

SENATE BILL NO. 338

INTRODUCED BY

Jergeson Nelson Peck
Feltan DeLoe *Tracy* *Miller* *Johnson* *M. Hanson*
Milam

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING FROM THE STATE SEVERANCE TAX FOR 24 MONTHS OIL OR NATURAL GAS PRODUCED FROM A WELL DRILLED AFTER MARCH 31, 1995; AMENDING SECTIONS 15-36-101 AND 15-36-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND CONTINGENT APPLICABILITY DATES."

Rebecca *Blatney*

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 subsections (1)(b) through (1)(f), 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)(iii), 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 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)~~(3) and under subsections (1)(a) through
22 (1)(f) 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 subsections (4)(a) and (4)(b), the average price per barrel must be
6 computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the
7 Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the
8 quarter.

9 (6) Nothing in this part may be construed as requiring laborers or employees hired or employed by
10 any person to drill any oil or natural gas well or to work in or about any oil or natural gas well or prospect
11 or explore for or do any work for the purpose of developing any petroleum, other mineral or crude oil, or
12 natural gas to pay the severance tax, nor may work done or the drilling of a well or wells for the purpose
13 of prospecting or exploring for petroleum, other mineral or crude oil, or natural gas or for the purpose of
14 developing them be considered to be the engaging in or carrying on of the business. If, in the doing of any
15 work, in the drilling of any oil or natural gas well, or in prospecting, exploring, or development work, any
16 merchantable or marketable petroleum, other mineral or crude oil, or natural gas in excess of the quantity
17 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 person required to pay the state or local government severance tax under this section
23 shall pay the tax in full for the person's own account and for the account of each of the other owners of
24 the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude oil or natural
25 gas extracted and produced, including an owner or owners of working interest, royalty interest, overriding
26 royalty interest, carried working interest, net proceeds interest, production payments, and all other interest
27 or interests owned or carved out of the total gross proceeds in value or in kind of the extracted marketable
28 petroleum or other mineral or crude oil or natural gas, except that any of the interests that are owned by
29 the federal, state, county, or municipal governments are exempt from taxation under this chapter. Unless
30 otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners will be

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

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

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

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

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

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

15

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

17 **"15-36-121. Exemption from state severance tax -- imposition of local government severance tax.**

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

22 (2) All production of natural gas, petroleum, or other mineral or crude oil from a well that was
23 drilled after March 31, 1995, or from a well that has not produced natural gas, petroleum, or other mineral
24 or crude oil during the 5 years immediately preceding the first month of qualified production is exempt from
25 all of the state severance tax imposed by 15-36-101 during the 24 months immediately following the date
26 of notification to the department of revenue that an oil well is flowing or being pumped or that a gas well
27 has been connected to a gathering or distribution system.

28 ~~(2)(3)~~ All the natural gas produced from any a well that has produced 60,000 cubic feet or less
29 of natural gas a day for the calendar year prior to the current year shall be is taxed as provided in this
30 section. ~~Production must be~~ Average daily production is determined by dividing the amount of production

1 from a lease or unitized area for the year ~~prior to~~ immediately preceding the current calendar year by the
2 number of producing wells in the lease or unitized area and by dividing the resulting quotient by 365. The
3 first 30,000 cubic feet of average daily production ~~per~~ for each well is exempt from all of the state
4 severance tax imposed by 15-36-101. The first 30,000 cubic feet of average daily production ~~per~~ for each
5 well is subject to a local government severance tax of 10% on the gross taxable value, as defined in
6 15-36-101(6)(a)(iii). ~~Everything over~~ Natural gas production in excess of 30,000 cubic feet of gas produced
7 is taxed at 1.59% on the gross taxable value for the state severance tax plus a local government severance
8 tax of 10% on the gross taxable value, as defined in 15-36-101~~(6)(a)(iii)~~ (8)(a)(ii).

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. [This act] is effective on passage and approval.

13
14 NEW SECTION. Section 4. Contingent applicability. (1) If [this act] is passed and approved before
15 April 1, 1995, then [this act] applies to oil and gas produced from a well that is drilled after March 31,
16 1995.

17 (2) If [this act] is passed and approved after March 31, 1995, then [this act] applies retroactively,
18 within the meaning of 1-2-109, to oil and gas produced from a well drilled after March 31, 1995.

19 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0338, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act exempting from the state severance tax for 24 months oil or natural gas produced from a well drilled after March 31, 1995; and providing an immediate effective date and contingent applicability dates.

ASSUMPTIONS:

1. Total oil production exempt from the net proceeds tax from the 24 month period 10/1/92 through 9/30/94 was 1,278,671 bbls. (MDOR).
2. Total natural gas production exempt from the net proceeds tax from the 24 month period 10/1/92 through 9/30/94 was 7,266,530 MCF's (MDOR).
3. Total oil and natural gas production exempt for the first 24 months from wells drilled after 3/31/95 will be the same as exempted from the net proceeds tax during the 24 month period of 10/1/92 through 9/30/94 (MDOR).
4. Oil and natural gas wells drilled after March 31, 1995 and their associated production is distributed evenly across a calendar year (MDOR).
5. Taxable oil and natural gas production is 95.8% of total production (MDOR).
6. Montana oil price per barrel is \$14.24 in FY95, \$14.56 in FY96, and \$15.58 in FY97 (ROC/MDOR).
7. Montana natural gas price per MCF is \$1.63 in FY95, \$1.65 in FY96, and \$1.71 in FY97 (ROC/MDOR).
8. Natural gas stripper production accounts for 53.5% of total production and exempt stripper production accounts for 87.2% of total stripper production (MDOR).
9. Natural gas production from a new well cannot qualify as stripper production during the first calendar year of production (MDOR).

FISCAL IMPACT:

Revenues:

The proposed legislation impacts oil severance tax collections by an estimated (\$17,000) and natural gas severance tax collections by an estimated (\$6,000) in FY95. All oil and natural gas severance tax collections are deposited 100% to the general fund.

| | <u>FY96</u> | <u>FY97</u> |
|----------------------------------|-------------------|-------------------|
| | <u>Difference</u> | <u>Difference</u> |
| Oil Severance Tax | (\$339,000) | (\$802,000) |
| <u>Natural Gas Severance Tax</u> | <u>(113,000)</u> | <u>(206,000)</u> |
| Total | (\$452,000) | (\$1,008,000) |

LONG-RANGE IMPACTS OF THE PROPOSED LEGISLATION:

Under the listed price and production assumptions, the proposed legislation would impact future oil severance tax collections by (\$916,000) and natural gas severance tax collections by (\$172,000) in each fiscal year after FY97. The combined impact to the general fund would be (\$1,088,000) per fiscal year.

Dave Lewis 2.14.95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Greg Jergeson 2/15/95
GREG JERGESON, PRIMARY SPONSOR DATE
Fiscal Note for SB0338, as introduced

SB 338

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0338, 2nd reading

DESCRIPTION OF PROPOSED LEGISLATION: An act exempting from the state severance tax for 24 months oil or natural gas produced from a well drilled after March 31, 1995; and providing an immediate effective date and contingent applicability dates.

