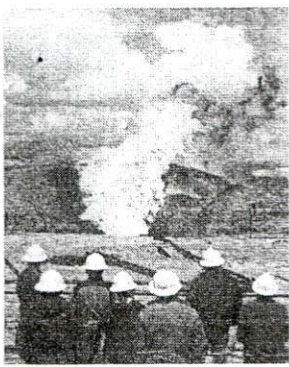


Torched and Burned: Why Does Colo Subsidize the World's Most Profitable Industry?

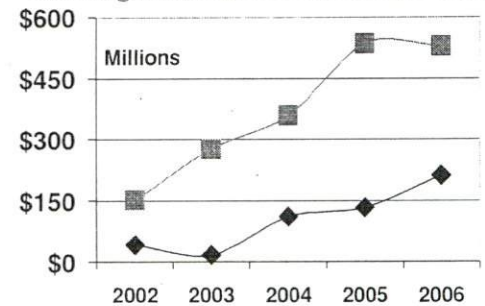
"Fossil fuels resemble capital in the bank. A responsible parent will use his capital sparingly in order to pass on to his children as much as possible of his inheritance. A selfish parent will squander it in riotous living and care not one whit how his offspring will fare."

--Admiral Hyman Rickover, U.S. Navy

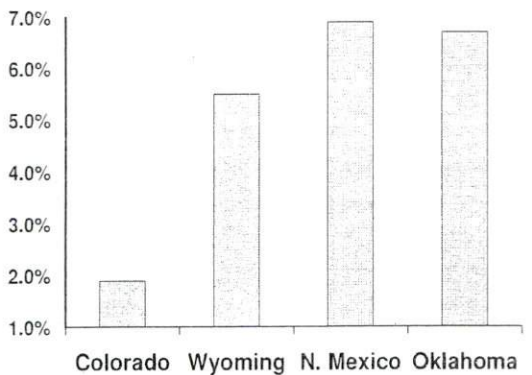


Coloradans pride themselves on being fiscally conservative. In this cash-strapped state, legislators squabble over quarters and governors take deficits for granted. But there's a paradox here: Even as we suffer migraines over how to fund education, transportation, and health care, Colorado has, in effect, left more than one billion dollars on the table since 2002. How is that possible? The lower line in the chart at right shows the oil and gas severance taxes the State collected between 2002 and 2006. **The upper line represents the taxes Colorado oil and gas producers would have paid had their wells been located a few hundred miles to the north in Wyoming.** The cumulative difference, over the five years, is \$1,300,000,000.

Leaving a Billion Dollars on the Table



Because of our low severance tax rates, Colorado has foregone \$1.3 billion since 2002.



Effective severance tax rates are far lower in Colorado than in adjoining states, says the nonpartisan Colorado Legislative Council

Severed From the Earth

In 1977 Colorado imposed a "severance tax" to recapture, for the benefit of future generations, some of the wealth that is "irretrievably lost" when nonrenewable natural resources are extracted from the earth. Although Colorado assesses a nominal 5% severance tax on oil and gas producers, a dizzying array of exemptions and deductions reduces the effective tax rate to 1.9%, about one-third what the petroleum industry pays in neighboring states. **In 2005, for example, Colorado collected \$132 million in severance taxes. In Wyoming, an identical amount of oil and gas production would have raised \$382 million.** In New Mexico, it would have brought in \$479 million. This additional revenue could have been used to redress the negative social and environmental impacts of the energy boom, and to fund the clean energy alternatives that will be needed when the oil and gas is gone.

