

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on February 19, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused: None

Staff Present: Jeff Martin (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON SENATE BILL 294

Presentation and Opening Statement by Sponsor:

Senator Doherty, District 20, said the bill allows local governments to impose an additional 2% on the lodging tax for maintenance, construction, or purchase of tourist related facilities. Great Falls attempted to pass a bond issue last fall to do major renovations at the fair grounds and build a major multi-purpose sports and entertainment center. The complaints from people on a fixed income were to the effect that the only people that would make any money from the bond issue passing were the motel and restaurant/bars. The motel owners felt they could make a contribution and the solution seemed to be the addition of the 2% local option tax. He said the bill needs to be amended in section 2(b) to include a vote of the people instead of a public

hearing. He noted Missoula has indicated the 2% increase would raise \$250,000 in Missoula and would help them develop a baseball park in the attempt to obtain a Pioneer League franchise for the city.

Proponents' Testimony:

There were no proponents.

Opponents' Testimony:

Keith Colbo, Montana Tourism Coalition, composed of 19 groups across Montana, including AAA, Montana Coal Council, Montana Chamber of Commerce, Montana Broadcasters, and Montana Food Distributors, spoke in support of the bill. He said the purposes of the bill are laudable, but he thinks there is better way. The members of the tourism industry wanted the accommodation tax and it has worked well in supporting the promotion of tourism in Montana.

One drawback of the bill is the competitive element that is introduced. Since the tax is based on a local option, some communities may enact the tax, others would not. The tax is imposed by others than members of the industry which does not give them a choice in the matter. He noted 82% of the non-resident expenditures go to items other than lodging. This is a very narrow tax base which would be placed in jeopardy by this proposal.

Dennis Burr, Montana Taxpayers Association, said the bill creates intrastate competition. He said state taxes should be imposed uniformly. He said 2% could make quite a difference in the costs of a large convention, thus, the competition factor becomes very important. He agreed with Mr. Colbo's testimony.

Bonnie Tippy, Montana Innkeepers, said she supported the previous testimony. She expressed a concern with the definition of "tourism related facility".

Forrest Boles, President, Montana Chamber of Commerce, expressed opposition to the bill saying there is not vote (he had not been present at the hearing when Senator Doherty proposed his amendment for a vote of the people), the tax base is too narrow, and the definition is not clear.

Questions From Committee Members:

Senator Halligan said the collection and distribution mechanisms in the bill seem to indicate there are two separate collections.

Senator Doherty replied yes, there are two collections.

Closing by Sponsor:

Senator Doherty closed by noting he is proposing an amendment to put the imposition of the tax to a vote of the people. He said he deliberately left the definition of "tourism related facility" very broad in order to allow for the construction of a community sport and entertainment center in Great Falls or a baseball stadium in Missoula.

HEARING ON SENATE BILL 345**Presentation and Opening Statement by Sponsor:**

Senator Gage, District 5, presented proposed amendments from the Department of Revenue (Exhibit #1) and a letter of support for the bill from Gloria Paladichuk, Richland County Commissioner.

Senator Gage said the bill is a result of the flat tax that was passed regarding equalization of schools. Under that bill, HB 28 of the special session of 1989, the distribution formulas of the local government severance tax and the gross proceeds coal tax were frozen because it appeared counties were going to lose substantial funds as a result of the new millages enacted for the foundation program. The last year that net proceeds tax was assessed was used as the base for distribution of those amounts. By that action, problems were created which the legislature would have to address in the 1991 session. A taxing jurisdiction would be forever precluded from participating in the distribution of the funds if they had not levied any mills during the base year. Also, there might be taxing jurisdictions that decreased their mills and would not have need for the total mills they were getting under the higher millage in the base year.

This bill bases the distributions for local government severance tax and gross proceeds on the coal tax on the prior year's millages. In order to protect the counties, the millages for the foundation program are frozen at the 40 mill level of the last net proceeds assessment. The amendments contain clarification language that DOR feels needs to be attached to this bill. The amendments are attached to two other similar bills this session. DOR feels this bill will probably be the vehicle that passes and therefore the amendments must be added to this bill also.

Proponents' Testimony:

Denis Adams, Director, Department of Revenue, said the bill is needed to accomplish an administrative clean-up of the special session legislation.

