanced recovery project.

29 (h) "Primary recovery" means the displacement of oil from the earth into the well bore by means
30 of the natural pressure of the oil reservoir and includes artificial lift.

1 (i) "Production decline rate" means the projected rate of future oil production, extrapolated by a
2 method approved by the board, that must be determined for a project area prior to commencing a new or
3 expanded secondary recovery project or the recompletion of a well as a horizontally completed well. The
4 approved production decline rate must be certified in writing to the department of revenue by the board.
5 In that certification, the board shall identify the project area and shall specify the projected rate of future
6 oil production by calendar year and by calendar quarter within each year. The certified rate of future oil
7 production must be used to determine the volume of incremental production that qualifies for the tax rate
8 imposed under subsection (1)(c) or (1)(e).

9 (j) "Secondary recovery project" means an enhanced recovery project that is not a tertiary recovery
10 project.

11 (k) "Tertiary recovery project" means an enhanced recovery project using a tertiary recovery
12 method described in subsection (1)(d)(iii).

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

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

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

22 (b) The amounts paid or apportioned in kind to nonworking interest owners are exempt from the
23 local government severance taxes imposed under 15-36-121(2) and under subsections (1)(a) through (1)(f)
24 of this section.

25 (4) (a) Incremental production from a secondary recovery project is subject to the tax rate imposed
26 in subsection (1)(c) if the average price per barrel of oil as reported in the Wall Street Journal for west
27 Texas intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal
28 to or greater than \$30 per barrel in a calendar quarter as determined in subsection (5), incremental
29 production from a secondary recovery project is taxed as provided in subsection (1)(a) for production
30 occurring in that quarter.

1 (b) Incremental production from a tertiary recovery project is subject to the tax rate imposed in
2 subsection (1)(e) if the average price per barrel of oil as reported in the Wall Street Journal for west Texas
3 intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or
4 greater than \$30 per barrel in a calendar quarter as determined in subsection (5), incremental production
5 from a tertiary recovery project is taxed as provided in subsection (1)(d) for production occurring in that
6 quarter.

7 (5) For the purposes of 15-36-121(3) and for the purposes of subsections (4)(a) and (4)(b) of this
8 section, the average price per barrel must be computed by dividing the sum of the daily price for west
9 Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number
10 of days on which the price was reported in the quarter.

11 (6) ~~Nothing in this~~ This part may not be construed as requiring laborers or employees hired or
12 employed by any person to drill any oil or natural gas well or to work in or about any oil or natural gas well
13 or prospect or explore for or do any work for the purpose of developing any petroleum, other mineral or
14 crude oil, or natural gas to pay the severance tax, nor may work done or the drilling of a well or wells for
15 the purpose of prospecting or exploring for petroleum, other mineral or crude oil, or natural gas or for the
16 purpose of developing them be considered to be the engaging in or carrying on of the business. If, in the
17 doing of any work, in the drilling of any oil or natural gas well, or in prospecting, exploring, or development
18 work, any merchantable or marketable petroleum, other mineral or crude oil, or natural gas in excess of the
19 quantity required by the person for carrying on the operation is produced sufficient in quantity to justify the
20 marketing of the petroleum, other mineral or crude oil, or natural gas, the work, drilling, prospecting,
21 exploring, or development work is considered to be the engaging in and carrying on of the business of
22 producing petroleum, other mineral or crude oil, or natural gas within this state within the meaning of this
23 section.

24 (7) ~~Every~~ Each person required to pay the state or local government severance tax under this
25 section shall pay the tax in full for the person's own account and for the account of each of the other
26 owners of the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude
27 oil or natural gas extracted and produced, including an owner or owners of working interest, royalty
28 interest, overriding royalty interest, carried working interest, net proceeds interest, production payments,
29 and all other interest or interests owned or carved out of the total gross proceeds in value or in kind of the
30 extracted marketable petroleum or other mineral or crude oil or natural gas, except that any of the interests

1 that are owned by the federal, state, county, or municipal governments are exempt from taxation under
 2 this chapter. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or
 3 owners will be deducted from any settlements under the lease or leases or division of proceeds orders or
 4 other contracts.