Their Fair Share

Each year, when filing their taxes, Colorado citizens must pay the State Treasurer 4.6% of their income. Meanwhile, oil and gas operators—including some of the world's richest corporations—pay the State a mere pittance. **Indeed, an astonishing 75% of the state's oil and gas wells pay no severance tax at all.** As our roads crumble and schools decline, Colorado now rivals Mississippi at the bottom of the public investment ladder. Meanwhile, some Wyoming high school graduates are eligible for free college tuition, paid for with severance taxes. **Enough! It's time to reform our severance tax policies, which now subsidize the world's most profitable industry.**

A Byzantine Tax Code

The \$1.3 billion we failed to assess in severance taxes between 2002 and 2006 is gone forever. **Looking ahead, unless we change Byzantine provisions in our tax code, the State may fail to collect an additional \$10 billion or more over the next 30 years.** To put our fiscal house in order, legislators must reform our antiquated severance tax regulations. Unfortunately, current discussions focus on how to fix the Rube Goldberg-like methods we have invented for returning severance taxes to those counties impacted by energy production. This is a critical issue—but rather than squabble over the existing puny pie, doesn't it make more sense to order a bigger one? If Colorado wants to increase its severance taxes, now is the time since energy prices, production, and profits are at record highs.

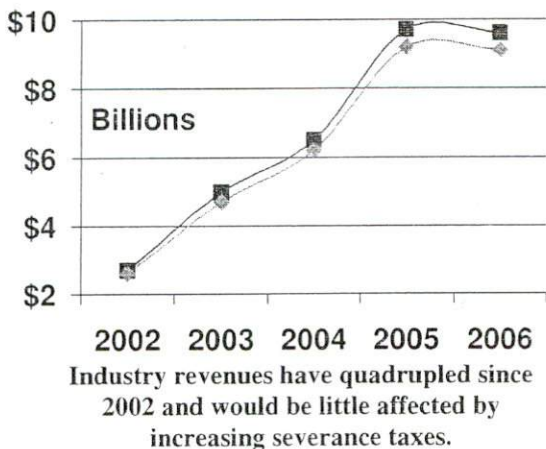
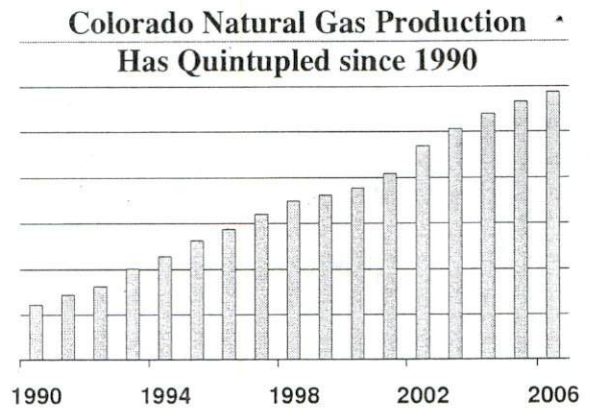
Let's stop squabbling about how to divvy up the existing severance tax pie, and order up a bigger one.

The Big Bonanza

The current drilling frenzy is the biggest boom in state history. Since 1990, Colorado's gas production has increased 500%. **In 2006, oil and gas revenues reached a staggering \$9.6 billion. By 2008, they may exceed \$11 billion.** Experts forecast that 150,000 wells will be drilled here over the coming three decades. During that period, producers of oil, gas, coal, molybdenum, gold, and silver are likely to extract \$400 billion of mineral wealth, a precious windfall that our current tax policies fail to reflect.

Seize the Moment

There are many reasons why it is an excellent time to hike severance tax rates. First, Colorado is the fastest growing gas province in the nation. Second, we are in the early years of what is likely to be a 30-year drilling boom. Third, energy prices are high, and economic fundamentals suggest they are headed higher. (For one thing, **steep declines in existing fields mean that half the nation's gas supply must be replaced with new drilling in the next three years.**) Fourth, oil and gas companies are reaping record profits, and can afford to pay their fair share. Fifth, **most of the natural gas and coal produced in Colorado is exported to heat and power the Midwest, an energy-poor region which will not be able to return the favor later.** Finally, the imminent completion of new pipelines will hike the price our natural gas fetches, thus further enriching energy producers.