Opponents' Testimony:

Mike Stephen, Montana Oil, Gas and Coal Counties, said they are comfortable with the current frozen levels as originally drafted. HB 793 allows for redistribution by the County Commissioners of the excess funds in the counties that have a higher millage than they need.

Questions From Committee Members:

Senator Harp asked Mr. Adams to provide the committee with information based on comparisons of distributions and dollar amounts between this bill and the original HB 28 legislation.

Senator Eck asked for additional information as to what the counties would have paid without the original legislation and for documentation of the effect of SB 345 on the 100 or 200 largest corporations.

Senator Towe asked if the base will have to be updated every year or is it locked in.

Senator Gage said the base is locked in on the previous year's millages and therefore it rolls forward each year.

Senator Van Valkenburg asked what other bills are in that address this situation.

Mr. Adams said there is the Administrative Energy Policy Act, and SB 313, Senator Gage's oil and gas tax incentive bill.

Senator Van Valkenburg asked Mike Stephen if he represented Richland County.

Mr. Stephen said he did.

Senator Towe asked Senator Gage to explain how Section 5, sub (a), (b), and (c) tie into school funding.

Senator Gage replied 5(a) LGST distribution will be in the same proportion that all other property tax proceeds were distributed in the preceding fiscal year. Section 5(b) indicates distributions for the elementary and high school equalization account will be adjusted to reflect FY 1990. Section 5(c) is a clarification section which says the new 40 mills are not included in (b) calculations. Senator Gage said (a) is based on the new 40 mills, and (b) does not utilize the new 40 mills.

Senator Eck asked if the distribution is working well or are the counties getting more than they did previously and schools getting less.

Senator Gage responded that is an "if" question. The voted levies will continue to be included in the school distribution. If the other taxing jurisdictions raise their millages, they will continue to get a larger share of the distribution based on how much they increase the mills. Oil and gas production has a bearing on the millages, also.

Closing by Sponsor:

Senator Gage closed by saying the bill deals with old oil only. The new oil is still distributed to the foundation program on the basis of the new 40 mills. This is a depleting asset and ultimately there will be no more old oil so this formula will eventually drop out of the tax revenue of the affected areas. This bill corrects more problems than it creates. The stricken language on page 6 is eliminated since the distributions will no longer be based on the prior year mills. He urged the committee to give favorable consideration to the bill.

HEARING ON SENATE BILL 299

Presentation and Opening Statement by Sponsor:

Senator Halligan, District 29, said the bill has been introduced at the request of Ward Shanahan and those people who regularly deal with the State Tax Appeals Board. It clarifies and expands the ability to deal with issues that should go to the district court Judge. Instead of a question of interpretation of constitutional law the party can go before the district court in an interlocutory appeal prior to any decision by the State Tax Appeal Board. It is an important clean up provision in that parties before the State Tax Appeal Board would have to wait until the STAB decision was made, then go to district court, and then go back to STAB. This way, there can be a disposition of the issues of admissability of evidence, procedures, or statutory interpretation prior to any decision by STAB.

Proponents' Testimony:

Dave Woodgerd, Chief Counsel, Department of Revenue, said he had worked with Mr. Shanahan on the bill. The original concept was passed in 1987, but has never worked well. He said this bill cleans it up and clarifies the procedures.

Tom Ebzery, NERCO, said the bill clarifies the issue of either party being able to come in. His clients had to go back to STAB even though they had been to district court.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Towe asked if the bill broadens the base of appeal.

Mr. Woodgerd responded said the main problem was on page 1, line 22, in that the petition "must" raise all the questions. Cases were denied on that issue. The bill changes the "must" to "may" which should solve the problem.

Senator Harp asked the Chairman of the State Tax Appeal Board to respond.

John McNaught, Chairman, said the Board has taken a neutral position on the bill. He said the Board proved in the case of HB 703 that they are capable of answering questions of law. Their decisions in that case were upheld by the Montana Supreme Court. He said the bill would speed up the process.

Senator Doherty asked if the District Court could be made to rule on all the issues.

Mr. Woodgerd responded the concept is to try and make sure the legal questions are out of STAB and into District Court for a ruling. The bill indicates the intent which is to get the Court to rule on the legal issues if at all possible.

Senator Towe was concerned that some legal issues may or may not develop depending on how the facts develop as the case proceeds. It may not be possible to answer all the legal questions at one time.

