Senate BILL NO. 362

INTRODUCED BY [signature]

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE DISTRIBUTION OF OIL AND NATURAL GAS PRODUCTION TAXES ON POST-1985 WELLS TO COUNTIES, SCHOOL DISTRICTS, SCHOOL EQUALIZATION, AND THE UNIVERSITY SYSTEM; ELIMINATING THE DISTRIBUTION OF OIL AND NATURAL GAS PRODUCTION TAXES BASED ON MILL LEVIES FOR STATE, COUNTY, AND SCHOOL DISTRICTS; PROVIDING THAT OIL AND NATURAL GAS PRODUCTION TAXES ON POST-1985 WELLS BE DISTRIBUTED ACCORDING TO SPECIFIED PERCENTAGES; AMENDING SECTION 15-36-324, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-36-324, MCA, is amended to read:

"**15-36-324. 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 this part. For 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 this part 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 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 this part 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 this part 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 the county and school taxing units for distribution as provided in subsection (8).

(6) The amount equal to 100% of the natural gas production taxes, including late payment interest and penalty, collected from working interest owners under this part 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 collected, 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 by 15-38-106(2).

(8) (a) For the purpose of distribution of the oil and natural gas production taxes from pre-1985 wells, the department shall each calendar quarter adjust the unit value determined under 15-36-323 according to the ratio that the oil and natural gas production taxes from pre-1985 wells collected during the calendar quarter for which the distribution occurs plus penalties and interest on delinquent oil and natural gas production taxes from pre-1985 wells bears to the total liability for the oil and natural gas production taxes from pre-1985 wells for the quarter for which the distribution occurs. The amount of oil and natural gas production taxes distributions must be calculated and distributed as follows:

(i) By the dates referred to in subsection (9), the department shall calculate and distribute to each **eligible** county the amount of oil and natural gas production taxes from pre-1985 **wells for** the quarter, determined by multiplying the unit value, as adjusted in this subsection (8)(a), by the units of production on which oil and natural gas production taxes from pre-1985 wells were owed for the calendar quarter for which the distribution occurs.

(ii) Any amount by which the total tax liability exceeds or is less than the total distributions determined in subsection (8)(a) must be calculated and distributed in the following manner:

(A) The excess amount or shortage must be divided by the total distribution determined for that period to obtain an excess or shortage percentage.

(B) The excess percentage must be multiplied by the distribution to each taxing unit, and this amount must be added to the distribution to each respective taxing unit.

(C) The shortage percentage must be multiplied by the distribution to each taxing unit, and this amount must be subtracted from the distribution to each respective taxing unit.

(b) Except as provided in subsection (8)(c), the county treasurer shall distribute the money received under subsection (9) from pre-1985 wells to the taxing units that levied mills in fiscal year 1990 against calendar year 1988 production in the same manner that all other property tax proceeds were distributed during fiscal year 1990 in the taxing unit, except that a distribution may not be made to a municipal taxing unit.

(c) 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)(c)(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.

(d) The board of trustees of an elementary or high school district may reallocate the oil and natural gas production taxes distributed to the district by the county treasurer under the following conditions:

(i) The district shall first allocate the oil and natural gas production taxes 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)(d)(i) exceeds the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district.

(e) For all production from post-1985 wells and horizontally drilled wells completed after December 31, 1993, the county treasurer shall distribute oil and natural gas production taxes received under subsections (2)(b) and (5)(b) between county and school taxing units ~~in~~ according to the ~~relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the preceding fiscal year~~ following percentages:

(i) 35% to the county;

(ii) 20% to the elementary school district;

(iii) 25% to the high school district;

(iv) 5.2% for the purposes of the elementary district BASE funding program as provided in 20-9-331;

(v) 3.5% for the purposes of the high school district BASE funding program as provided in 20-9-333;

(vi) 6.3% for the purposes of state equalization aid as provided in 20-9-360;

(vii) 2.5% for the purposes of support of the university system as provided in 20-25-423; and

(viii) 2.5% to the rural fire district.

(f) The allocation to the county in subsection (8)(e)(i) must be distributed by the county treasurer ~~in the relative proportions required by the levies for county taxing units and in the same manner as property taxes were distributed in the preceding fiscal year~~ to the county funds as directed by the governing body of the county.

~~(g) The money distributed in subsection (8)(e) that is required for the county mill levies for school district retirement obligations and transportation schedules must be deposited to the funds established for these purposes.~~

(g) The allocation to the elementary and high school districts in subsections (8)(e)(ii) and (8)(e)(iii) must be distributed by the county treasurer to the school funds as directed by the board of trustees of the school district except that the taxes must first be distributed to school district accounts that qualify for state guaranteed tax base aid.

(h) 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 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.

(i) The oil and natural gas production taxes distributed under ~~subsection~~ subsections (8)(e)(iv), (8)(e)(v), (8)(e)(vi), and (8)(e)(vii) ~~that are required for the 6 mill university levy imposed under~~ for the purposes of ~~20-25-423, for the county equalization levies imposed under~~ 20-9-331, ~~and~~ 20-9-333, ~~and for the state equalization aid levy imposed under~~ 20-9-360, and 20-25-423 must be remitted by the county treasurer to the state treasurer.