ASSUMPTIONS:

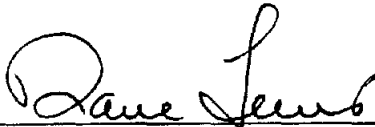
1. Total oil production exempt from the net proceeds tax from the 24 month period 10/1/92 through 9/30/94 was 1,278,671 bbls. (MDOR).
2. Total natural gas production exempt from the net proceeds tax from the 24 month period 10/1/92 through 9/30/94 was 7,266,530 MCF's (MDOR).
3. Total oil and natural gas production exempt for the first 24 months from wells drilled after 3/31/95 will be the same as exempted from the net proceeds tax during the 24 month period of 10/1/92 through 9/30/94 (MDOR).
4. Oil and natural gas wells drilled after March 31, 1995 and their associated production is distributed evenly across a calendar year (MDOR).
5. Taxable oil and natural gas production is 95.8% of total production (MDOR).
6. Montana oil price per barrel is \$14.24 in FY95, \$14.56 in FY96, and \$15.58 in FY97 (ROC/MDOR).
7. Montana natural gas price per MCF is \$1.63 in FY95, \$1.65 in FY96, and \$1.71 in FY97 (ROC/MDOR).
8. Natural gas stripper production accounts for 53.5% of total production and exempt stripper production accounts for 87.2% of total stripper production (MDOR).
9. Natural gas production from a new well cannot qualify as stripper production during the first calendar year of production (MDOR).
10. **Senate Bill 412 is passed and signed into law (MDOR).**
11. Royalty production accounts for 14.23% of total Post-1985 natural gas production (MDOR).
12. Royalty production accounts for 13.14% of total Post-1985 oil production (MDOR).
13. The department will adjust the distribution formula in SB412 between state accounts to ensure that the decrease in revenue collections under the proposed legislation will be borne by the general fund (MDOR).

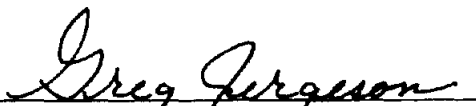
FISCAL IMPACT:

Expenditures:

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

(continued - page 2)

 3.24.94
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 3/29/95
GREG JERGESON/PRIMARY SPONSOR DATE
Fiscal Note for SB0338, 2nd reading

SB 338

Revenues:

The following fiscal impacts to the general fund are relative to the impacts under Senate Bill 412:

| | <u>FY96</u> | <u>FY97</u> |
|-----------------------------------|-------------------|-------------------|
| | <u>Difference</u> | <u>Difference</u> |
| Oil Production Tax | (\$294,000) | (\$697,000) |
| <u>Natural Gas Production Tax</u> | <u>(97,000)</u> | <u>(176,000)</u> |
| Total | (\$391,000) | (\$873,000) |

LONG-RANGE IMPACTS OF THE PROPOSED LEGISLATION:

Under the listed price and production assumptions, the proposed legislation would impact future oil production tax collections by (\$796,000) and natural gas production tax collections by (\$147,000) in each fiscal year after FY97. The combined impact to the general fund would be (\$943,000) per fiscal year.

TECHNICAL NOTE:

The section of the proposed legislation containing the coordination instructions for SB412 does not allow royalty owners to receive the 24-month production tax incentive. However, the first section of the bill which amends current law (not SB412) would allow royalty owners to receive the 24-month holiday from the current law state severance tax.

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB-338, 3rd reading, as amended.

DESCRIPTION OF PROPOSED LEGISLATION: An act exempting from the state severance tax for 18 months oil or natural gas produced from a well drilled after March 31, 1995; and providing an immediate effective date and contingent applicability dates.

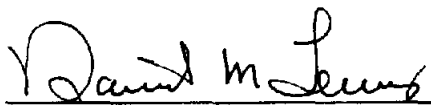
ASSUMPTIONS:

1. Total oil production exempt from the net proceeds tax from the 24 month period 10/1/92 through 9/30/94 was 1,224,967 bbls. (MDOR).
2. Total natural gas production exempt from the net proceeds tax from the 24 month period 10/1/92 through 9/30/94 was 7,266,530 MCF's (MDOR).
3. Total oil and natural gas production exempt for the first 24 months from wells drilled after 3/31/95 will be the same as exempted from the net proceeds tax during the 24 month period of 10/1/92 through 9/30/94 (MDOR).
4. Oil and natural gas wells drilled after March 31, 1995 and their associated production is distributed evenly across a calendar year (MDOR).
5. Taxable oil and natural gas production is 95.8% of total production (MDOR).
6. Montana oil price per barrel is \$14.24 in FY95, \$14.56 in FY96, and \$15.58 in FY97 (ROC/MDOR).
7. Montana natural gas price per MCF is \$1.63 in FY95, \$1.65 in FY96, and \$1.71 in FY97 (ROC/MDOR).
8. Natural gas stripper production accounts for 53.5% of total production and exempt stripper production accounts for 87.2% of total stripper production (MDOR).
9. Natural gas production from a new well cannot qualify as stripper production during the first calendar year of production (MDOR).
10. **Senate Bill 412 is passed and signed into law (MDOR).**
11. Royalty production accounts for 14.23% of total Post-1985 natural gas production (MDOR).
12. Royalty production accounts for 13.14% of total Post-1985 oil production (MDOR).
13. The department will adjust the distribution formula in SB-412 between state accounts to ensure that the decrease in revenue collections under the proposed legislation will be borne by the general fund (MDOR).

FISCAL IMPACT:

Expenditures:

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

 4-7-95

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

GREG JERGESON, PRIMARY SPONSOR DATE
Fiscal Note for SB-338, 3rd reading, as amended.

SB 338 #3

Revenues:

The following fiscal impacts to the general fund are relative to the impacts under Senate Bill 412. The proposed legislation has an impact of (\$20,000) in FY95 of the current biennium.

| | <u>FY96</u> | <u>FY97</u> |
|-----------------------------------|-------------------|-------------------|
| | <u>Difference</u> | <u>Difference</u> |
| Oil Production Tax | (\$294,000) | (\$588,000) |
| <u>Natural Gas Production Tax</u> | <u>(97,000)</u> | <u>(141,000)</u> |
| Total | (\$391,000) | (\$729,000) |

LONG-RANGE IMPACTS OF THE PROPOSED LEGISLATION:

Under the listed price and production assumptions, the proposed legislation would impact future oil production tax collections by (\$597,000) and natural gas production tax collections by (\$100,000) in each fiscal year after FY1997. The combined impact to the general fund would be (\$697,000) per fiscal year.

TECHNICAL NOTE:

The section of the proposed legislation containing the coordination instructions for SB-412 does not allow royalty owners to receive the 24-month production tax incentive. However, the first section of the bill which amends current law (not SB-412) would allow royalty owners to receive the 24-month holiday from the current law state severance tax.

1 SENATE BILL NO. 338

2 INTRODUCED BY JERGESON, L. NELSON, PECK, HAGENER, FELAND, DEVANEY, GAGE, TVEIT,
3 MILLS, J. JOHNSON, M. HANSON, MCCANN, REHBEIN, KEATING

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING FROM THE STATE SEVERANCE TAX FOR 24
6 MONTHS OIL OR NATURAL GAS PRODUCED FROM A WELL DRILLED AFTER MARCH 31, 1995;
7 AMENDING SECTIONS 15-36-101 AND 15-36-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
8 DATE AND CONTINGENT APPLICABILITY DATES."