Senator Towe said the "shall" language obligates the judge to rule on everything. He suggested the language "ready for ruling" be inserted on page 3, line 1, following "issues".

Closing by Sponsor:

Senator Halligan closed.

EXECUTIVE ACTION ON SENATE BILL 345

Discussion:

Senator Towe asked for a side by side comparison of the two different formulas and what happens as one year passes into the next.

Mr. Adams said he would get that information to the committee as soon as possible.

EXECUTIVE ACTION ON SENATE BILL 294

Recommendation and Vote:

Senator Harp moved SB 294 be Tabled.

The motion CARRIED with Senators Towe and Doherty voting no and Senators Gage and Koehnke absent.

EXECUTIVE ACTION ON SENATE BILL 272

Discussion:

Senator Halligan gave the committee the infrastructure definition as proposed in an amendment by Evan Barrett. It defines industrial or public infrastructure and private infrastructure (Exhibit #3).

Senator Van Valkenburg asked why we need two separate definitions if we are not treating the two differently.

Senator Towe said they are needed to clarify to bonding companies, lending institutions, and other investors that all infrastructure, public and private, is included within the scope of the bill. He continued he felt the amendment would turn the bill around totally and make it do that which was not originally intended.

Senator Harp said Senator Farrell wanted to send a message to some of the economic development people that they are being watched without putting a punitive reaction in the law which would punish those who are following the letter of the law.

Senator Towe said there is not a great deal that can be done to encourage economic development in the state. This bill offers one thing, however, and he felt that enabling an economic development corporation the opportunity to offer a package to a potential company that would include a way to finance the property would be an asset.

A general philosophical discussion on the infrastructure financing and economic development was held.

EXECUTIVE ACTION ON SENATE BILL 286

Discussion:

Senator Van Valkenburg said that Representative Bardonoue has introduced a bill which is a complete review of the Capital Company Act. He said he would like to look at this bill in light of the house bill before taking any action.

Recommendation and Vote:

Senator Van Valkenburg moved to Table SB 286.

The motion CARRIED unanimously with Senator Koehnke absent.

ADJOURNMENT

Adjournment At: 9:30 a.m.



SENATOR MIKE HALLIGAN, Chairman



JILL D. ROHYANS, Secretary

MH/jdr

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 2/19/91

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

DATE 7/19/91

COMMITTEE ON *TAXATION*

5B 249 5B 244 5B 245

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

Amendments to Senate Bill 345
1st. Reading Copy

SENATE TAXATION
EXHIBIT NO. 1
DATE 1/19/91
BILL NO. SB 345

Prepared by the Department of Revenue
February 13, 1991

The following amendments accomplish two purposes. First, amendments to §§ 15-36-101, and 15-36-121, MCA, are to clarify the definition of gross value. Gross value of product is the term used to describe tax base for both the state severance tax and the local government severance tax. However, they are not computed in the same manner. The department's amendments clarify that the correct gross value of product is matched up with the right tax.

The other purpose is to clarify that the administration of the local government severance tax is the same as the existing procedures for administration of state severance tax. If upon audit the amount of lgst found to be due is greater than the amount paid the department shall issue the same notice to the taxpayer it would issue if the case an audit should the amount of state severance tax was underpaid. If a taxpayer required to pay the lgst fails to file a return the department will compute the tax due in the same manner as it would do if a taxpayer failed to file a state severance tax return. The procedure for issuing a deficiency assessment, the hearing on the deficiency assessment and the amount of interest charged on a deficiency assessment will be the same for lgst as for state severance tax. If the lgst is overpaid the taxpayer will be given credit for the overpayment on the lgst in the same manner as credit is given for an overpayment on the state severance tax.