Industry Revenues Soar

Paying \$75 for a tankful of gasoline may be painful, but it does not fully communicate how stupendously profitable the energy business has become. **In the next 24 hours, \$30 million of oil and natural gas will be extracted in Colorado. This week, companies will take \$210 million out of the ground. This month, \$900 million.** Who produces this energy? Industry lobbyists refer to "small independents," suggesting mom doing the books, while dad drills in his bluejeans. This is nonsense. The vast majority of Colorado's wells are owned by very large multi-nationals like BP, Exxon, Encana, Williams, Anadarko, and Chevron. In 2006 these companies' global profits exceeded \$90 billion. That's not income, it's *profit*. Could the Big Six afford to pay more in severance taxes? Intuition says yes. What about analysis? In the chart at left, the

upper line is actual industry revenues in Colorado since 2002. The lower line is what industry revenues *would have been* if severance taxes were as high in Colorado as they are in Wyoming. You have to squint to see it, but the difference between the two lines is the \$1.3 billion we failed to collect in the last five years.

The "Ad Valorem" Deduction

Although Colorado's nominal severance tax rate is 5%, the state actually collects less than 2%. There are two primary reasons for the discrepancy. The first is that Colorado—unlike other states—allows energy companies to deduct the county property taxes they pay from their severance tax bill. This loophole—the "ad valorem" deduction—currently costs the state \$200 million or more each year. If it is not closed, the state could lose \$8 billion or more over the coming three decades.

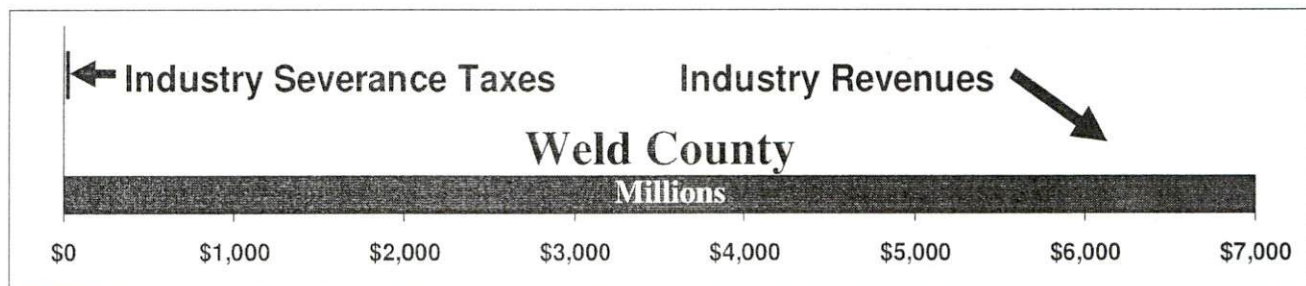
Remarkably, three-fourths of Colorado oil and gas wells pay no severance taxes at all.

Producer's Paradise

This next bit is a stunner: **Three-fourths of the state's wells pay no severance tax at all.** That's because Colorado exempts "stripper wells" from severance fees. Stripper wells produce less than 15 barrels of oil, or 90,000 cubic-feet of natural gas, per day. The exemption is designed to encourage producers to continue operating older, less productive wells. Since it costs \$20,000 per year to maintain a well, this was fair back when oil was \$15 per barrel and natural gas was \$1 per thousand cubic-feet. Since 1999, however, prices have quadrupled. As a result, stripper wells, which provide 60% of Colorado's oil and 20% of its natural gas, have become very profitable, but the state is not sharing in the bounty. In this producer's paradise, some oil wells produce \$400,000, severance tax-free.

Poster Child for Reform

Energy companies hire smart accountants to exploit every legal stratagem to reduce their tax liability. By piggybacking the ad valorem and stripper exemptions together, a clever accountant can work the Colorado tax code like a broken slot machine. The poster child for this phenomenon is Weld County, where producers **extracted \$7 billion of oil and gas between 2002 and 2006. In three of those years, Colorado did not collect one dollar in severance taxes in Weld County.** Over the entire period, the industry paid the state just 0.13% of its income from Weld County. The gap between revenues earned and taxes paid is so out of whack it is difficult to graph, but let's try anyway. The long line below is industry revenues. The short, tiny line at the left is severance taxes paid.