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~~**
17 **who owns, controls, manages, leases, or operates within this state any well or wells from which any**
18 **~~merchtable 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 subsections (1)(b) through (1)(f), a 5% state severance tax on the gross
25 taxable value of all the petroleum and other mineral or crude oil produced by the person, plus the local
26 government severance tax of 8.4% on the gross taxable value, as defined in subsection (8)(a)(ii), of all the
27 petroleum and other mineral or crude oil produced by the person, other than new production, from each
28 lease or unit; but in determining the amount of the state severance tax and local government severance
29 tax, there must be excluded from consideration all petroleum or other crude or mineral oil produced and
30 used by the person during the year in connection with the person's operations in prospecting for,

1 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
13 the local government severance tax of 5% on the gross taxable value, as defined in subsection (8)(a)(ii),
14 of the incremental petroleum and other mineral or crude oil produced by the person, other than new
15 production, from each lease or unit in a secondary recovery project commenced or expanded after
16 December 31, 1993, and before January 1, 2002. For purposes of this section, a secondary recovery
17 project must meet each 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
4 project after July 1, 1985. For purposes of this section, a tertiary recovery project must meet each of the
5 following 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)(iii), of all petroleum and other mineral or crude oil produced by the person other than new production
4 produced by 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
8 the earth other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal,
9 or 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
13 or 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
9 recovery 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)~~(3) and under subsections (1)(a) through
23 (1)(f) 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 subsections (4)(a) and (4)(b), the average price per barrel must be
7 computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the
8 Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the
9 quarter.

10 (6) Nothing in this part may be construed as requiring laborers or employees hired or employed by
11 any person to drill any oil or natural gas well or to work in or about any oil or natural gas well or prospect
12 or explore for or do any work for the purpose of developing any petroleum, other mineral or crude oil, or
13 natural gas to pay the severance tax, nor may work done or the drilling of a well or wells for the purpose
14 of prospecting or exploring for petroleum, other mineral or crude oil, or natural gas or for the purpose of
15 developing them be considered to be the engaging in or carrying on of the business. If, in the doing of any
16 work, in the drilling of any oil or natural gas well, or in prospecting, exploring, or development work, any
17 merchantable or marketable petroleum, other mineral or crude oil, or natural gas in excess of the quantity
18 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 person required to pay the state or local government severance tax under this section
24 shall pay the tax in full for the person's own account and for the account of each of the other owners of
25 the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude oil or natural
26 gas extracted and produced, including an owner or owners of working interest, royalty interest, overriding
27 royalty interest, carried working interest, net proceeds interest, production payments, and all other interest
28 or interests owned or carved out of the total gross proceeds in value or in kind of the extracted marketable
29 petroleum or other mineral or crude oil or natural gas, except that any of the interests that are owned by
30 the federal, state, county, or municipal governments are exempt from taxation under this chapter. Unless

1 otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners will be
 2 deducted from any settlements under the lease or leases or division of proceeds orders or 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,
 7 means the gross value of the product as determined in 15-36-103 less the gross value paid in cash or
 8 apportioned in kind to a nonworking interest owner by the operator or producer of extracted marketable
 9 petroleum, other mineral or crude oil, or natural gas.

10 (b) "Nonworking interest owner" means any interest owner who does not share in the
 11 development 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
 13 barrels a day, determined by dividing the amount of production from a lease or unitized area for the year
 14 prior to the current calendar year by the number of producing wells in the lease or unitized area and by
 15 dividing the 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
 22 oil within the state.

23 (2) All production of natural gas, petroleum, or other mineral or crude oil from a well that was
 24 drilled after March 31, 1995, or from a well that has not produced natural gas, petroleum, or other mineral
 25 or crude oil during the 5 years immediately preceding the first month of qualified production is exempt from
 26 all of the state severance tax imposed by 15-36-101 during the 24 months immediately following the date
 27 of notification to the department of revenue that an oil well is flowing or being pumped or that a gas well
 28 has been connected to a gathering or distribution system.

29 ~~(2)(3)~~ All the natural gas produced from any a well that has produced 60,000 cubic feet or less
 30 of natural gas a day for the calendar year prior to the current year ~~shall be~~ is taxed as provided in this

1 section. ~~Production must be~~ Average daily production is determined by dividing the amount of production
 2 from a lease or unitized area for the year ~~prior to~~ immediately preceding the current calendar year by the
 3 number of producing wells in the lease or unitized area and by dividing the resulting quotient by 365. The
 4 first 30,000 cubic feet of average daily production ~~per~~ for each well is exempt from all of the state
 5 severance tax imposed by 15-36-101. The first 30,000 cubic feet of average daily production ~~per~~ for each
 6 well is subject to a local government severance tax of 10% on the gross taxable value, as defined in
 7 15-36-101(6)(a)(ii). ~~Everything over~~ Natural gas production in excess of 30,000 cubic feet of gas produced
 8 is taxed at 1.59% on the gross taxable value for the state severance tax plus a local government
 9 severance tax of 10% on the gross taxable value, as defined in 15-36-101(6)(a)(ii) ~~(iii)~~ (8)(a)(ii).

10 ~~(3)~~ (4) Notwithstanding the provisions of ~~subsection~~ 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 "(19) "Qualifying production" means the first 24 months of production of oil or natural gas from
 22 any post-1985 well drilled after March 31, 1995, or from a well that has not produced oil or natural gas
 23 during the 5 years immediately preceding the first month of qualifying production. Qualifying production
 24 does not include oil production from a horizontally recompleted well."

25 (2) THE SECTION IMPOSING TAX RATES ON NATURAL GAS AND OIL PRODUCTION, [SECTION
 26 4] OF SENATE BILL NO. 412, IS AMENDED TO READ:

27 "NEW SECTION. Section 4. Production tax rates imposed on oil and natural gas. (1) The
 28 production of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in
 29 [section 18].

30 (2) Natural gas is taxed on the gross taxable value of production based on the type of well and

1 type of production according to the following schedule for working interest and nonworking interest
2 owners:

| | Working | Nonworking |
|------------------------------------|--------------------------------|------------|
| | Interest | Interest |
| 3 (a) pre-1985 wells | 18.75% | 15% |
| 4 (b) post-1985 wells | | |
| 5 (i) first 12 months | | |
| 6 of qualifying production | 3.35% <u>0.7%</u> | 15% |
| 7 (ii) <u>after next</u> 12 months | | |
| 8 of qualifying production | 15.35% <u>12.7%</u> | 15% |
| 9 (iii) <u>after 24 months</u> | <u>15.35%</u> | <u>15%</u> |
| 10 (c) stripper natural gas | | |
| 11 pre-1985 and post-1985 wells | 11.2% | 15% |

12 (3) The reduced tax ~~rate~~ rates under ~~subsection~~ subsections (2)(b)(i) and (2)(b)(ii) ~~on natural gas~~
13 ~~production~~ for the first ~~12~~ 24 months of natural gas production from a post-1985 well begins following
14 the last day of the calendar month immediately preceding the month in which natural gas is placed in a
15 natural gas distribution system, provided that notification has been given to the department.

