SENATE BILL NO. 383

INTRODUCED BY Treit

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE DISTRIBUTION OF OIL AND NATURAL GAS PRODUCTION TAXES; PROVIDING THAT THE DISTRIBUTION OF OIL AND NATURAL GAS PRODUCTION TAXES IS BASED ON TAX LIABILITY; PROVIDING THAT THE DISTRIBUTION OF LOCAL GOVERNMENT SEVERANCE TAXES FOR CALENDAR YEAR 1995 PRODUCTION IS BASED ON UNIT VALUE; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Calculation of unit value.** For the purposes of distribution of oil and natural gas local government severance taxes to county and school taxing units for production occurring in calendar year 1995, the department shall determine the unit value of oil and natural gas for each taxing unit as follows:

(1) The unit value for oil for each taxing unit is the quotient obtained by dividing the net proceeds taxes calculated on oil produced and sold in that taxing unit in calendar year 1988 by the number of barrels of oil produced in that taxing unit during 1988, excluding post-1985 wells.

(2) The unit value for natural gas is the quotient obtained by dividing the net proceeds taxes calculated on natural gas produced and sold in that taxing unit in calendar year 1988 by the number of cubic feet of natural gas produced in that taxing unit during 1988, excluding post-1985 wells.

NEW SECTION. **Section 2. Distribution of taxes.** (1) For each calendar quarter, the department of revenue shall determine the amount of tax, late payment interest, and penalty collected under [sections 1 through 20 of ____ Bill No.____ [LC 975]] in each taxing unit. For the purposes of distribution of the taxes to county and school taxing units, the department shall determine the amount of oil and natural gas production taxes paid on production from pre-1985 wells, post-1985 wells, and horizontally drilled wells located in the taxing unit.

(2) Except as provided in subsections (3) and (4), oil production taxes must be distributed as follows:

(a) The amount equal to 41.6% of the oil production taxes, including late payment interest and penalty, collected under [sections 1 through 20 of ____Bill No.____ [LC 975]] must be distributed as provided in subsection (7).

(b) The remaining 58.4% of the oil production taxes, plus accumulated interest earned on the amount allocated under this subsection (2)(b), must be deposited in the agency fund in the state treasury and transferred to the county and school taxing units for distribution as provided in subsection (8).

(3) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected under [sections 1 through 20 of ____Bill No.____ [LC 975]] from working interest owners on production from post-1985 wells occurring during the first 12 months of production must be distributed as provided in subsection (7).

(4) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected under [sections 1 through 20 of ____Bill No.____ [LC 975]] on production from horizontally drilled wells and on the incremental production from horizontally recompleted wells occurring during the first 18 months of production must be distributed as provided in subsection (7).

(5) Except as provided in subsection (6), natural gas production taxes must be allocated as follows:

(a) The amount equal to 14.6% of the natural gas production taxes, including late payment interest and penalty, collected under [sections 1 through 20 of ____Bill No.____ [LC 975]] must be distributed as provided in subsection (7).

(b) The remaining 85.4% of the natural gas production taxes, plus accumulated interest earned on the amount allocated under this subsection (5)(b), must be deposited in the agency fund in the state treasury and transferred to county and school taxing units and must be distributed as provided in subsection (8).

(6) The amount equal to 100% of the natural gas production taxes, including late payment interest and penalty, collected under [sections 1 through 20 of ____Bill No.____ [LC 975]] from working interest owners on production from post-1985 wells occurring during the first 12 months of production must be distributed as provided in subsection (7).

(7) The department shall, in accordance with the provisions of 15-1-501(6), distribute the state portion of oil and natural gas production taxes, including late payment interest and penalty, as follows:

(a) 85% to the state general fund;

(b) 4.3% to the state special revenue fund for the purpose of paying expenses of the board as provided in 82-11-135; and

(c) 10.7% to be distributed as provided in 15-38-106(2).