Noble Energy Gets a Free Ride

The Colorado petroleum industry employs more than 10,000 workers. According to a study by the Colorado Energy Research Institute, oil and gas accounts for \$22.9 billion in direct and indirect economic activity. The industry offers many benefits, but it also imposes many costs. At a time when they are reaping record profits, sound public policy would require oil and gas producers to pay their fair share in severance taxes. Sometimes they don't, sometimes they pay *nada*. One of the state's largest oil producers is Houston-based Noble Energy. In 2004 its Weld County properties, including those it would purchase from Patina Oil and Gas, yielded about \$500 million of oil and gas. Because of the stripper well and ad valorem deductions, however, Noble Energy didn't pay a cent of that to the State of Colorado.

In one year, Noble Energy produced \$500 million without paying the state a cent in severance taxes.

King Coal Takes a Pass, Too

Colorado is the nation's seventh largest coal producer, but our coal producers pay much lower severance tax rates than they would in other states. For the last 14 years, the state's surface mines have paid just 54 cents a ton, and underground mines half that. **Indeed, Colorado coal mines now pay three times more to the federal Black Lung fund than they do in severance taxes.** King Coal pays so little severance tax it makes the stingy oil-and-gas industry look like Santa Claus. **Colorado coal companies produce nearly 60% as much energy as does the state's oil and gas industry, but cough up just 4.3% of state severance revenues.** In July 2007 Attorney General John Suthers ruled that the Colorado Department of Revenue had erroneously frozen coal severance taxes in 1993. This oversight has cost us \$40 million. Gold and silver miners have also negotiated a sweet deal, since the first \$19 million they make is tax-free. Phelps Dodge, the state's large producer of molybdenum, pays nothing on the first 2.5 million tons of ore it mines—even though moly prices have soared from \$2 to \$35 per pound. If it produces more than 2.5 million tons, Phelps Dodge must search through the couch cushions to find a nickel a ton. In Colorado, we aren't giving it away, we are paying them to take it.

Coal companies pay so little severance tax they make the stingy oil-and-gas industry look like Santa Claus.

Fascinating Question

Why has the Colorado legislature, which urgently needs additional revenue, been reluctant to claim its rightful share of the state's mineral wealth? The original source of this timidity may trace back to our boom-and-bust history. Colorado has always had a gorgeous landscape, but the pioneers quickly discovered you couldn't eat the scenery. Natural resources—game, fur, timber, grass, silver, gold, and oil—were viewed as gifts of God, and indeed they were. At a time when our population was tiny and our foothold tenuous, it made sense for public policy to encourage their rapid extraction. Today, with our population approaching five million, it is time to adopt a more far-sighted policy.

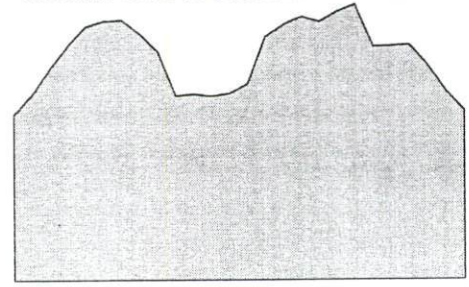
Tale of Two Countries

Mineral riches can be viewed as a windfall to squander or as an inheritance to conserve. In the 1960s, **Norway and Britain each discovered 30 billion barrels in the North Sea. Thereafter, the British government spent most of its oil proceeds each year, as they were received. Easy come, easy go.** The Norwegians, in contrast, salted away a share of their income into a special reserve. This Petroleum Fund has now grown to \$315 billion—about \$70,000 for every man, woman, and child. According to a fund manager, “When oil is extracted, petroleum is transformed into financial assets that belong not only to our generation but also to the future.”