16 (4) Oil is taxed on the gross taxable value of production based on the type of well and type of
17 production according to the following schedule for working interest and nonworking interest owners:

| | Working | Nonworking |
|------------------------------------|------------------------------|--------------|
| | Interest | Interest |
| 18 (a) primary recovery production | | |
| 19 (i) pre-1985 wells | 14.1% | 16.5% |
| 20 (ii) post-1985 wells | | |
| 21 (A) first 12 months of | | |
| 22 qualifying production | 5.7% <u>0.7%</u> | 16.5% |
| 23 (B) <u>after next</u> 12 months | | |
| 24 of qualifying production | 12.7% <u>7.7%</u> | 16.5% |
| 25 (C) <u>after 24 months</u> | 12.7% | <u>16.5%</u> |
| 26 (b) stripper oil production | | |

| | | | |
|----|---|-----------------------------|--------------|
| 1 | pre-1985 and post-1985 wells | 11% | 16.5% |
| 2 | (c) horizontally completed well production | | |
| 3 | (i) first 18 months of | | |
| 4 | qualifying production | 5.7% <u>0.7%</u> | 5.7% |
| 5 | (ii) <u>next 6 months</u> | | |
| 6 | <u>of qualifying production</u> | <u>7.7%</u> | <u>12.7%</u> |
| 7 | <u>(iii) after 18 24 months</u> | 12.7% | 12.7% |
| 8 | (d) incremental production | | |
| 9 | (i) new or expanded secondary recovery production | | |
| 10 | (A) pre-1985 well | 8.7% | 16.2% |
| 11 | (B) post-1985 well | 8.7% | 10.7% |
| 12 | (ii) new or expanded tertiary production | | |
| 13 | (A) pre-1985 well | 6% | 15.2% |
| 14 | (B) post-1985 well | 6% | 9.7% |
| 15 | (e) horizontally recompleted well | | |
| 16 | (i) first 18 months | 5.7% | 5.7% |
| 17 | (ii) after 18 months | 12.7% | 12.7% |

18 (5) (a) The reduced tax ~~rate~~ rates under ~~subsection~~ subsections (4)(a)(ii)(A) and (4)(a)(ii)(B) on oil
19 ~~production~~ for the first ~~12~~ 24 months of oil production from a post-1985 well begins following the last day
20 of the calendar month immediately preceding the month in which oil is pumped or flows, provided that
21 notification has been given to the department.

22 (b)(i) The reduced tax ~~rate~~ rates under ~~subsection~~ subsections (4)(c)(i) and (4)(c)(ii) on oil
23 production from a horizontally completed well ~~and the reduced tax rate under subsection (4)(c)(i) on oil~~
24 ~~production from a horizontally recompleted well~~ for the first ~~18~~ 24 months of production begins following
25 the last day of the calendar month immediately preceding the month in which oil is pumped or flows,
26 provided that the well has been certified as a horizontally completed well ~~or as a horizontally recompleted~~
27 well to the department by the board.

28 (ii) The reduced tax rate under subsection (4)(e)(i) on oil production from a horizontally recompleted
29 well for the first 18 months of production begins following the last day of the calendar month immediately
30 preceding the month in which oil is pumped or flows, provided that the well has been certified as a

1 horizontally recompleted well to the department by the board.

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

7 (d) For the purposes of subsection (5)(c), the average price per barrel must be computed by
8 dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street
9 Journal for the calendar quarter by the number of days on which the price was reported in the quarter."

10 (3) THE DEPARTMENT OF REVENUE SHALL, BY RULE, CHANGE THE DISTRIBUTION FORMULAS
11 UNDER [SECTION 18] OF SENATE BILL NO. 412 FOR DISTRIBUTION OF TAXES ON OIL AND NATURAL
12 GAS PRODUCTION COLLECTED UNDER [SECTION 4] OF SENATE BILL NO. 412. IN RECALCULATING
13 DISTRIBUTION RATES FOR THE REVENUE RAISED BY SENATE BILL NO. 412, THE DEPARTMENT OF
14 REVENUE SHALL DETERMINE THE REVISED DISTRIBUTION RATES ACCORDING TO A FORMULA THAT
15 PRESUMES THAT THE REDUCTION IN THE TAX RATES ON NATURAL GAS PRODUCTION FOR WORKING
16 INTEREST OWNERS FROM POST-1985 WELLS AND IN THE TAX RATES ON OIL PRODUCTION FOR
17 WORKING INTEREST OWNERS FROM POST-1985 WELLS, AS PROVIDED IN SUBSECTION (2) OF THIS
18 SECTION THAT AMENDS [SECTION 4] OF SENATE BILL NO. 412, AS FOLLOWS:

19 (A) FOR THE FIRST 12 MONTHS OF QUALIFYING PRODUCTION UNDER [SECTION 4(2)(B) AND
20 (4)(A)(II)], THE REDUCTION IN TAX RATES MUST BE BORNE BY THE STATE GENERAL FUND AND NOT
21 BY OTHER STATE FUNDS;

22 (B) FOR THE NEXT 12 MONTHS OF QUALIFYING PRODUCTION UNDER [SECTION 4(2)(B) AND
23 (4)(A)(II)], THE REDUCTION IN THE TAX RATES MUST BE BORNE BY THE STATE GENERAL FUND AND
24 NOT BY OTHER STATE FUNDS OR BY LOCAL GOVERNMENTS;

25 (C) FOR THE FIRST 18 MONTHS OF QUALIFYING PRODUCTION UNDER [SECTION 4(4)(C)], THE
26 REDUCTION IN THE TAX RATES MUST BE BORNE BY THE STATE GENERAL FUND AND NOT BY OTHER
27 STATE FUNDS; AND

28 (D) FOR THE NEXT 6 MONTHS OF QUALIFYING PRODUCTION UNDER [SECTION 4(4)(C)], THE
29 REDUCTION IN THE TAX RATES MUST BE BORNE BY THE STATE GENERAL FUND AND NOT BY OTHER
30 STATE FUNDS OR BY LOCAL GOVERNMENTS.

SENATE BILL NO. 338

INTRODUCED BY JERGESON, L. NELSON, PECK, HAGENER, FELAND, DEVANEY, GAGE, TVEIT,
MILLS, J. JOHNSON, M. HANSON, MCCANN, REHBEIN, KEATING

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING FROM THE STATE SEVERANCE TAX FOR 24
MONTHS OIL OR NATURAL GAS PRODUCED FROM A WELL DRILLED AFTER MARCH 31, 1995;
AMENDING SECTIONS 15-36-101 AND 15-36-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
DATE AND CONTINGENT APPLICABILITY DATES."

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.




HOUSE STANDING COMMITTEE REPORT

April 6, 1995

Page 1 of 3

Mr. Speaker: We, the committee on Taxation report that Senate Bill 338 (third reading copy -- blue) be concurred in as amended.

Signed: 
Chase Hibbard, Chair

And, that such amendments read:

Carried by: Rep. Devaney

1. Title, line 5.

Strike: "24"

Insert: "18"

2. Title, line 8.

Following: "DATE"

Insert: ", "

Strike: "AND"

Following: "DATES"

Insert: ", AND A CONTINGENT VOIDNESS PROVISION"

3. Page 7, line 26.

Strike: "24"

Insert: "18"

4. Page 8, line 21.

Strike: "24"

Insert: "18"

5. Page 9, line 9.

Strike: "12"

Insert: "6"

6. Page 9, line 11.

Strike: "24"

Insert: "18"

SB 338

Committee Vote:

Yes 17, No 3.