(8) (a) The department shall forward, as provided in subsection (9), oil and natural gas production taxes referred to in subsections (2)(b) and (5)(b) to the county treasurer for distribution as provided in this subsection (8).

(b) The allocation of oil and natural gas production taxes from pre-1985 wells between county and school taxing units is the ratio of the number of mills, excluding municipal mills, levied for fiscal year 1990 against 1988 production in each taxing unit for county and school purposes, including the university system 6-mill levy imposed under 20-25-423 and the county elementary and high school equalization levies imposed under 20-9-331 and 20-9-333, as those sections read on July 1, 1989. The county treasurer shall distribute oil and natural gas production taxes from pre-1985 wells to the budgeted funds of each recipient school taxing unit in the same manner that all property tax proceeds were distributed during fiscal year 1990 in the school taxing unit. A distribution may not be made under this subsection (8)(b) for the state equalization aid levy under 20-9-360.

(c) The county treasurer shall distribute oil and natural gas production taxes referred to in subsections (2)(b) and (5)(b) from post-1985 wells to county and school taxing units in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as property taxes were distributed in the preceding fiscal year.

(d) The county treasurer shall distribute the county's share of the oil and natural gas production taxes determined in subsections (8)(c) in the relative proportions required by the levies for county taxing units in the same manner as property taxes were distributed in the preceding fiscal year.

(e) The oil and natural gas production taxes distributed under subsections (8)(b) and (8)(c) that are required for the county mill levies for school district retirement obligations and transportation schedules must be deposited to the funds established for these purposes.

(f) The oil and natural gas production taxes distributed under subsection (8)(b) that are required for the 6-mill university levy imposed under 20-25-423 and for the county elementary and high school equalization levies imposed under 20-9-331 and 20-9-333, as those sections read on July 1, 1989, must be remitted by the county treasurer to the state treasurer.

(g) The oil and natural gas production taxes distributed under subsection (8)(c) that are required for the 6-mill university levy imposed under 20-25-423, for the county elementary and high school equalization levies imposed under 20-9-331 and 20-9-333, and for the state equalization aid levy under 20-9-360 must be remitted by the county treasurer to the state treasurer.

(h) The amount of oil and natural gas production taxes remaining after the treasurer has remitted the state share, as provided in subsections (8)(f) and (8)(g), is for the exclusive use and benefit of the county and school taxing units.

(i) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of oil and natural gas production tax money that would have gone to a taxing unit, as provided in subsection (8)(b), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(i) The county treasurer shall first allocate the oil and natural gas production taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in fiscal year 1990.

(ii) If the allocation in subsection (8)(i)(i) exceeds the total budget for a taxing unit, the commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.

(j) The board of trustees of an elementary or high school district may reallocate the taxes distributed to the district under subsection (8)(b) by the county treasurer under the following conditions:

(i) The district shall first allocate the taxes from subsection (8)(b) to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year 1990.

(ii) If the allocation under subsection (8)(j)(i) exceeds the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district.

(9) The department shall remit oil and natural gas production taxes for distribution under subsection (8) to the county treasurer by the following dates:

(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

(c) On or before February 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending September 30 of the previous year.

(d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending December 31 of the previous calendar year.

(10) The department shall provide to each county by May 31 of each year the amount of gross taxable value represented by all types of production taxed under [section 4 of _Bill No. _ [LC 975]] for the previous calendar year multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes and for county bonding purposes.

NEW SECTION. **Section 3. Coordination instruction.** If _ Bill No. _ [LC 975] is passed and approved and if:

(1) it contains a new section that includes a unit value calculation for the purposes of distributing oil and natural gas production taxes from pre-1985 wells to county and school taxing units, then that new section in _ Bill No. _ [LC 975] is void and is replaced with [section 1 of this act]; and

(2) it contains a new section that provides for the distribution of oil and natural gas production taxes that includes a distribution to local taxing units based on unit value, then that new section in _ Bill No. _ [LC 975] is void and is replaced with [section 2 of this act].