~~(j) The amount of oil and natural gas production taxes remaining after the treasurer has remitted the amounts determined in subsections (8)(h) and (8)(i) is for the exclusive use and benefit of the county and school taxing units.~~

(9) The department shall remit the amounts to be distributed in 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 15-36-304 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 2. Effective date -- applicability.** [This act] is effective July 1, 1997, and applies to oil and natural gas production taxes distributed after June 30, 1997.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0362, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act generally revising the distribution of oil and natural gas production taxes on post-1985 wells to counties, school districts; school equalization, and the university system; eliminating the distribution of oil and natural gas production taxes based on mill levies for state, county, and school districts; providing that oil and natural gas production taxes on post-1985 wells be distributed according to specified percentages; and providing an effective date and an applicability date.

ASSUMPTIONS:

Tax Distribution -

1. Taxable value of oil production is $ 276,634,000 in CY96, $261,973,000 in CY97, $253,895,000 in CY98, and $256,684,000 in CY99 (HJR2).
2. Taxable value of natural gas production is $75,830,000 in CY96, $64,450,000 in CY97, $60,074,000 in CY98, and $64,071,000 in CY99 (HJR2).
3. The average tax rate on oil production is 11.74% (LFD).
4. The average tax rate on natural gas production is 12.22% (LFD).
5. Post-1985, locally distributed oil production tax accounts for 15.24% of the total oil production taxes (MDOR).
6. Post-1985, locally distributed natural gas production tax accounts for 27.93% of the total natural gas production taxes (MDOR).
7. CY1997 mills for taxing jurisdictions will remain unchanged from CY1996 (MDOR).
8. The proposed legislation will be amended to state that revenues allocated to fire districts will be distributed to the county government in the event that there is no fire district levying mills within the levy district (MDOR).
9. Calendar year 1997, 1998, and 1999 oil and natural gas new (post-1985) production is distributed across levy districts in the same relative proportions as it was during calendar year 1996 (MDOR).
10. Distributions to miscellaneous taxing jurisdictions other than fire districts will be eliminated under the proposed legislation(MDOR).
11. Distributions to county wide education accounts for retirement and transportation will be eliminated under the proposed legislation (MDOR).
12. The effective date of the proposed legislation is July 1, 1997 and applies to oil and natural gas production produced after June 30, 1997 (MDOR).

GTB Impacts -

13. Given the re-allocation of oil and gas tax revenues in SB 362, schools will receive an additional $950,000 in FY98 and $942,000 in FY99 from oil and gas revenues. These monies must be distributed first to "school district accounts that qualify for guaranteed tax base aid." It is assumed that the amounts allocated to school districts will be deposited first in the school general fund. As a result of the increase in non-levy revenue to schools, state GTB costs will decrease by $171,000 in FY98 and $209,000 in FY99.
14. The county retirement and transportation levies will no longer receive an allocation of oil and gas tax revenues from post-1985 production under SB 362. The allocation to the county retirement and transportation will reduce receipts to these funds by $533,000 in FY98 and $$529,000 in FY99. The increased state GTB cost of eliminating the allocation of oil and gas tax monies to these funds is $129,300 for FY98 and $128,300 for FY99.

(Fiscal Impact - see page 2)

Dave Lewis 2-24-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Delwyn Gage 2/25/97
DELWYN GAGE, PRIMARY SPONSOR DATE

FISCAL IMPACT:

Expenditures:

	FY98 Difference	FY99 Difference
GTB aid - District GF	($171,000)	($209,000)
GTB aid - Retirement	129,300	128,300
Total (General Fund)	($41,700)	($80,700)

Revenues:
There is no impact to overall Oil and Gas Production Tax collections under the proposed legislation. Distributional impacts are listed below.

	FY98 Difference	FY99 Difference
State equalization aid (G.F.)	(1,082,000)	(1,073,000)
University system 6-mill account	36,000	36,000
Total	($1,046,000)	($1,037,000)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Net Impact:

	FY98 Difference	FY99 Difference
County governments	$654,000	$649,000
Fire districts	23,000	23,000
Miscellaneous districts	(48,000)	(48,000)
County Ed. Retirement & Trans.	(533,000)	(529,000)
Elementary districts	578,000	573,000
High School districts	372,000	369,000
Total	$1,046,000	$1,037,000

Local school district taxes will decrease in response to the increase in nonlevy revenues distributed to schools with oil and gas production. County taxes for transportation and retirement will increase because SB 362 reduces the allocation to the county-wide school levies.

Any school districts, that have no oil and gas production, that are located in counties with oil and gas production will see an increase in overall taxes because county-wide levies will increase. School districts with oil and gas production are likely to see a decrease in spite of the increase in county transportation and retirement levies.

TECHNICAL NOTES:
The proposed legislation allocates 2.5% of the revenue to a local fire district which levies mills within the levy district. However, not all levy districts with "new" oil and gas production contain a fire district. In the absence of a fire district, the proposed legislation has no mechanism to distribute elsewhere the 2.5% "fire district" portion.

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