HOUSE
791500SC.Hbk

7. Page 9, line 15.
Strike: "24"
Insert: "18"
8. Page 9, line 27.
Strike: "12"
Insert: "6"
9. Page 9, line 29.
Strike: "24"
Insert: "18"
10. Page 10, lines 5 and 6.
Strike: subsection (ii) in its entirety
Renumber: subsequent subsection
11. Page 10, line 7.
Strike: "24"
Insert: "18"
12. Page 10, line 19.
Strike: "24"
Insert: "18"
13. Page 10, line 22.
Strike: "subsections"
Insert: "subsection"
Strike: "and (4)(c)(ii)"
14. Page 10, line 24.
Strike: "24"
Insert: "18"
15. Page 11, line 22.
Strike: "12"
Insert: "6"
16. Page 11, line 24.
Following: "i"
Insert: "and"
17. Page 11, lines 27 through 30.
Following: "FUNDS" on line 27
Strike: remainder of line 27 through "GOVERNMENTS" on line 30
18. Page 12, line 8.
Insert: "NEW SECTION. Section 6. Contingent voidness. In order

to maintain a balanced budget, because [this act] reduces revenue, it may not be transmitted to the governor unless a corresponding identified reduction in spending is contained in House Bill No. 2. If a corresponding identified reduction in spending is not contained in House Bill No. 2, [this act] is void. "

-END-

SENATE BILL NO. 338

INTRODUCED BY JERGESON, L. NELSON, PECK, HAGENER, FELAND, DEVANEY, GAGE, TVEIT,
MILLS, J. JOHNSON, M. HANSON, MCCANN, REHBEIN, KEATING

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING FROM THE STATE SEVERANCE TAX FOR 24 18
MONTHS OIL OR NATURAL GAS PRODUCED FROM A WELL DRILLED AFTER MARCH 31, 1995;
AMENDING SECTIONS 15-36-101 AND 15-36-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
DATE, AND CONTINGENT APPLICABILITY DATES, 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 ~~merchanteable 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 subsections (1)(b) through (1)(f), 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 mineral oil produced and used by the person during the year in connection with the person's operations in prospecting for, developing,

1 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 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)~~(3) and under subsections (1)(a) through
23 (1)(f) 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 subsections (4)(a) and (4)(b), the average price per barrel must be
7 computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the
8 Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the
9 quarter.

10 (6) Nothing in this part may be construed as requiring laborers or employees hired or employed by
11 any person to drill any oil or natural gas well or to work in or about any oil or natural gas well or prospect
12 or explore for or do any work for the purpose of developing any petroleum, other mineral or crude oil, or
13 natural gas to pay the severance tax, nor may work done or the drilling of a well or wells for the purpose
14 of prospecting or exploring for petroleum, other mineral or crude oil, or natural gas or for the purpose of
15 developing them be considered to be the engaging in or carrying on of the business. If, in the doing of any
16 work, in the drilling of any oil or natural gas well, or in prospecting, exploring, or development work, any
17 merchantable or marketable petroleum, other mineral or crude oil, or natural gas in excess of the quantity
18 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 person required to pay the state or local government severance tax under this section
24 shall pay the tax in full for the person's own account and for the account of each of the other owners of
25 the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude oil or natural
26 gas extracted and produced, including an owner or owners of working interest, royalty interest, overriding
27 royalty interest, carried working interest, net proceeds interest, production payments, and all other interest
28 or interests owned or carved out of the total gross proceeds in value or in kind of the extracted marketable
29 petroleum or other mineral or crude oil or natural gas, except that any of the interests that are owned by
30 the federal, state, county, or municipal governments are exempt from taxation under this chapter. Unless

1 otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners will be
 2 deducted from any settlements under the lease or leases or division of proceeds orders or 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 production of natural gas, petroleum, or other mineral or crude oil from a well that was
 24 drilled after March 31, 1995, or from a well that has not produced natural gas, petroleum, or other mineral
 25 or crude oil during the 5 years immediately preceding the first month of qualified production is exempt from
 26 all of the state severance tax imposed by 15-36-101 during the 24 18 months immediately following the
 27 date of notification to the department of revenue that an oil well is flowing or being pumped or that a gas
 28 well has been connected to a gathering or distribution system.

29 ~~(2)(3)~~ All the natural gas produced from any a well that has produced 60,000 cubic feet or less
 30 of natural gas a day for the calendar year prior to the current year shall be is taxed as provided in this

1 section. ~~Production must be~~ Average daily production is determined by dividing the amount of production
 2 from a lease or unitized area for the year ~~prior to~~ immediately preceding the current calendar year by the
 3 number of producing wells in the lease or unitized area and by dividing the resulting quotient by 365. The
 4 first 30,000 cubic feet of average daily production ~~per~~ for each well is exempt from all of the state
 5 severance tax imposed by 15-36-101. The first 30,000 cubic feet of average daily production ~~per~~ for each
 6 well is subject to a local government severance tax of 10% on the gross taxable value, as defined in
 7 15-36-101(6)(a)(ii). ~~Everything over~~ Natural gas production in excess of 30,000 cubic feet of gas produced
 8 is taxed at 1.59% on the gross taxable value for the state severance tax plus a local government severance
 9 tax of 10% on the gross taxable value, as defined in 15-36-101~~(6)(a)(ii)~~(8)(a)(ii).

10 ~~(3)(4)~~ Notwithstanding the provisions of ~~subsection~~ 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 ALL
 17 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 "(19) "Qualifying production" means the first ~~24~~ 18 months of production of oil or natural gas from
 22 any post-1985 well drilled after March 31, 1995, or from a well that has not produced oil or natural gas
 23 during the 5 years immediately preceding the first month of qualifying production. Qualifying production
 24 does not include oil production from a horizontally recompleted well."

25 (2) THE SECTION IMPOSING TAX RATES ON NATURAL GAS AND OIL PRODUCTION, [SECTION
 26 4] OF SENATE BILL NO. 412, IS AMENDED TO READ:

27 "NEW SECTION. Section 4. Production tax rates imposed on oil and natural gas. (1) The
 28 production of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in
 29 [section 18].

30 (2) Natural gas is taxed on the gross taxable value of production based on the type of well and

1 type of production according to the following schedule for working interest and nonworking interest
 2 owners:

| | Working Interest | Nonworking Interest |
|---|--------------------------------|------------------------|
| 5 (a) pre-1985 wells | 18.75% | 15% |
| 6 (b) post-1985 wells | | |
| 7 (i) first 12 months | | |
| 8 of qualifying production | 3.35% <u>0.7%</u> | 15% |
| 9 (ii) after next 12 <u>6</u> months | | |
| 10 of qualifying production | 15.35% <u>12.7%</u> | 15% |
| 11 (iii) after 24 <u>18</u> months | <u>15.35%</u> | <u>15%</u> |
| 12 (c) stripper natural gas | | |
| 13 pre-1985 and post-1985 wells | 11.2% | 15% |

14 (3) The reduced tax ~~rate~~ rates under ~~subsection~~ subsections (2)(b)(i) and (2)(b)(ii) ~~on natural gas~~
 15 ~~production~~ for the first ~~12~~ 24 18 months of natural gas production from a post-1985 well begins following
 16 the last day of the calendar month immediately preceding the month in which natural gas is placed in a
 17 natural gas distribution system, provided that notification has been given to the department.