NEW SECTION. **Section 4. Contingent effective date.** (1) If _ Bill No. _ [LC 975] is passed and approved, [this act] is effective January 1, 1996.

(2) If _ Bill No. _ [LC 975] is not passed and approved, [this act] is void.

-END-3

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0383, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act providing for the distribution of oil and natural gas production taxes; providing that the distribution of oil and natural gas production is based on tax liability; providing that the distribution of local government severance taxes for calendar year 1995 production is based on unit value; and providing a contingent effective date.

ASSUMPTIONS:

1. Taxable value of pre-7/1/85 natural gas production is $49,248,000 in CY95, $50,853,000 in CY96 and $52,349,000 in CY97 (LFA).
2. Taxable value of post-7/1/85 natural gas production is $32,103,000 in CY95, $34,226,000 in CY96 and $36,460,000 in CY97 (LFA).
3. Taxable value of pre-7/1/85 oil production is $161,540,000 in CY95, $152,830,000 in CY96 and $150,435,000 in CY97 (LFA).
4. Taxable value of post-7/1/85 oil production is $49,629,000 in CY95, $56,906,000 in CY96 and $67,272,000 in CY97 (LFA).
5. Natural gas and oil production by type, location, and relative value is distributed in CY95, CY96, and CY97 as it was during CY93 (MDOR).
6. Local share of pre-7/1/85 taxes are distributed on FY90 mills (MDOR).
7. Local share of post-7/1/85 taxes are distributed on FY94 mills (MDOR).
8. All revenues from liabilities attributable to a fiscal year and received within 60 days after the close of the fiscal year are accrued back to that fiscal year (MDOR).
9. Total production for current law state severance taxes is equal to total production of the Local Government Severance Tax, plus taxable and exempt production from the Net Proceeds Tax (MDOR).

FISCAL IMPACT:

Expenditures:

There is no impact on Department of Revenue expenditures under the proposed legislation.

Revenues:

The following revenue impacts occur from the portion of the consolidated oil and gas tax (see TECHNICAL NOTE below) that would be distributed to various taxing jurisdictions (including state accounts) within local levy districts.

	FY96 Difference	FY97 Difference
University System (6-mill account)	$11,000	$21,000
Foundation Program	$79,000	$158,000
Total	$90,000	$179,000

(See page 2 for local revenue impact)

Dave Lewis 2-20-95 Sen. Tveit

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

LARRY TVEIT, PRIMARY SPONSOR DATE
Fiscal Note for SB0383, as introduced

SB 383

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

	FY96 Difference	FY97 Difference
County Governments	($23,000)	($44,000)
Miscellaneous Districts	(2,000)	(5,000)
County Education (Ret. & Trans)	(15,000)	(30,000)
Local Elem. School Districts	(70,000)	(140,000)
Local High School Districts	$20,000	$40,000
Total	($90,000)	($179,000)

TECHNICAL NOTE:

Because SB0383 is dependent on the passage and approval of SB0412, the revenue impacts shown in this fiscal note are all relative to SB0412. The impacts are not relative to current law. SB0412 does have fiscal impacts relative to current law; however, they are documented in the SB0412 fiscal note.

TAKEN FROM TABLE IN TAXATION

ON MOTION, PRINTED AND PLACED ON SECOND READING

SENATE BILL NO. 383

INTRODUCED BY TVEIT, DEVANEY, REHBEIN, COLE, L. NELSON, KASTEN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE DISTRIBUTION OF OIL AND NATURAL GAS PRODUCTION TAXES; PROVIDING THAT THE DISTRIBUTION OF OIL AND NATURAL GAS PRODUCTION TAXES IS BASED ON TAX LIABILITY; PROVIDING THAT THE DISTRIBUTION OF LOCAL GOVERNMENT SEVERANCE TAXES FOR CALENDAR YEAR 1995 PRODUCTION IS BASED ON UNIT VALUE; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Calculation of unit value.** For the purposes of distribution of oil and natural gas local government severance taxes to county and school taxing units for production occurring in calendar year 1995, the department shall determine the unit value of oil and natural gas for each taxing unit as follows:

(1) The unit value for oil for each taxing unit is the quotient obtained by dividing the net proceeds taxes calculated on oil produced and sold in that taxing unit in calendar year 1988 by the number of barrels of oil produced in that taxing unit during 1988, excluding post-1985 wells.

(2) The unit value for natural gas is the quotient obtained by dividing the net proceeds taxes calculated on natural gas produced and sold in that taxing unit in calendar year 1988 by the number of cubic feet of natural gas produced in that taxing unit during 1988, excluding post-1985 wells.

NEW SECTION. **Section 2. Distribution of taxes.** (1) For each calendar quarter, the department of revenue shall determine the amount of tax, late payment interest, and penalty collected under [sections 1 through 20 of ____Bill No.____ [LC 975]] in each taxing unit. For the purposes of distribution of the taxes to county and school taxing units, the department shall determine the amount of oil and natural gas production taxes paid on production from pre-1985 wells, post-1985 wells, and horizontally drilled wells located in the taxing unit.

(2) Except as provided in subsections (3) and (4), oil production taxes must be distributed as follows:

(a) The amount equal to 41.6% of the oil production taxes, including late payment interest and penalty, collected under [sections 1 through 20 of ____Bill No.____ [LC 975]] must be distributed as provided in subsection (7).

(b) The remaining 58.4% of the oil production taxes, plus accumulated interest earned on the amount allocated under this subsection (2)(b), must be deposited in the agency fund in the state treasury and transferred to the county and school taxing units for distribution as provided in subsection (8).

(3) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected under [sections 1 through 20 of ____Bill No.____ [LC 975]] from working interest owners on production from post-1985 wells occurring during the first 12 months of production must be distributed as provided in subsection (7).

(4) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected under [sections 1 through 20 of ____Bill No.____ [LC 975]] on production from horizontally drilled wells and on the incremental production from horizontally recompleted wells occurring during the first 18 months of production must be distributed as provided in subsection (7).

(5) Except as provided in subsection (6), natural gas production taxes must be allocated as follows:

(a) The amount equal to 14.6% of the natural gas production taxes, including late payment interest and penalty, collected under [sections 1 through 20 of ____Bill No.____ [LC 975]] must be distributed as provided in subsection (7).

(b) The remaining 85.4% of the natural gas production taxes, plus accumulated interest earned on the amount allocated under this subsection (5)(b), must be deposited in the agency fund in the state treasury and transferred to county and school taxing units and must be distributed as provided in subsection (8).

(6) The amount equal to 100% of the natural gas production taxes, including late payment interest and penalty, collected under [sections 1 through 20 of ____Bill No.____ [LC 975]] from working interest owners on production from post-1985 wells occurring during the first 12 months of production must be distributed as provided in subsection (7).

(7) The department shall, in accordance with the provisions of 15-1-501(6), distribute the state portion of oil and natural gas production taxes, including late payment interest and penalty, as follows:

(a) 85% to the state general fund;

(b) 4.3% to the state special revenue fund for the purpose of paying expenses of the board as provided in 82-11-135; and

(c) 10.7% to be distributed as provided in 15-38-106(2).

(8) (a) The department shall forward, as provided in subsection (9), oil and natural gas production taxes referred to in subsections (2)(b) and (5)(b) to the county treasurer for distribution as provided in this subsection (8).