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

6 (a) (i) "Gross taxable value", for the purpose of computing the state severance tax, means the
 7 gross value of the product as determined in 15-36-103.

8 (ii) "Gross taxable value", for the purpose of computing the local government severance tax, means
 9 the gross value of the product as determined in 15-36-103 less the gross value paid in cash or apportioned
 10 in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum,
 11 other mineral or crude oil, or natural gas.

12 (b) "Nonworking interest owner" means any interest owner who does not share in the development
 13 and operation costs of the lease or unit.

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

18

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

20 **"15-36-121. Exemption from state severance tax -- imposition of local government severance tax.**

21 (1) It is the public policy of this state to promote a sufficient supply of natural gas to provide for the
 22 residents of this state, to lessen Montana's dependence on imported natural gas, and to encourage the
 23 exploration for and development and production of natural gas, petroleum, and other mineral and crude oil
 24 within the state.

25 (2) All the natural gas produced from any well that has produced 60,000 cubic feet or less of
 26 natural gas a day for the calendar year prior to the current year ~~shall~~ must be taxed as provided in this
 27 section. Production must be determined by dividing the amount of production from a lease or unitized area
 28 for the year prior to the current calendar year by the number of producing wells in the lease or unitized area
 29 and by dividing the resulting quotient by 365. The first 30,000 cubic feet of average daily production per
 30 well is exempt from all of the state severance tax imposed by 15-36-101. The first 30,000 cubic feet of

1 average daily production per well is subject to a local government severance tax of 10% on the gross
2 taxable value, as defined in 15-36-101(6)(a)(ii). Everything over 30,000 cubic feet of gas produced is taxed
3 at 1.59% on the gross taxable value for the state severance tax, plus a local government severance tax
4 of 10% on the gross taxable value, as defined in 15-36-101(6)(a)(iii)(8)(a)(ii).

5 (3)(A) The EXCEPT AS PROVIDED IN SUBSECTION (3)(B), THE first 3 2 barrels a day of petroleum
6 and other mineral or crude oil produced by a stripper well are exempt from the state severance tax imposed
7 by 15-36-101, but not from the local government severance tax, if the average price per barrel of oil as
8 reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less
9 than \$30 a barrel. If the price of oil is equal to or greater than \$30 per barrel in a calendar quarter as
10 determined in 15-36-101(5), the first 3 2 barrels a day of stripper well production are taxed as provided
11 in 15-36-101(1)(a) for production occurring in that quarter.

12 (B) THE EXEMPTION ALLOWED UNDER SUBSECTION (3)(A) DOES NOT APPLY TO THE GROSS
13 VALUE PAID IN CASH OR APPORTIONED IN KIND TO A NONWORKING INTEREST OWNER.

14 ~~(3)(4)~~ Notwithstanding the provisions of ~~subsection~~ subsections (2) and (3), all reporting
15 requirements under the state severance tax remain in effect."
16

17 NEW SECTION. SECTION 3. COORDINATION INSTRUCTION. IF SENATE BILL NO. 412 IS
18 PASSED AND APPROVED, THEN SENATE BILL NO. 412 IS AMENDED AS PROVIDED IN SUBSECTIONS
19 (1) AND (2) OF THIS SECTION AND THE DISTRIBUTION OF REVENUE MUST BE MODIFIED AS PROVIDED
20 IN SUBSECTION (3) OF THIS SECTION. IF NECESSARY, THE CODE COMMISSIONER SHALL CORRECT
21 ALL ERRONEOUS INTERNAL REFERENCES WITHIN SENATE BILL NO. 412 CAUSED BY THIS SECTION.