18 (4) Oil is taxed on the gross taxable value of production based on the type of well and type of
 19 production according to the following schedule for working interest and nonworking interest owners:

| | Working Interest | Nonworking Interest |
|---|------------------------------|------------------------|
| 22 (a) primary recovery production | | |
| 23 (i) pre-1985 wells | 14.1% | 16.5% |
| 24 (ii) post-1985 wells | | |
| 25 (A) first 12 months of | | |
| 26 qualifying production | 5.7% <u>0.7%</u> | 16.5% |
| 27 (B) after next 12 <u>6</u> months | | |
| 28 of qualifying production | 12.7% <u>7.7%</u> | 16.5% |
| 29 (C) after 24 <u>18</u> months | 12.7% | <u>16.5%</u> |
| 30 (b) stripper oil production | | |

| | | | |
|----|---|-----------------------------|------------------|
| 1 | pre-1985 and post-1985 wells | 11% | 16.5% |
| 2 | (c) horizontally completed well production | | |
| 3 | (i) first 18 months of | | |
| 4 | qualifying production | 5.7% <u>0.7%</u> | 5.7% |
| 5 | (iii) next 6 months | | |
| 6 | of qualifying production | 7.7% | 12.7% |
| 7 | (iii)(II) after 18 24 18 months | 12.7% | 12.7% |
| 8 | (d) incremental production | | |
| 9 | (i) new or expanded secondary recovery production | | |
| 10 | (A) pre-1985 well | 8.7% | 16.2% |
| 11 | (B) post-1985 well | 8.7% | 10.7% |
| 12 | (ii) new or expanded tertiary production | | |
| 13 | (A) pre-1985 well | 6% | 15.2% |
| 14 | (B) post-1985 well | 6% | 9.7% |
| 15 | (e) horizontally recompleted well | | |
| 16 | (i) first 18 months | 5.7% | 5.7% |
| 17 | (ii) after 18 months | 12.7% | 12.7% |
| 18 | (5) (a) The reduced tax rate rates under subsection subsections <u>subsections (4)(a)(ii)(A) and (4)(a)(ii)(B)</u> on oil | | |
| 19 | production for the first 12 24 18 months of oil production from a post-1985 well begins following the last | | |
| 20 | day of the calendar month immediately preceding the month in which oil is pumped or flows, provided that | | |
| 21 | notification has been given to the department. | | |
| 22 | (b)(i) The reduced tax rate rates under subsection subsections <u>SUBSECTION (4)(c)(i) and (4)(c)(iii)</u> | | |
| 23 | on oil production from a horizontally completed well and the reduced tax rate under subsection (4)(e)(i) on | | |
| 24 | oil production from a horizontally recompleted well for the first 18 24 18 months of production begins | | |
| 25 | following the last day of the calendar month immediately preceding the month in which oil is pumped or | | |
| 26 | flows, provided that the well has been certified as a horizontally completed well or as a horizontally | | |
| 27 | recompleted well to the department by the board. | | |
| 28 | <u>(ii) The reduced tax rate under subsection (4)(e)(i) on oil production from a horizontally recompleted</u> | | |
| 29 | <u>well for the first 18 months of production begins following the last day of the calendar month immediately</u> | | |
| 30 | <u>preceding the month in which oil is pumped or flows, provided that the well has been certified as a</u> | | |

1 horizontally recompleted well to the department by the board.

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

7 (d) For the purposes of subsection (5)(c), the average price per barrel must be computed by
8 dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street
9 Journal for the calendar quarter by the number of days on which the price was reported in the quarter."

10 (3) THE DEPARTMENT OF REVENUE SHALL, BY RULE, CHANGE THE DISTRIBUTION FORMULAS
11 UNDER [SECTION 18] OF SENATE BILL NO. 412 FOR DISTRIBUTION OF TAXES ON OIL AND NATURAL
12 GAS PRODUCTION COLLECTED UNDER [SECTION 4] OF SENATE BILL NO. 412. IN RECALCULATING
13 DISTRIBUTION RATES FOR THE REVENUE RAISED BY SENATE BILL NO. 412, THE DEPARTMENT OF
14 REVENUE SHALL DETERMINE THE REVISED DISTRIBUTION RATES ACCORDING TO A FORMULA THAT
15 PRESUMES THAT THE REDUCTION IN THE TAX RATES ON NATURAL GAS PRODUCTION FOR WORKING
16 INTEREST OWNERS FROM POST-1985 WELLS AND IN THE TAX RATES ON OIL PRODUCTION FOR
17 WORKING INTEREST OWNERS FROM POST-1985 WELLS, AS PROVIDED IN SUBSECTION (2) OF THIS
18 SECTION THAT AMENDS [SECTION 4] OF SENATE BILL NO. 412, AS FOLLOWS:

19 (A) FOR THE FIRST 12 MONTHS OF QUALIFYING PRODUCTION UNDER [SECTION 4(2)(B) AND
20 (4)(A)(II)], THE REDUCTION IN TAX RATES MUST BE BORNE BY THE STATE GENERAL FUND AND NOT
21 BY OTHER STATE FUNDS;

22 (B) FOR THE NEXT ~~4~~ 6 MONTHS OF QUALIFYING PRODUCTION UNDER [SECTION 4(2)(B) AND
23 (4)(A)(II)], THE REDUCTION IN THE TAX RATES MUST BE BORNE BY THE STATE GENERAL FUND AND
24 NOT BY OTHER STATE FUNDS OR BY LOCAL GOVERNMENTS; AND

25 (C) FOR THE FIRST 18 MONTHS OF QUALIFYING PRODUCTION UNDER [SECTION 4(4)(C)], THE
26 REDUCTION IN THE TAX RATES MUST BE BORNE BY THE STATE GENERAL FUND AND NOT BY OTHER
27 STATE FUNDS; AND

28 ~~(D) FOR THE NEXT 6 MONTHS OF QUALIFYING PRODUCTION UNDER [SECTION 4(4)(C)], THE~~
29 ~~REDUCTION IN THE TAX RATES MUST BE BORNE BY THE STATE GENERAL FUND AND NOT BY OTHER~~
30 ~~STATE FUNDS OR BY LOCAL GOVERNMENTS.~~

Conference Committee
on SB 338
Report No. 1, April 12, 1995

Page 1 of 1

Mr. President and Mr. Speaker:

We, your Conference Committee on SB 338, met and considered:

House Committee on Taxation amendments to the third reading
copy, dated April 6, 1995.

We recommend that the amendments considered above be rejected.

And that this Conference Committee report be adopted.

For the Senate:

Gage

Chair

Tveit

Jergeson

Amd. Coord.