1. Title, Line 4.
Following: "AN ACT"
Insert: "TO REVISE THE TAXATION OF NATURAL RESOURCES BY"
2. Title, Line 7.
Following: "FISCAL YEAR;"
Insert: "CLARIFYING THE DEFINITION OF GROSS VALUE FOR COMPUTATION OF THE LOCAL GOVERNMENT SEVERANCE TAX; AND STANDARDIZING THE ADMINISTRATION OF THE LOCAL GOVERNMENT SEVERANCE TAX;"
3. Title, Line 8.
Following: "15-23-703"
Strike: "AND 15-36-112"
Insert: "15-36-101, 15-36-105, 15-36-107, 15-36-108, 15-36-112, 15-36-113, 15-36-114, AND 15-36-121"
4. Page 1,
Following "Line 11"
Insert: "Section 1. Section 15-36-101, MCA, is

amended to read: "15-36-101. Definitions and rate of ~~state~~ local government severance tax. (1) Every person engaging in or carrying on the business of producing 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 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 the exclusive use and benefit of the state of Montana plus a local government severance tax in lieu of a tax on net proceeds for the exclusive use and benefit of local government. 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), (1)(c), and (1)(d), a 5% state severance tax on the total 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 (6)(a)(ii) of all the petroleum and other mineral or crude oil produced by the person other than ~~interim production and 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 his operations in prospecting for, developing, and producing the petroleum or crude or mineral oil;

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

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

(i) the project must be approved as a tertiary recovery project by the department of revenue. The approval may be extended

only after notice and hearing in accordance with Title 2 chapter 80395
4.

(ii) the property to be affected by the project must be adequately delineated according to the specifications required by the department; and

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

- (A) miscible fluid displacement;
- (B) steam drive injection;
- (C) micellar/emulsion flooding;
- (D) in situ combustion;
- (E) polymer augmented water flooding;
- (F) cyclic steam injection;
- (G) alkaline or caustic flooding;
- (H) carbon dioxide water flooding;
- (I) immiscible carbon dioxide displacement; or
- (J) any other method approved by the department as a tertiary recovery method.

(d) a 5% local government severance tax on the ~~total~~ gross taxable value as defined in subsection (6)(a)(ii) of all petroleum and other mineral or crude oil produced by the person other than ~~interim and~~ new production produced by a stripper well, as defined in 15-36-121.

(2) For purposes of this section, the term "incremental petroleum and other mineral or crude oil" means the amount of oil, as determined by the department of revenue, to be in excess of what would have been produced by primary and secondary methods. The determination arrived at by the department must be made only after notice and hearing and shall specify through the life of a tertiary project, calendar year by calendar year, the combined amount of primary and secondary production that must be used to establish the incremental production from each lease or unit in a tertiary recovery project.

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

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

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

(b) The amounts paid or apportioned in kind to nonworking interest owners are exempt from the local government severance

taxes imposed under 15-36-121(2) and under subsections (1)(d) of this section.

(4) Nothing in this part may be construed as requiring laborers or employees hired or employed by any person to drill any oil or natural gas well or to work in or about any oil or natural gas well or prospect or explore for or do any work for the purpose of developing any petroleum, other mineral or crude oil, or natural gas to pay the severance tax, nor may work done or the drilling of a well or wells for the purpose of prospecting or exploring for petroleum, other mineral or crude oil, or natural gas or for the purpose of developing them be considered to be the engaging in or carrying on of the business. If, in the doing of any work, in the drilling of any oil or natural gas well, or in prospecting, exploring, or development work, any merchantable or marketable petroleum, other mineral or crude oil, or natural gas in excess of the quantity required by the person for carrying on the operation is produced sufficient in quantity to justify the marketing of the petroleum, other mineral or crude oil, or natural gas, the work, drilling, prospecting, exploring, or development work is considered to be the engaging in and carrying on of the business of producing petroleum, other mineral or crude oil, or natural gas within this state within the meaning of this section.

(5) Every person required to pay the state or local government severance tax under this section shall pay the tax in full for his own account and for the account of each of the other owner or owners of the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude oil or natural gas extracted and produced, including owner or owners of working interest, royalty interest, overriding royalty interest, carried working interest, net proceeds interest, production payments, and all other interest or interests owned or carved out of the total gross proceeds in value or in kind of the extracted marketable petroleum or other mineral or crude oil or natural gas, except that any of the interests that are owned by the federal, state, county, or municipal governments are exempt from taxation under this chapter. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners will be deducted from any settlements under the lease or leases or division of proceeds orders or other contracts.

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

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

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

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

or unit."