22 (1) THE DEFINITION SECTION, [SECTION 3], OF SENATE BILL NO. 412, IS AMENDED BY ADDING
23 THE FOLLOWING DEFINITION, IN ALPHABETICAL ORDER, AND RENUMBERING SUBSEQUENT
24 SUBSECTIONS:

25 "(20) "STRIPPER EXEMPTION" MEANS THE FIRST 3 2 BARRELS A DAY FOR PETROLEUM AND
26 OTHER MINERAL OR CRUDE OIL PRODUCED BY A STRIPPER WELL IF THE AVERAGE PRICE PER BARREL
27 OF OIL AS REPORTED IN THE WALL STREET JOURNAL FOR WEST TEXAS INTERMEDIATE CRUDE OIL
28 DURING A CALENDAR QUARTER IS LESS THAN \$30 A BARREL. IF THE PRICE OF OIL IS EQUAL TO OR
29 GREATER THAN \$30 A BARREL IN A CALENDAR QUARTER, THERE IS NO STRIPPER EXEMPTION IN THAT
30 QUARTER. THE AVERAGE PRICE PER BARREL IS COMPUTED BY DIVIDING THE SUM OF THE DAILY

1 PRICE FOR WEST TEXAS INTERMEDIATE CRUDE OIL AS REPORTED IN THE WALL STREET JOURNAL FOR
 2 THE CALENDAR QUARTER BY THE NUMBER OF DAYS ON WHICH THE PRICE WAS REPORTED IN THE
 3 QUARTER."

4 (2)(A) THE SECTION IMPOSING TAX RATES, [SECTION 4], OF SENATE BILL NO. 412, IS
 5 AMENDED BY AMENDING SUBSECTION (4)(B) AS FOLLOWS:

6 FOLLOWING: "~~(B)~~ STRIPPER OIL PRODUCTION"

7 INSERT: "(I)"

8 FOLLOWING: ~~THE ROW ENTITLED "PRE-1985 AND (II) POST-1985 WELLS"~~

9 INSERT: "~~(II)~~ (III) STRIPPER EXEMPTION PRODUCTION [A%] [B%]"

10 (A) PRE-1985 WELLS [A%] [B%]

11 (B) POST-1985 WELLS [A%] [C%]

12 (B) THE RATE "A%" IS 5 PERCENTAGE POINTS LESS THAN THE RATE FOR STRIPPER OIL
 13 PRODUCTION WORKING INTEREST PRE-1985 AND POST-1985, INCLUDING ALL CHANGES TO THAT
 14 RATE RESULTING FROM BILLS OTHER THAN [THIS ACT]. THE RATE "B%" IS THE SAME RATE AS
 15 STRIPPER OIL PRODUCTION NONWORKING INTEREST PRE-1985 ~~AND POST-1985~~, INCLUDING ALL
 16 CHANGES TO THAT RATE RESULTING FROM BILLS OTHER THAN [THIS ACT]. THE RATE "C%" IS THE
 17 SAME RATE AS STRIPPER OIL PRODUCTION NONWORKING INTEREST POST-1985, INCLUDING ALL
 18 CHANGES TO THAT RATE RESULTING FROM BILLS OTHER THAN [THIS ACT].

19 (3) THE DEPARTMENT OF REVENUE SHALL, BY RULE, CHANGE THE FORMULA UNDER [SECTION
 20 18] OF SENATE BILL NO. 412 FOR DISTRIBUTION OF TAXES COLLECTED UNDER [SECTION 4] OF
 21 SENATE BILL NO. 412. IN RECALCULATING DISTRIBUTION RATES FOR THE REVENUE RAISED BY
 22 SENATE BILL NO. 412, THE DEPARTMENT OF REVENUE SHALL DETERMINE THE REVISED RATE
 23 ACCORDING TO A FORMULA THAT PRESUMES THAT THE REDUCTION IN THE TAX RATE FOR A
 24 WORKING INTEREST BETWEEN SUBSECTIONS ~~(4)(B)(I)~~ (4)(B)(III)(A) AND ~~(4)(B)(II)~~ (4)(B)(III)(B) OF
 25 [SECTION 4] OF SENATE BILL NO. 412 IS TO BE BORNE BY THE STATE AND NOT LOCAL
 26 GOVERNMENTS.

27
 28 NEW SECTION. SECTION 4. CONTINGENT VOIDNESS. IN ORDER TO MAINTAIN A BALANCED
 29 BUDGET, BECAUSE [THIS ACT] REDUCES REVENUE, IT MAY NOT BE TRANSMITTED TO THE GOVERNOR
 30 UNLESS A CORRESPONDING IDENTIFIED REDUCTION IN SPENDING IS CONTAINED IN HOUSE BILL NO.

