

SENATE BILL NO. 49
INTRODUCED BY GAGE

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DISTRIBUTION OF LOCAL GOVERNMENT SEVERANCE TAXES AND OIL AND NATURAL GAS PRODUCTION TAXES FOR DEFICIENCY ASSESSMENTS OR FOR OVERPAYMENT OF THE TAXES; REQUIRING THAT DEFICIENCY ASSESSMENTS FOR LOCAL GOVERNMENT SEVERANCE TAXES BE COLLECTED IN THE SAME MANNER AS OIL AND NATURAL GAS DEFICIENCY ASSESSMENTS; REQUIRING THAT DEFICIENCY ASSESSMENTS FOR CERTAIN LOCAL GOVERNMENT SEVERANCE TAXES BE DISTRIBUTED AS CURRENT REVENUE; REQUIRING THAT CREDITS OR REFUNDS FOR THE OVERPAYMENT OF OIL AND NATURAL GAS PRODUCTION TAXES OR LOCAL GOVERNMENT SEVERANCE TAXES BE WITHHELD FROM CURRENT DISTRIBUTIONS; REQUIRING THE DEPARTMENT OF REVENUE TO DEMAND THE AMOUNT OF REFUND FOR OVERPAYMENTS FROM THE COUNTY TO WHICH THE TAX WAS ORIGINALLY DISTRIBUTED; AMENDING SECTIONS 15-36-314 AND 15-36-315, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 15-36-314, MCA, is amended to read:

"15-36-314. Deficiency assessment -- local government severance tax deficiency assessment -- review -- interest. (1) When the department determines that the amount of the tax due, including the amount due for the local government severance tax, is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) (a) The department shall collect deficiency assessments of the local government severance tax in the same manner as it collects oil and natural gas production tax deficiency assessments.

(b) Any local government severance taxes that are collected on oil and natural gas production occurring after December 31, 1988, and before January 1, 1995, must be treated as current revenue for



1 the purposes of distribution and must be distributed pursuant to 15-36-324(8)(a).

2 ~~(2)(3)~~ A deficiency assessment must bear interest until paid at the rate of 1% a month or fraction
3 of a month, computed from the original due date of the return."
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5 **Section 2.** Section 15-36-315, MCA, is amended to read:

6 **"15-36-315. Credit or refund for overpayment -- refund from county -- interest on overpayment.**

7 (1) If the department determines that the amount of tax, penalty, or interest due for any taxable period is
8 less than the amount paid, the amount of the overpayment must be credited against any tax, penalty, or
9 interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through
10 reorganization, merger, or consolidation or to its shareholders upon dissolution.

11 ~~(2) (a) The amount of an overpayment credited against any tax, penalty, or interest due for any~~
12 ~~tax period or any refund or portion of a refund, which has not been distributed pursuant to 15-36-324,~~
13 ~~must be withheld from the current distribution made pursuant to 15-36-324.~~

14 ~~(b) If the amount of the refund reduces the amount of tax previously distributed pursuant to~~
15 ~~15-36-324 and if the current distribution, if any, is insufficient to offset the refund, then the department~~
16 ~~shall demand the amount of the refund from the county to which the tax was originally distributed. The~~
17 ~~county treasurer shall remit the amount demanded within 30 days of the receipt of notice from the~~
18 ~~department.~~

19 ~~(3) A refund that is paid by the department for an overpayment of the local government severance~~
20 ~~tax for oil or natural gas production occurring after December 31, 1988, and before January 1, 1995, must~~
21 ~~be treated as issued for the current distribution period for distribution purposes, and the refund must be~~
22 ~~apportioned in the same manner as taxes are distributed pursuant to 15-36-324(8)(a).~~

23 ~~(2)(4)~~ Except as provided in subsection ~~(3)~~ (5), interest must be allowed on overpayments at the
24 same rate as is charged on deficiency assessments provided in 15-36-314 beginning from the due date of
25 the return or from the date of overpayment, whichever date is later, to the date on which the department
26 approves refunding or crediting of the overpayment.

27 ~~(3)(5)~~ (a) Interest may not accrue during any period in which the processing of a claim for refund
28 is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the
29 department for the purpose of verifying the amount of the overpayment.

30 (b) Interest is not allowed:

1 (i) if the overpayment is refunded within 6 months from the date on which the return is due or from
2 the date on which the return is filed, whichever is later; or

3 (ii) if the amount of interest is less than \$1."
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5 **NEW SECTION. Section 3. Retroactive applicability.** [This act] applies retroactively, within the
6 meaning of 1-2-109, to any local government severance tax deficiency assessments or refunds collected
7 or refunded by the department of revenue for oil or natural gas production occurring after December 31,
8 1988, and before January 1, 1995.
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10 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.
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-END-


STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0049, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act revising the distribution of local government severance taxes and oil and natural gas production taxes for deficiency assessments or for overpayment of the taxes; requiring that deficiency assessments for local government severance taxes be collected in the same manner as oil and natural gas deficiency assessments; requiring that deficiency assessments for certain local government severance taxes be distributed as current revenue; requiring that credits or refunds for the overpayment of oil and natural gas production taxes or local government severance taxes be withheld from current distributions; requiring the department of revenue to demand the amount of refund for overpayments from the county to which the tax was originally distributed; amending sections 15-36-314 and 15-36-315, MCA; and providing an immediate effective date and a retroactive applicability date.

FISCAL IMPACT:

Under the proposed legislation, there is no impact to tax collections, however, there is impact to revenue distribution. The bill would distribute any audit collections under the old (prior to January 1, 1995) Local Government Severance Tax (LGST) in the same manner as collections under the current Oil and Gas Production Tax. The formula used to distribute the former LGST revenues was changed during the last legislative session to incorporate emergency mills levied during the base year. These changes affected four levy districts in Fallon County. The effect of the proposed legislation would cause Fallon County taxing jurisdictions to receive a smaller portion and all other taxing jurisdictions to receive a greater portion of any pre-1/1/95 audit collections. The amount of pre-1/1/95 audit collections is not determinable at this time.

 1-6-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1-7-97
DELWYN GAGE, PRIMARY SPONSOR DATE

Fiscal Note for SB0049, as introduced

SB 49

APPROVED BY COM ON
LOCAL GOVERNMENT

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25 The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The
26 taxpayer may seek review of the determination pursuant to 15-1-211.

27 **(2) (a) The department shall collect deficiency assessments of the local government severance tax**
28 **in the same manner as it collects oil and natural gas production tax deficiency assessments.**

29 **(b) Any local government severance taxes that are collected on oil and natural gas production**
30 **occurring after December 31, 1988, and before January 1, 1995, must be treated as current revenue for**

1 the purposes of distribution and must be distributed pursuant to 15-36-324(8)(a).

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10 reorganization, merger, or consolidation or to its shareholders upon dissolution.

11 (2) (a) The amount of an overpayment credited against any tax, penalty, or interest due for any
12 tax period or any refund or portion of a refund, which has not been distributed pursuant to 15-36-324,
13 must be withheld from the current distribution made pursuant to 15-36-324.

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15 15-36-324 and if the current distribution, if any, is insufficient to offset the refund, then the department
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