(b) The allocation of oil and natural gas production taxes from pre-1985 wells between county and school taxing units is the ratio of the number of mills, excluding municipal mills, levied for fiscal year 1990 against 1988 production in each taxing unit for county and school purposes, including the university system 6-mill levy imposed under 20-25-423 and the county elementary and high school equalization levies imposed under 20-9-331 and 20-9-333, as those sections read on July 1, 1989. The county treasurer shall distribute oil and natural gas production taxes from pre-1985 wells to the budgeted funds of each recipient school taxing unit in the same manner that all property tax proceeds were distributed during fiscal year 1990 in the school taxing unit. A distribution may not be made under this subsection (8)(b) for the state equalization aid levy under 20-9-360.

(c) The county treasurer shall distribute oil and natural gas production taxes referred to in subsections (2)(b) and (5)(b) from post-1985 wells to county and school taxing units in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as property taxes were distributed in the preceding fiscal year.

(d) The county treasurer shall distribute the county's share of the oil and natural gas production taxes determined in subsections (8)(c) in the relative proportions required by the levies for county taxing units in the same manner as property taxes were distributed in the preceding fiscal year.

(e) The oil and natural gas production taxes distributed under subsections (8)(b) and (8)(c) that are required for the county mill levies for school district retirement obligations and transportation schedules must be deposited to the funds established for these purposes.

(f) The oil and natural gas production taxes distributed under subsection (8)(b) that are required for the 6-mill university levy imposed under 20-25-423 and for the county elementary and high school equalization levies imposed under 20-9-331 and 20-9-333, as those sections read on July 1, 1989, must be remitted by the county treasurer to the state treasurer.

(g) The oil and natural gas production taxes distributed under subsection (8)(c) that are required for the 6-mill university levy imposed under 20-25-423, for the county elementary and high school equalization levies imposed under 20-9-331 and 20-9-333, and for the state equalization aid levy under 20-9-360 must be remitted by the county treasurer to the state treasurer.

(h) The amount of oil and natural gas production taxes remaining after the treasurer has remitted the state share, as provided in subsections (8)(f) and (8)(g), is for the exclusive use and benefit of the county and school taxing units.

(i) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of oil and natural gas production tax money that would have gone to a taxing unit, as provided in subsection (8)(b), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(i) The county treasurer shall first allocate the oil and natural gas production taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in fiscal year 1990.

(ii) If the allocation in subsection (8)(i)(i) exceeds the total budget for a taxing unit, the commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.

(j) The board of trustees of an elementary or high school district may reallocate the taxes distributed to the district under subsection (8)(b) by the county treasurer under the following conditions:

(i) The district shall first allocate the taxes from subsection (8)(b) to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year 1990.

(ii) If the allocation under subsection (8)(j)(i) exceeds the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district.

(9) The department shall remit oil and natural gas production taxes for distribution under subsection (8) to the county treasurer by the following dates:

(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

(c) On or before February 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending September 30 of the previous year.

(d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending December 31 of the previous calendar year.

(10) The department shall provide to each county by May 31 of each year the amount of gross taxable value represented by all types of production taxed under [section 4 of _Bill No. _ [LC 975]] for the previous calendar year multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes and for county bonding purposes.

<u>NEW SECTION.</u> **Section 3. Coordination instruction.** If _ Bill No. _ [LC 975] is passed and approved and if:

(1) it contains a new section that includes a unit value calculation for the purposes of distributing oil and natural gas production taxes from pre-1985 wells to county and school taxing units, then that new section in _ Bill No. _ [LC 975] is void and is replaced with [section 1 of this act]; and

(2) it contains a new section that provides for the distribution of oil and natural gas production taxes that includes a distribution to local taxing units based on unit value, then that new section in _ Bill No. _ [LC 975] is void and is replaced with [section 2 of this act].

<u>NEW SECTION.</u> **Section 4. Contingent effective date.** (1) If _ Bill No. _ [LC 975] is passed and approved, [this act] is effective January 1, 1996.

(2) If _ Bill No. _ [LC 975] is not passed and approved, [this act] is void.

-END-3