1 2. IF A CORRESPONDING IDENTIFIED REDUCTION IN SPENDING IS NOT CONTAINED IN HOUSE BILL NO.
2 2, [THIS ACT] IS VOID.

3

4 NEW SECTION. Section 5. Effective date -- applicability. [This act] is effective July 1, 1995, and
5 applies to all oil produced during the quarters beginning on or after July 1, 1995.

6

-END-



FREE CONFERENCE COMMITTEE

on House Bill 90

Report No. 1, April 11, 1995

Mr. Speaker and Mr. President:

We, your Conference Committee on House Bill 90 met and considered House Bill 90 and recommend that House Bill 90 (reference copy -- salmon) be amended as follows:

1. Title, line 4.

Strike: "2"

Insert: "3"

2. Page 8, lines 5, 10, 25.

Strike: "2"

Insert: "3"

We recommend that the amendments considered above to House Bill 90 be acceded to by the senate.

And this Conference Committee report be adopted.

For the House:

Feland

Chair

Rose

Peck

For the Senate:

Foster

Chair

Cole

Nelson

[Handwritten signatures of Feland, Rose, and Peck]

[Handwritten signatures of Foster, Cole, Nelson, and Linda Nelson]

ADOPT

REJECT

HB 90
FCCR#1
831516CC.Hbk

HOUSE BILL NO. 90

INTRODUCED BY FELAND

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING THE FIRST ~~3-2~~ 3 BARRELS A DAY OF STRIPPER WELL PRODUCTION FROM THE STATE SEVERANCE TAX IF THE AVERAGE PRICE PER BARREL OF OIL RECEIVED DURING A CALENDAR QUARTER IS LESS THAN \$30; EXCLUDING NONWORKING INTEREST OWNERS FROM THE STRIPPER WELL EXEMPTION; AMENDING SECTIONS 15-36-101 AND 15-36-121, MCA; AND PROVIDING AN EFFECTIVE DATE ~~AND~~, AN APPLICABILITY DATE, AND A CONTINGENT VOIDNESS PROVISION."

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~~ Each person ~~engaging in or carrying on the business of producing who produces~~ 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 who owns, controls, manages, leases, or operates~~ within this state any well or wells from which any ~~merchandise 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 deposit in the state general fund, ~~of the state of Montana~~ plus a local government severance tax in lieu of a tax on net proceeds for replacement of property taxes formerly levied on net proceeds. 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) through (1)(f) 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 (8)(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

1 mineral oil produced and used by the person during the year in connection with the person's operations in
2 prospecting for, developing, and producing the petroleum or crude or mineral oil;

3 (b) a 2.65% state severance tax on the gross taxable value of all natural gas produced by the
4 person, plus the local government severance tax of 15.25% on the gross taxable value, as defined in
5 subsection (8)(a)(ii), of all natural gas produced by the person, other than new production, from each lease
6 or unit; but in determining the amount of the state severance tax and the local government severance tax,
7 there must be excluded from consideration all gas produced and used by the person during the year in
8 connection with the person's operations in prospecting for, developing, and producing the gas or petroleum
9 or crude or mineral oil; and there must also be excluded from consideration all gas, including carbon dioxide
10 gas, recycled or reinjected into the ground;

11 (c) except as provided in subsection (4)(a), a 3% state severance tax on the gross taxable value
12 of the incremental production of petroleum and other mineral or crude oil produced from a secondary
13 recovery project commenced or expanded after December 31, 1993, and before January 1, 2002, plus the
14 local government severance tax of 5% on the gross taxable value, as defined in subsection (8)(a)(ii), of the
15 incremental petroleum and other mineral or crude oil produced by the person, other than new production,
16 from each lease or unit in a secondary recovery project commenced or expanded after December 31, 1993,
17 and before January 1, 2002. For purposes of this section, a secondary recovery project must meet each
18 of the following requirements:

19 (i) The project must be certified as a secondary recovery project to the department by the board.
20 The certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.

21 (ii) The property to be affected by the project must be adequately delineated according to the
22 specifications required by the board.