Old Mother Hubbard

The United Kingdom’s management of its oil endowment offers a second cautionary lesson. Most of Britain’s oil was produced in a rush, during a period of rock-bottom prices. With oil now at \$80 per barrel, the Brits wish their cupboard was not so bare. They sold low, and must buy high. **Colorado is one of only eight states that produce more energy than they consume.** The others—think, for example, of California, Iowa, and Ohio—are, from an energy perspective, parasites. Responding to the dictates of the stock market, private corporations generally produce their reserves rapidly. Taking a longer view, the state’s goal should be to husband some of our energy resources for the uncertain future. **Since natural gas production elsewhere in North America is declining, our reserves become more valuable every day.** Wise public policy should recognize that energy is the original currency, that fossil fuels are nonrenewable, that the citizens of Colorado have a legitimate claim to a fair share of the state’s mineral bounty, and that some portion of that wealth must be saved for future generations.

British Oil Production: 1980-2005



Britain sold oil during an era of low prices. Now, as its production falls, it must buy high.

The Navajo have put \$1 billion into their permanent fund. Alaskans get \$1,600 each year from theirs.

If They Can Do It, Why Can't We?

Other governments have established “rainy day” funds similar to Norway’s. Kuwait has a permanent fund. Abu Dhabi has a permanent fund. Alaska and Wyoming and New Mexico have permanent funds. The Alaskan fund is valued at \$40 billion. Each resident of that state received a check for \$1,600 this year. **High school graduates in Wyoming get free college tuition, thanks to the \$3 billion in that state’s fund.** The Navajo Nation, which sprawls across parts of Utah, Arizona, and New Mexico, has put aside \$1 billion into their permanent fund. If they can do it, why can’t we?

On the Backs of Real People

Ten counties produce most of Colorado’s oil and gas, and their citizens are paying for the energy boom with a diminished quality of life. Schools are overcrowded, once-sleepy roads are hammered by heavy truck traffic, air quality is impaired, and housing shortages have led many companies to build “man camps” to bunk their workers. In some places, ranching, hunting, tourism, and wildlife habitat has been severely compromised. As Exxon announces plans to jump its production twentyfold, it is increasingly evident that the paltry amounts of severance tax revenue these counties receive are wholly insufficient to redress the myriad impacts of pell-mell development. For example, Mesa County officials recently estimated that dealing with the impacts of oil and gas might cost \$2.5 billion over the next two decades—but last year the county received just \$3 million in severance taxes.

It’s Broke, Let’s Fix It

In 2006 the State Auditor cataloged the shortcomings of our severance tax system. The Rocky Mountain News called his report “scathing.” **The Auditor suggested that the Legislature could eliminate the ad valorem property tax deduction, phase out the stripper well exemption above a certain trigger price, tie the severance tax on coal to its selling price, and trim exemptions for silver, gold, and molybdenum producers.** Alternatively, the State could simply levy a new excise tax on producers, whenever the price of oil, gas, coal, or minerals exceeded certain levels. Both approaches have merit. **Adopting these reforms would bring an additional \$1 million per day into the state’s coffers.** Half the money should go directly to those counties most affected by energy development to mitigate the industry’s social and environmental impacts. The second half should be channeled to a Permanent Fund, to be held in trust for the citizens of Colorado.

In 2006 the State Auditor published a report on severance taxes that the Rocky Mountain News called “scathing.”

Producer's Paradise

For a stripper well summary, see page 7 of www.state.co.us/gov_dir/leg_dir/lcsstaff/2007/comsched/07AllocMineralMemo.pdf Certified Public Accountant Mary Ellen Denomy estimates that annual cost to operate a stripper well ranges from \$15,000 to \$25,000. A Google search for "energy prices soar" returns 1.7 million hits. The first half of the 1990s was barely profitable for natural gas and oil producers, but at \$75 per barrel, a single stripper oil well could produce \$410,000 severance-tax-free. Jeffrey Rubin, CIBC's chief economist, believes that we are moving into a world of \$100 oil. <http://www.energybulletin.net/35271.html>

Poster Child for Reform

Weld County producers paid no state severance tax in fiscal years 2001-02, 2002-03, and 2004-05, according to page 8 of http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2007/comsched/07AllocMineralMemo.pdf Weld County gas production is on page 14 of the same document. Weld County oil production is at <http://www.oil-gas.state.co.us>. Oil and gas composite prices are at the same web site, and can be used to determine total Weld County oil and gas revenue in the five-year period. Dividing severance taxes paid by Weld County oil and gas revenue yields 0.13%.