SA
Sec. of Senate

For the House:

H. S. Hanson

Chair

Fuchs

J. Johnson

ADOPT

REJECT

SB 338
CCR #1

840948CC.SPV

SENATE BILL NO. 338

INTRODUCED BY JERGESON, L. NELSON, PECK, HAGENER, FELAND, DEVANEY, GAGE, TVEIT,
MILLS, J. JOHNSON, M. HANSON, MCCANN, REHBEIN, KEATING

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING FROM THE STATE SEVERANCE TAX FOR ~~24~~ 18
24 MONTHS OIL OR NATURAL GAS PRODUCED FROM A WELL DRILLED AFTER MARCH 31, 1995;
AMENDING SECTIONS 15-36-101 AND 15-36-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
DATE, ~~AND~~ AND CONTINGENT APPLICABILITY DATES, ~~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 ~~merchanteable 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 subsections (1)(b) through (1)(f), 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 mineral oil produced and used by the person during the year in connection with the person's operations in prospecting for, developing,

1 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 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)~~(3) and under subsections (1)(a) through
23 (1)(f) 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 subsections (4)(a) and (4)(b), the average price per barrel must be
7 computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the
8 Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the
9 quarter.

10 (6) Nothing in this part may be construed as requiring laborers or employees hired or employed by
11 any person to drill any oil or natural gas well or to work in or about any oil or natural gas well or prospect
12 or explore for or do any work for the purpose of developing any petroleum, other mineral or crude oil, or
13 natural gas to pay the severance tax, nor may work done or the drilling of a well or wells for the purpose
14 of prospecting or exploring for petroleum, other mineral or crude oil, or natural gas or for the purpose of
15 developing them be considered to be the engaging in or carrying on of the business. If, in the doing of any
16 work, in the drilling of any oil or natural gas well, or in prospecting, exploring, or development work, any
17 merchantable or marketable petroleum, other mineral or crude oil, or natural gas in excess of the quantity
18 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 person required to pay the state or local government severance tax under this section
24 shall pay the tax in full for the person's own account and for the account of each of the other owners of
25 the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude oil or natural
26 gas extracted and produced, including an owner or owners of working interest, royalty interest, overriding
27 royalty interest, carried working interest, net proceeds interest, production payments, and all other interest
28 or interests owned or carved out of the total gross proceeds in value or in kind of the extracted marketable
29 petroleum or other mineral or crude oil or natural gas, except that any of the interests that are owned by
30 the federal, state, county, or municipal governments are exempt from taxation under this chapter. Unless

1 otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners will be
 2 deducted from any settlements under the lease or leases or division of proceeds orders or 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 production of natural gas, petroleum, or other mineral or crude oil from a well that was
 24 drilled after March 31, 1995, or from a well that has not produced natural gas, petroleum, or other mineral
 25 or crude oil during the 5 years immediately preceding the first month of qualified production is exempt from
 26 all of the state severance tax imposed by 15-36-101 during the ~~24~~ 24 months immediately following
 27 the date of notification to the department of revenue that an oil well is flowing or being pumped or that a
 28 gas well has been connected to a gathering or distribution system.

29 ~~(2)(3)~~ (3) All the natural gas produced from any a well that has produced 60,000 cubic feet or less
 30 of natural gas a day for the calendar year prior to the current year ~~shall be~~ is taxed as provided in this

1 section. ~~Production must be~~ Average daily production is determined by dividing the amount of production
 2 from a lease or unitized area for the year ~~prior to~~ immediately preceding the current calendar year by the
 3 number of producing wells in the lease or unitized area and by dividing the resulting quotient by 365. The
 4 first 30,000 cubic feet of average daily production ~~per~~ for each well is exempt from all of the state
 5 severance tax imposed by 15-36-101. The first 30,000 cubic feet of average daily production ~~per~~ for each
 6 well is subject to a local government severance tax of 10% on the gross taxable value, as defined in
 7 15-36-101(6)(a)(ii). ~~Everything over~~ Natural gas production in excess of 30,000 cubic feet of gas produced
 8 is taxed at 1.59% on the gross taxable value for the state severance tax plus a local government severance
 9 tax of 10% on the gross taxable value, as defined in 15-36-101(6)(a)(ii) ~~(8)(a)(ii)~~.

10 ~~(3)(4)~~ Notwithstanding the provisions of ~~subsection~~ 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 ALL
 17 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 "(19) "Qualifying production" means the first ~~24~~ 18 ~~24~~ months of production of oil or natural gas
 22 from any post-1985 well drilled after March 31, 1995, or from a well that has not produced oil or natural
 23 gas during the 5 years immediately preceding the first month of qualifying production. Qualifying production
 24 does not include oil production from a horizontally recompleted well."

25 (2) THE SECTION IMPOSING TAX RATES ON NATURAL GAS AND OIL PRODUCTION, [SECTION
 26 4] OF SENATE BILL NO. 412, IS AMENDED TO READ:

27 "NEW SECTION. Section 4. Production tax rates imposed on oil and natural gas. (1) The
 28 production of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in
 29 [section 18].

30 (2) Natural gas is taxed on the gross taxable value of production based on the type of well and

1 type of production according to the following schedule for working interest and nonworking interest
2 owners:

| | Working | Nonworking |
|--|--------------------------------|------------|
| | Interest | Interest |
| 3 (a) pre-1985 wells | 18.75% | 15% |
| 4 (b) post-1985 wells | | |
| 5 (i) first 12 months | | |
| 6 of qualifying production | 3.35% <u>0.7%</u> | 15% |
| 7 (ii) after next 12 <u>6</u> 12 months | | |
| 8 of qualifying production | 15.35% <u>12.7%</u> | 15% |
| 9 (iii) after 24 <u>18</u> 24 months | <u>15.35%</u> | <u>15%</u> |
| 10 (c) stripper natural gas | | |
| 11 pre-1985 and post-1985 wells | 11.2% | 15% |

12 (3) The reduced tax ~~rate~~ rates under ~~subsection~~ subsections (2)(b)(i) and (2)(b)(ii) ~~on natural gas~~
13 ~~production~~ for the first ~~12~~ 24 ~~18~~ 24 months of natural gas production from a post-1985 well begins
14 following the last day of the calendar month immediately preceding the month in which natural gas is
15 placed in a natural gas distribution system, provided that notification has been given to the department.

16 (4) Oil is taxed on the gross taxable value of production based on the type of well and type of
17 production according to the following schedule for working interest and nonworking interest owners:

| | Working | Nonworking |
|--|------------------------------|--------------|
| | Interest | Interest |
| 18 (a) primary recovery production | | |
| 19 (i) pre-1985 wells | 14.1% | 16.5% |
| 20 (ii) post-1985 wells | | |
| 21 (A) first 12 months of | | |
| 22 qualifying production | 5.7% <u>0.7%</u> | 16.5% |
| 23 (B) after next 12 <u>6</u> 12 months | | |
| 24 of qualifying production | 12.7% <u>7.7%</u> | 16.5% |
| 25 (C) after 24 <u>18</u> 24 months | 12.7% | <u>16.5%</u> |
| 26 (b) stripper oil production | | |

| | | | |
|----|--|-----------------------------|------------------|
| 1 | pre-1985 and post-1985 wells | 11% | 16.5% |
| 2 | (c) horizontally completed well production | | |
| 3 | (i) first 18 months of | | |
| 4 | qualifying production | 5.7% <u>0.7%</u> | 5.7% |
| 5 | (ii) next 6 months | | |
| 6 | of qualifying production | 7.7% | 12.7% |
| 7 | <u>(II) NEXT 6 MONTHS OF</u> | | |
| 8 | <u>QUALIFYING PRODUCTION</u> | <u>7.7%</u> | <u>12.7%</u> |
| 9 | (iii)(iii)(iii) after 18 24 18 24 months | 12.7% | 12.7% |
| 10 | (d) incremental production | | |
| 11 | (i) new or expanded secondary recovery production | | |
| 12 | (A) pre-1985 well | 8.7% | 16.2% |
| 13 | (B) post-1985 well | 8.7% | 10.7% |
| 14 | (ii) new or expanded tertiary production | | |
| 15 | (A) pre-1985 well | 6% | 15.2% |
| 16 | (B) post-1985 well | 6% | 9.7% |
| 17 | (e) horizontally recompleted well | | |
| 18 | (i) first 18 months | 5.7% | 5.7% |
| 19 | (ii) after 18 months | 12.7% | 12.7% |