23 (iii) The project must involve the application of secondary recovery methods that can reasonably
24 be expected to result in an increase, determined by the board to be significant in light of all the facts and
25 circumstances, in the amount of petroleum or mineral or crude oil that may potentially be recovered. For
26 purposes of this section, secondary recovery methods include but are not limited to:

27 (A) the injection of water into the producing formation for the purposes of maintaining pressure
28 in that formation or for the purpose of increasing the flow of petroleum or mineral or crude oil from the
29 producing formation to a producing well bore; or

30 (B) any other method approved by the board as a secondary recovery method.

1 (d) a 2.5% state severance tax on the gross taxable value of the incremental petroleum and other
2 mineral or crude oil produced by the person, plus the local government severance tax of 5% on the gross
3 taxable value, as defined in subsection (8)(a)(ii), of the incremental petroleum and other mineral or crude
4 oil produced by the person, other than new production, from each lease or unit in a tertiary recovery project
5 after July 1, 1985. For purposes of this section, a tertiary recovery project must meet each of the following
6 requirements:

7 (i) The project must be approved as a tertiary recovery project by the board of oil and gas
8 conservation. The approval may be extended only after notice and hearing in accordance with Title 2,
9 chapter 4.

10 (ii) The property to be affected by the project must be adequately delineated according to the
11 specifications required by the board.

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

16 (A) miscible fluid displacement;

17 (B) steam drive injection;

18 (C) micellar/emulsion flooding;

19 (D) in situ combustion;

20 (E) polymer augmented water flooding;

21 (F) cyclic steam injection;

22 (G) alkaline or caustic flooding;

23 (H) carbon dioxide water flooding;

24 (I) immiscible carbon dioxide displacement; or

25 (J) any other method approved by the board as a tertiary recovery method.

26 (e) except as provided in subsection (4)(b), a 2% state severance tax on the gross taxable value
27 of the incremental petroleum and other mineral or crude oil produced by the person, plus the local
28 government severance tax of 3.3% on the gross taxable value, as defined in subsection (8)(a)(ii), of the
29 incremental petroleum and other mineral or crude oil produced by the person, other than new production,
30 from each lease or unit in a tertiary recovery project commenced or expanded after December 31, 1993,

1 and before January 1, 2002. The tertiary recovery project must meet the requirements of subsections
2 (1)(d)(i) through (1)(d)(iii).

3 (f) a 5% local government severance tax on the gross taxable value, as defined in subsection
4 (8)(a)(ii), of all petroleum and other mineral or crude oil produced by the person other than new production
5 ~~produced by~~ from a stripper well, as defined in subsection (9).

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

7 (a) "Board" means the board of oil and gas conservation.

8 (b) "Enhanced recovery project" means the use of any process for the displacement of oil from the
9 earth other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or
10 biological process.

11 (c) "Existing enhanced recovery project" means an enhanced recovery project that began
12 development before January 1, 1994.

13 (d) "Expanded enhanced recovery project" or "expansion" means the addition of injection wells or
14 production wells, the change of injection pattern, or other operating changes to an existing enhanced
15 recovery project that will result in the recovery of oil that would not otherwise be recovered.

16 (e) "Incremental production" means:

17 (i) the volume of oil produced by either a well in primary recovery recompleted as a horizontally
18 completed well or by an expanded enhanced recovery project, which volume of production is in excess of
19 the production decline rate established under the conditions existing before:

20 (A) the commencement of the recompletion of a well as a horizontally completed well;

21 (B) expansion of the existing enhanced recovery project; or

22 (C) commencing a new enhanced recovery project; or

23 (ii) in the case of any project that had no taxable production prior to commencing the enhanced
24 recovery project, all production of petroleum or mineral or crude oil from the enhanced recovery project.

25 (f) "New enhanced recovery project" means an enhanced recovery project that began development
26 after December 31, 1993, and before January 1, 2002.

27 (g) "Operator" or "producer" means the person responsible for the actual physical operation of an
28 enhanced recovery project.

29 (h) "Primary recovery" means the displacement of oil from the earth into the well bore by means
30 of the natural pressure of the oil reservoir and includes artificial lift.