Noble Energy Gets a Free Ride

Weld County produces half of Colorado's oil. According to the Greeley Tribune, Noble Energy produced 4.2 million barrels of oil in Weld County in 2006. Two year earlier, in 2004, Noble (and the company it would soon acquire, Patina Oil and Gas) produced about 3.7 million barrels and 61 billion cubic feet of natural gas worth approximately \$500 million in Weld County, without paying any severance taxes on that revenue in 2005. Of course, no other Weld County oil and gas company paid severance tax in 2005, either. Sources: www.oil-gas.state.co.us, www.greeleytrib.com/article/20070705/NEWS/107040117, and www.state.co.us/gov_dir/leg_dir/lcsstaff/2007/comsched/07AllocMineralMemo.pdf.

King Coal Takes a Pass

In 2006 Colorado coal companies paid \$28.4 million in Black Lung taxes and just \$9.2 million in state severance taxes. <http://www.coloradomining.org/COMiningFacts.html> The 36 million tons produced in that year contained about 800 trillion British Thermal units, approximately 55 to 60% as much energy as the state's oil and gas operators produced. But coal severance tax represented a mere 4.3% of the State's total severance collections. Attorney General Suthers' ruling is online at www.ago.state.co.us/agopinions/AGO_PDFs/AGO07-1.pdf. News coverage is at www.denverpost.com/technology/ci_6953496 Severance tax of hard rock minerals is in www.state.co.us/gov_dir/leg_dir/lcsstaff/2007/comsched/07AllocSeverTaxPerfAud.pdf Molybdenum prices are at www.infomine.com/Investment/HistoricalCharts/ShowCharts.asp?c=Molybdenum

A Tale of Two Countries

Oil data is provided by BP at www.bp.com/sectiongenericarticle.do?categoryId=9017903&contentId=7033469 Norway's Petroleum Fund has been renamed the Government Pension Fund. Norwegian attitudes about their nation's energy endowment are described in www.npd.no/English/Produkter+og+tjenester/Publikasjoner/Faktaheftet/Faktaheftet+2007/coverpage.htm

Old Mother Hubbard

Colorado (and Wyoming's) status as energy exporter is described in www.wsgs.uwyo.edu/Coal/DNR_RE_Study.pdf The U.S. Energy Information Administration has state energy data at <http://tonto.eia.doe.gov/state/> For an overview of why our gas is likely to become more valuable, www.aspo-usa.com/fall2006/presentations/pdf/Hughes_D_NatGas_Boston_2006.pdf

If They Can Do It, Why Can't We?

Information about permanent funds in Wyoming, Abu Dhabi, Kuwait, and New Mexico is online. In 2007, Alaska residents received a \$1654 "dividend." www.apfc.org/alaska/dividendPrgrm.cfm The Navajo Nation Permanent Trust Fund is described in www.gallupindependent.com/2007/june/062707jch_ptfsveitoruseit.html

On the Backs of Real People

Mesa County energy impacts are outlined in a letter from Western Colorado Congress to the Legislative Committee investigating severance taxes. Other groups share WCC's concern. For example, on March 12, 2007, Club 20 Executive Director Reeves Brown sent a letter to Governor Ritter lamenting "billions of dollars in unmet [energy impact] needs."

Let's Fix This Problem

The 2006 State Auditor's Report described a number of ways to improve Colorado's severance tax system in its June 2006 report. www.state.co.us/gov_dir/leg_dir/lcsstaff/2007/comsched/07AllocSeverTaxPerfAud.pdf Some of the easy fixes have already been adopted—but the larger issues remain unresolved. Because of our low severance tax rates, Colorado is foregoing **\$1 million a day** in severance tax revenues. We can do better.