20 (5) (a) The reduced tax ~~rate rates~~ under ~~sub section subsections~~ SUBSECTION SUBSECTIONS (4)(a)(ii)(A) and (4)(a)(ii)(B) ~~on oil~~
 21 ~~production~~ for the first ~~12 24 18 24~~ months of oil production from a post-1985 well begins following the
 22 last day of the calendar month immediately preceding the month in which oil is pumped or flows, provided
 23 that notification has been given to the department.

24 (b)(i) The reduced tax ~~rate rates~~ under ~~subsection subsections~~ SUBSECTION SUBSECTIONS (4)(c)(i)
 25 ~~and (4)(c)(iii) AND (4)(C)(II)~~ on oil production from a horizontally completed well ~~and the reduced tax rate~~
 26 ~~under subsection (4)(e)(i) on oil production from a horizontally recompleted well~~ for the first ~~18 24 18 24~~
 27 months of production begins following the last day of the calendar month immediately preceding the month
 28 in which oil is pumped or flows, provided that the well has been certified as a horizontally completed well
 29 ~~or as a horizontally recompleted well~~ to the department by the board.

30 (ii) The reduced tax rate under subsection (4)(e)(i) on oil production from a horizontally recompleted

1 well for the first 18 months of production begins following the last day of the calendar month immediately
 2 preceding the month in which oil is pumped or flows, provided that the well has been certified as a
 3 horizontally recompleted well to the department by the board.

4 (c) Incremental production is taxed as provided in subsection (4)(d) if the average price per barrel
 5 of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter
 6 is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 a barrel in a calendar quarter as
 7 determined in subsection (5)(d), incremental production is taxed at the rate imposed on primary recovery
 8 production under subsection (4)(a)(i) for production occurring in that quarter.

9 (d) For the purposes of subsection (5)(c), the average price per barrel must be computed by
 10 dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street
 11 Journal for the calendar quarter by the number of days on which the price was reported in the quarter."

12 (3) THE DEPARTMENT OF REVENUE SHALL, BY RULE, CHANGE THE DISTRIBUTION FORMULAS
 13 UNDER [SECTION 18] OF SENATE BILL NO. 412 FOR DISTRIBUTION OF TAXES ON OIL AND NATURAL
 14 GAS PRODUCTION COLLECTED UNDER [SECTION 4] OF SENATE BILL NO. 412. IN RECALCULATING
 15 DISTRIBUTION RATES FOR THE REVENUE RAISED BY SENATE BILL NO. 412, THE DEPARTMENT OF
 16 REVENUE SHALL DETERMINE THE REVISED DISTRIBUTION RATES ACCORDING TO A FORMULA THAT
 17 PRESUMES THAT THE REDUCTION IN THE TAX RATES ON NATURAL GAS PRODUCTION FOR WORKING
 18 INTEREST OWNERS FROM POST-1985 WELLS AND IN THE TAX RATES ON OIL PRODUCTION FOR
 19 WORKING INTEREST OWNERS FROM POST-1985 WELLS, AS PROVIDED IN SUBSECTION (2) OF THIS
 20 SECTION THAT AMENDS [SECTION 4] OF SENATE BILL NO. 412, AS FOLLOWS:

21 (A) FOR THE FIRST 12 MONTHS OF QUALIFYING PRODUCTION UNDER [SECTION 4(2)(B) AND
 22 (4)(A)(II)], THE REDUCTION IN TAX RATES MUST BE BORNE BY THE STATE GENERAL FUND AND NOT
 23 BY OTHER STATE FUNDS;

24 (B) FOR THE NEXT ~~42~~ 6 12 MONTHS OF QUALIFYING PRODUCTION UNDER [SECTION 4(2)(B)
 25 AND (4)(A)(II)], THE REDUCTION IN THE TAX RATES MUST BE BORNE BY THE STATE GENERAL FUND
 26 AND NOT BY OTHER STATE FUNDS OR BY LOCAL GOVERNMENTS; AND

27 (C) FOR THE FIRST 18 MONTHS OF QUALIFYING PRODUCTION UNDER [SECTION 4(4)(C)], THE
 28 REDUCTION IN THE TAX RATES MUST BE BORNE BY THE STATE GENERAL FUND AND NOT BY OTHER
 29 STATE FUNDS; AND; AND

30 (D) FOR THE NEXT 6 MONTHS OF QUALIFYING PRODUCTION UNDER [SECTION 4(4)(C)], THE

1 ~~REDUCTION IN THE TAX RATES MUST BE BORNE BY THE STATE GENERAL FUND AND NOT BY OTHER~~
2 ~~STATE FUNDS OR BY LOCAL GOVERNMENTS~~

3 ~~(D) FOR THE NEXT 6 MONTHS OF QUALIFYING PRODUCTION UNDER [SECTION 4(4)(C)], THE~~
4 ~~REDUCTION IN THE TAX RATES MUST BE BORNE BY THE STATE GENERAL FUND AND NOT BY OTHER~~
5 ~~STATE FUNDS OR BY LOCAL GOVERNMENTS.~~

6
7 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

8
9 NEW SECTION. Section 5. Contingent applicability. (1) If [this act] is passed and approved before
10 April 1, 1995, then [this act] applies to oil and gas produced from a well that is drilled after March 31,
11 1995.

12 (2) If [this act] is passed and approved after March 31, 1995, then [this act] applies retroactively,
13 within the meaning of 1-2-109, to oil and gas produced from a well drilled after March 31, 1995.

14
15 ~~NEW SECTION. SECTION 6. CONTINGENT VOIDNESS. IN ORDER TO MAINTAIN A BALANCED~~
16 ~~BUDGET, BECAUSE [THIS ACT] REDUCES REVENUE, IT MAY NOT BE TRANSMITTED TO THE GOVERNOR~~
17 ~~UNLESS A CORRESPONDING IDENTIFIED REDUCTION IN SPENDING IS CONTAINED IN HOUSE BILL NO.~~
18 ~~2. IF A CORRESPONDING IDENTIFIED REDUCTION IN SPENDING IS NOT CONTAINED IN HOUSE BILL NO.~~
19 ~~2, [THIS ACT] IS VOID.~~

20 -END-