1 (i) "Production decline rate" means the projected rate of future oil production, extrapolated by a
2 method approved by the board, that must be determined for a project area prior to commencing a new or
3 expanded secondary recovery project or the recompletion of a well as a horizontally completed well. The
4 approved production decline rate must be certified in writing to the department of revenue by the board.
5 In that certification, the board shall identify the project area and shall specify the projected rate of future
6 oil production by calendar year and by calendar quarter within each year. The certified rate of future oil
7 production must be used to determine the volume of incremental production that qualifies for the tax rate
8 imposed under subsection (1)(c) or (1)(e).

9 (j) "Secondary recovery project" means an enhanced recovery project that is not a tertiary recovery
10 project.

11 (k) "Tertiary recovery project" means an enhanced recovery project using a tertiary recovery
12 method described in subsection (1)(d)(iii).

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

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

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

22 (b) The amounts paid or apportioned in kind to nonworking interest owners are exempt from the
23 local government severance taxes imposed under 15-36-121(2) and under subsections (1)(a) through (1)(f)
24 of this section.

25 (4) (a) Incremental production from a secondary recovery project is subject to the tax rate imposed
26 in subsection (1)(c) if the average price per barrel of oil as reported in the Wall Street Journal for west
27 Texas intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal
28 to or greater than \$30 per barrel in a calendar quarter as determined in subsection (5), incremental
29 production from a secondary recovery project is taxed as provided in subsection (1)(a) for production
30 occurring in that quarter.

1 (b) Incremental production from a tertiary recovery project is subject to the tax rate imposed in
2 subsection (1)(e) if the average price per barrel of oil as reported in the Wall Street Journal for west Texas
3 intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or
4 greater than \$30 per barrel in a calendar quarter as determined in subsection (5), incremental production
5 from a tertiary recovery project is taxed as provided in subsection (1)(d) for production occurring in that
6 quarter.

7 (5) For the purposes of 15-36-121(3) and for the purposes of subsections (4)(a) and (4)(b) of this
8 section, the average price per barrel must be computed by dividing the sum of the daily price for west
9 Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number
10 of days on which the price was reported in the quarter.

11 (6) ~~Nothing in this~~ This part may not be construed as requiring laborers or employees hired or
12 employed by any person to drill any oil or natural gas well or to work in or about any oil or natural gas well
13 or prospect or explore for or do any work for the purpose of developing any petroleum, other mineral or
14 crude oil, or natural gas to pay the severance tax, nor may work done or the drilling of a well or wells for
15 the purpose of prospecting or exploring for petroleum, other mineral or crude oil, or natural gas or for the
16 purpose of developing them be considered to be the engaging in or carrying on of the business. If, in the
17 doing of any work, in the drilling of any oil or natural gas well, or in prospecting, exploring, or development
18 work, any merchantable or marketable petroleum, other mineral or crude oil, or natural gas in excess of the
19 quantity required by the person for carrying on the operation is produced sufficient in quantity to justify the
20 marketing of the petroleum, other mineral or crude oil, or natural gas, the work, drilling, prospecting,
21 exploring, or development work is considered to be the engaging in and carrying on of the business of
22 producing petroleum, other mineral or crude oil, or natural gas within this state within the meaning of this
23 section.

24 (7) ~~Every~~ Each person required to pay the state or local government severance tax under this
25 section shall pay the tax in full for the person's own account and for the account of each of the other
26 owners of the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude
27 oil or natural gas extracted and produced, including an owner or owners of working interest, royalty
28 interest, overriding royalty interest, carried working interest, net proceeds interest, production payments,
29 and all other interest or interests owned or carved out of the total gross proceeds in value or in kind of the
30 extracted marketable petroleum or other mineral or crude oil or natural gas, except that any of the interests

1 that are owned by the federal, state, county, or municipal governments are exempt from taxation under
2 this chapter. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or
3 owners will be deducted from any settlements under the lease or leases or division of proceeds orders or
4 other contracts.

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

6 (a) (i) "Gross taxable value", for the purpose of computing the state severance tax, means the
7 gross value of the product as determined in 15-36-103.

8 (ii) "Gross taxable value", for the purpose of computing the local government severance tax, means
9 the gross value of the product as determined in 15-36-103 less the gross value paid in cash or apportioned
10 in kind to a nonworking interest owner by the operator or producer of extracted marketable petroleum,
11 other mineral or crude oil, or natural gas.