Section 2. Section 15-36-105, MCA, is amended to read: "15-36-105. Statement to accompany payment -- records -- collection of tax -- refunds. (1) Each person shall, within 60 days after the end of each following quarter, complete on forms prescribed by the department of revenue a statement showing the total number of barrels of merchantable or marketable petroleum and other mineral or crude oil or cubic feet of natural gas produced or extracted by the person in the state during each month of the quarter and during the whole quarter, the average value of the production during each month, and the total value of the production for the whole quarter, together with the total amount due to the state as severance taxes and local government severance taxes for the quarter, and shall within such 60 days deliver the statement and, except as provided in 15-36-102(2) and 15-36-121, pay to the department the amount of the taxes shown by the statement to be due to the state for the quarter for which the statement is made. The statement must be signed by the individual or the president, vice-president, treasurer, assistant treasurer, or managing agent in this state of the association, corporation, joint-stock company, or syndicate making the statement. Any person engaged in carrying on business at more than one place in this state or owning, leasing, controlling, or operating more than one oil or gas well in this state may include all operations in one statement. The department shall receive and file all statements and collect and receive from the person making and filing a statement the amount of tax payable by the person, if any, as appears in the statement.

(2) It is the duty of the department to examine each of the statements and compute the taxes thereon, and the amount computed by the department is the tax imposed, assessed against, and payable by the taxpayer making the statement for the quarter for which the statement is filed. If the state severance tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department within 10 days after written notice of the amount of the deficiency is mailed by the department to the taxpayer. If the local government severance tax found to be due is greater than the amount shown the excess shall be due at the time provided for payment in 15-36-102(2). If the state severance tax or local government severance tax imposed is less than the amount paid, the difference must be applied as a credit against tax liability for subsequent quarters or refunded if there is no subsequent tax liability.

(3) If the state severance tax or the local government severance tax is not paid on or before the due date, there must be assessed a penalty of 10% of the amount of the tax not paid, unless it is shown that the failure was due to reasonable cause and not due to neglect. If any tax under this chapter is not paid when due, interest must be added to the tax at the rate of 1% a month or fraction thereof, computed on the total amount of state or local government severance tax and penalty from the due date until paid.

Section 3. Section 15-36-107, MCA is amended to read: "15-36-107. Procedure to compute tax in absence of statement -- penalty

and interest. If any such person shall fail, neglect, ~~or refuse to~~ file any statement required by 15-36-105 within the time therein required, the department of revenue shall, immediately after such time has expired, proceed to inform itself as best it may regarding the number of barrels of petroleum and other mineral or crude oil or cubic feet of gas extracted and produced by such person in this state during such quarter and during each month thereof and the average value thereof during each such month and shall determine and fix the amount of the state severance taxes due to the state and the amount of local government severance taxes due from such person for such quarter and shall add to the amount of such severance taxes a penalty of 10% thereof plus interest at the rate of 1% per month or fraction thereof computed on the total amount of state or local government severance taxes and penalty. Interest shall be computed from the date the severance taxes were due to the date of payment. The department shall mail to the person required to file a quarterly statement and pay any severance tax taxes, a letter setting forth the amount of state or local government severance tax taxes, penalty, and interest due, and the letter shall further contain a statement that if payment is not made, a warrant for distraint may be filed. The 10% penalty herein provided may be waived by the department if reasonable cause for the failure and neglect to file the statement required by 15-36-105 is provided to the department."

SECTION 4. Section 15-36-108, MCA, is amended to read: "15-36-108. Warrant for distraint. If all or part of the state severance tax or local government severance tax imposed by this part is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand thereafter filed and recorded."

Renumber: subsequent sections

5. Page 4.

Following "Line 19"

Insert: "SECTION 6. Section 15-36-113, MCA, is amended to read: "15-36-113. Deficiency assessment -- hearing -- interest. (1) When the department of revenue determines that the amount of state severance tax or local government severance tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice of the additional severance tax proposed to be assessed. Within 30 days after mailing of the notice, the taxpayer may file with the department a written protest against the proposed additional severance tax, setting forth the grounds upon which the protest is based, and may request in his protest an oral hearing or an opportunity to present additional evidence relating to his severance tax liability. If no protest is filed, the amount of the additional state severance tax or local government severance tax proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department must reconsider the proposed assessment and, if the taxpayer has so requested, must grant the taxpayer an oral hearing. After consideration of the protest and the evidence presented at any oral

hearing, the department's action upon the protest is final when it mails notice of its action to the taxpayer.

(2) When a deficiency is determined and the state severance tax or local government severance tax becomes final, the department shall mail a notice and demand for payment to the taxpayer. The tax is due and payable at the expiration of 10 days from the date of such notice and demand. Interest on any deficiency assessment shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return."

SECTION 7. Section 15-36-114, MCA, is amended to read: "15-36-114. Credit for overpayment -- interest on overpayment. (1) If the department of revenue determines that the amount of state severance or local government severance tax, penalty, or interest due for any year taxable period is less than the amount paid, the amount of the overpayment shall be credited against any state severance or local government severance tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest shall be allowed on overpayments at the same rate as is charged on deficiency assessments provided in 15-36-113 due from the due date of the return or from the date of overpayment (whichever date is later) to the date the department approves refunding or crediting of the overpayment.

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

(b) No interest shall be allowed:

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

(ii) if the amount of interest is less than \$1.

(c) A payment not made incident to a bona fide and orderly discharge of an actual tax liability or one reasonably assumed to be imposed by this law shall not be considered an overpayment with respect to which interest is allowable."

SECTION 8. Section 15-36-121, MCA, is amended to read: "15-36-121. Exemption from state severance tax -- imposition of local government severance tax. (1) It is the public policy of this state to promote a sufficient supply of natural gas to provide for the residents of this state, to lessen Montana's dependence on imported natural gas, and to encourage the exploration for and development and production of natural gas, petroleum, and other mineral and crude oil within the state.

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

prior to the current calendar year by the number of producing wells in the lease or unitized area and by dividing the resulting quotient by 365. The first 30,000 cubic feet of average daily production per well is exempt from all of the state severance tax imposed by 15-36-101. The first 30,000 cubic feet of average daily production per well is subject to a local government severance tax of 10% on the gross taxable value, as defined in section 15-36-101 (6)(a)(ii). Everything over 30,000 cubic feet of gas produced is taxed at 1.59% on the total gross taxable value for the state severance tax plus a local government severance tax of 10% on the gross taxable value, as defined in section 15-36-101 (6)(a)(ii). SB345

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

(4) Notwithstanding the provisions of subsections (2) all reporting requirements under the state severance tax remain in effect."

Renumber: subsequent sections

SENATE TAXATION

EXHIBIT NO. 2

DATE 1/19/91

BILL NO. SB 345

February 18, 1991

Dear Mr. Chairman and Senate Taxation Committee Members:

My name is Gloria Paladichuk, Richland County Commissioner, and Board Member of Richland Nursing Home, along with past County Treasurer for 10 years.

As County Commissioner in charge of budgets and as a past County Treasurer responsible for tax and revenue distributions, I believe SB 345 is a fair and honest way to both county and school funds in distributing the local government severance tax revenues.

As a Board Member of Richland Homes, a nursing home for the aged, I strongly favor the passage of SB 345. I also am speaking on behalf of our senior citizens and nursing home residents who cannot speak for themselves. A 3-mill levy passed at a local election for a building and remodeling project of our nursing home. The 3 mills will commence with the 1991 tax statements. In order for the nursing home to receive a proportionate share of the local government severance tax, SB 345 must pass.

Senator Gage should be commended for submitting this bill and I urge your "DO PASS" recommendation. Thank you.

Sincerely,



Gloria Paladichuk
Richland County Commissioner
Sidney, Montana 59270

Amended version of SB 272

(1) "Industrial infrastructure" and "infrastructure" mean:

(a) public infrastructure, which includes streets, roads, curbs, alleys, gutters, sidewalks, parking lots, offstreet parking facilities, water ways, waterlines, water treatment facilities, sewers, sewer lines, sewage treatment facilities, storm sewers, natural gas lines or facilities, electrical lines or facilities, telecommunication lines or facilities, bridges, rail lines, rail spurs, rail facilities including transloading facilities, buildings or other improvements owned operated and provided by a municipality; or

(b) private infrastructure, which includes streets, roads, curbs, alleys, gutters, sidewalks, parking lots, offstreet parking facilities, water ways, waterlines, water treatment facilities, sewers, sewer lines, sewage treatment facilities, storm sewers, natural gas lines or facilities, electrical lines or facilities, telecommunication lines or facilities, bridges, rail lines, rail spurs, rail facilities including transloading facilities, buildings, personal property or other improvements owned or operated by a private industrial entity which contribute to the creation of jobs within the tax increment financing industrial district.