12 (b) "Nonworking interest owner" means any interest owner who does not share in the development
13 and operation costs of the lease or unit.

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

18

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

20 **"15-36-121. Exemption from state severance tax -- imposition of local government severance tax.**

21 (1) It is the public policy of this state to promote a sufficient supply of natural gas to provide for the
22 residents of this state, to lessen Montana's dependence on imported natural gas, and to encourage the
23 exploration for and development and production of natural gas, petroleum, and other mineral and crude oil
24 within the state.

25 (2) All the natural gas produced from any well that has produced 60,000 cubic feet or less of
26 natural gas a day for the calendar year prior to the current year ~~shall~~ must be taxed as provided in this
27 section. Production must be determined by dividing the amount of production from a lease or unitized area
28 for the year prior to the current calendar year by the number of producing wells in the lease or unitized area
29 and by dividing the resulting quotient by 365. The first 30,000 cubic feet of average daily production per
30 well is exempt from all of the state severance tax imposed by 15-36-101. The first 30,000 cubic feet of

1 average daily production per well is subject to a local government severance tax of 10% on the gross
 2 taxable value, as defined in 15-36-101(6)(a)(ii). Everything over 30,000 cubic feet of gas produced is taxed
 3 at 1.59% on the gross taxable value for the state severance tax, plus a local government severance tax
 4 of 10% on the gross taxable value, as defined in 15-36-101(6)(a)(iii)(8)(a)(ii).

5 (3)(A) The EXCEPT AS PROVIDED IN SUBSECTION (3)(B), THE first 3-2 3 barrels a day of
 6 petroleum and other mineral or crude oil produced by a stripper well are exempt from the state severance
 7 tax imposed by 15-36-101, but not from the local government severance tax, if the average price per barrel
 8 of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter
 9 is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 per barrel in a calendar quarter
 10 as determined in 15-36-101(5), the first 3-2 3 barrels a day of stripper well production are taxed as
 11 provided in 15-36-101(1)(a) for production occurring in that quarter.

12 (B) THE EXEMPTION ALLOWED UNDER SUBSECTION (3)(A) DOES NOT APPLY TO THE GROSS
 13 VALUE PAID IN CASH OR APPORTIONED IN KIND TO A NONWORKING INTEREST OWNER.

14 ~~(3)(4)~~ Notwithstanding the provisions of ~~subsection~~ subsections (2) and (3), all reporting
 15 requirements under the state severance tax remain in effect."
 16

17 NEW SECTION. SECTION 3. COORDINATION INSTRUCTION. IF SENATE BILL NO. 412 IS
 18 PASSED AND APPROVED, THEN SENATE BILL NO. 412 IS AMENDED AS PROVIDED IN SUBSECTIONS
 19 (1) AND (2) OF THIS SECTION AND THE DISTRIBUTION OF REVENUE MUST BE MODIFIED AS PROVIDED
 20 IN SUBSECTION (3) OF THIS SECTION. IF NECESSARY, THE CODE COMMISSIONER SHALL CORRECT
 21 ALL ERRONEOUS INTERNAL REFERENCES WITHIN SENATE BILL NO. 412 CAUSED BY THIS SECTION.

22 (1) THE DEFINITION SECTION, [SECTION 3], OF SENATE BILL NO. 412, IS AMENDED BY ADDING
 23 THE FOLLOWING DEFINITION, IN ALPHABETICAL ORDER, AND RENUMBERING SUBSEQUENT
 24 SUBSECTIONS:

25 "(20) "STRIPPER EXEMPTION" MEANS THE FIRST 3-2 3 BARRELS A DAY FOR PETROLEUM AND
 26 OTHER MINERAL OR CRUDE OIL PRODUCED BY A STRIPPER WELL IF THE AVERAGE PRICE PER BARREL
 27 OF OIL AS REPORTED IN THE WALL STREET JOURNAL FOR WEST TEXAS INTERMEDIATE CRUDE OIL
 28 DURING A CALENDAR QUARTER IS LESS THAN \$30 A BARREL. IF THE PRICE OF OIL IS EQUAL TO OR
 29 GREATER THAN \$30 A BARREL IN A CALENDAR QUARTER, THERE IS NO STRIPPER EXEMPTION IN THAT
 30 QUARTER. THE AVERAGE PRICE PER BARREL IS COMPUTED BY DIVIDING THE SUM OF THE DAILY

1 PRICE FOR WEST TEXAS INTERMEDIATE CRUDE OIL AS REPORTED IN THE WALL STREET JOURNAL FOR
 2 THE CALENDAR QUARTER BY THE NUMBER OF DAYS ON WHICH THE PRICE WAS REPORTED IN THE
 3 QUARTER."

4 (2)(A) THE SECTION IMPOSING TAX RATES, [SECTION 4], OF SENATE BILL NO. 412, IS
 5 AMENDED BY AMENDING SUBSECTION (4)(B) AS FOLLOWS:

6 FOLLOWING: "(B) STRIPPER OIL PRODUCTION"

7 INSERT: "(I)"

8 FOLLOWING: THE ROW ENTITLED "PRE-1985 AND (II) POST-1985 WELLS"

9 INSERT: "(II) (III) STRIPPER EXEMPTION PRODUCTION [A%] [B%]"

10 (A) PRE-1985 WELLS [A%] [B%]

11 (B) POST-1985 WELLS [A%] [C%]

12 (B) THE RATE "A%" IS 5 PERCENTAGE POINTS LESS THAN THE RATE FOR STRIPPER OIL
 13 PRODUCTION WORKING INTEREST PRE-1985 AND POST-1985, INCLUDING ALL CHANGES TO THAT
 14 RATE RESULTING FROM BILLS OTHER THAN [THIS ACT]. THE RATE "B%" IS THE SAME RATE AS
 15 STRIPPER OIL PRODUCTION NONWORKING INTEREST PRE-1985 AND POST-1985, INCLUDING ALL
 16 CHANGES TO THAT RATE RESULTING FROM BILLS OTHER THAN [THIS ACT]. THE RATE "C%" IS THE
 17 SAME RATE AS STRIPPER OIL PRODUCTION NONWORKING INTEREST POST-1985, INCLUDING ALL
 18 CHANGES TO THAT RATE RESULTING FROM BILLS OTHER THAN [THIS ACT].

19 (3) THE DEPARTMENT OF REVENUE SHALL, BY RULE, CHANGE THE FORMULA UNDER [SECTION
 20 18] OF SENATE BILL NO. 412 FOR DISTRIBUTION OF TAXES COLLECTED UNDER [SECTION 4] OF
 21 SENATE BILL NO. 412. IN RECALCULATING DISTRIBUTION RATES FOR THE REVENUE RAISED BY
 22 SENATE BILL NO. 412, THE DEPARTMENT OF REVENUE SHALL DETERMINE THE REVISED RATE
 23 ACCORDING TO A FORMULA THAT PRESUMES THAT THE REDUCTION IN THE TAX RATE FOR A
 24 WORKING INTEREST BETWEEN SUBSECTIONS (4)(B)(I) (4)(B)(III)(A) AND (4)(B)(III) (4)(B)(III)(B) OF
 25 [SECTION 4] OF SENATE BILL NO. 412 IS TO BE BORNE BY THE STATE AND NOT LOCAL
 26 GOVERNMENTS.

27

28 NEW SECTION. SECTION 4. CONTINGENT VOIDNESS. IN ORDER TO MAINTAIN A BALANCED
 29 BUDGET, BECAUSE [THIS ACT] REDUCES REVENUE, IT MAY NOT BE TRANSMITTED TO THE GOVERNOR
 30 UNLESS A CORRESPONDING IDENTIFIED REDUCTION IN SPENDING IS CONTAINED IN HOUSE BILL NO.

1 2. IF A CORRESPONDING IDENTIFIED REDUCTION IN SPENDING IS NOT CONTAINED IN HOUSE BILL NO.
2 2, [THIS ACT] IS VOID.

3

4 NEW SECTION. Section 5. Effective date -- applicability. [This act] is effective July 1, 1995, and
5 applies to all oil produced during the quarters beginning on or after July 1, 1995.

6

-END-