MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 9, 1985

The forty-fifth meeting of the Senate Taxation Committee was called to order by Chairman Thomas E. Towe at 7:35 am in Room 413-415 of the Capitol Building.

ROLL CALL: Senator Severson was absent and other members of the committee were present.

MOTION: Senator Lybeck moved that the committee reconsider its action in passing SB 309. The motion was made for the purpose of taking committee action on a statement of intent to accompany the bill. The motion carried unanimously.

MOTION: Senator Lybeck moved that the Statement of Intent for SB 309 before the committee (Exhibit 1) be adopted. The motion carried unanimously.

MOTION: Senator Brown moved that SB 309 do pass as amended. Senator McCallum voted no, all other members present voted yes. The motion carried.

FURTHER CONSIDERATION OF HB 171: Senator Towe said that the members absent the day the vote was taken had been polled and that HB 171 would be reported concurred in without objection of the committee. The final vote on the bill was: Senators Eck, Hager, Halligan, Lybeck, Mazurek, Severson and Towe voting yes; Senators Brown, Goodover, Hirsch, McCallum and Neuman voting no.

CONSIDERATION OF SB 462: Senator Del Gage, chief sponsor of the bill, was recognized. He explained that the current net proceeds tax on oil and gas is difficult to administer as it requires interpretation by the Department of Revenue. He said that many of the costs associated with production are not deductable and, therefore, the term "net" proceeds is a misnomer. He said this bill would help both the producers and the Department of Revenue understand the tax more easily. He said that he had worked closely with the Department in development of the bill.

The bill defines owner, operator, stripper production, costs other than those related strictly to the removal of oil from the ground, insurance payments, indemnity bonds, taxes and supervisory and maintenance activities. He said some of these categories are already partially allowed.

He explained that a percentage amount is offered in lieu of the deductions. He said this would involve an operating agreement. He said the fiscal note is erroneous because it does not account for the options the bill offers.

Other parts of the bill deal with technicalities of the net proceeds tax in general. He said in conclusion that the bill would make less difficulty for both the owner, the operator and the Department of Revenue. He noted that royalty is listed as a deduction for the working interest owner, but not for the royalty owner.

PROPONENTS

Mr. Mark Buyske appearing on behalf of the Montana Oil and Gas Association submitted his testimony in writing (Exhibit 2).

Mr. Brian Hattel of Western Natural Gas Co. of Shelby, said that if the well is not hooked up to a line with a pumping unit there is a loss of 50 percent of the deduction that would be allowable if the well were normally in production.

Senator Tom Keating, Senate District 44, said that he is not an operator and does not personally compute net proceeds tax in this matter. He said the information he brought to the committee was in behalf of his constitutents who were involved in these things.

He said that the tax is a complicated measure. One problem he cited was delay in interpretation, assessment and audits. He said sometimes the final determination of the tax comes two years after the sale of the product. He said it is difficult for the Department of Revenue because the law is not clear. He said often their decisions end up in the district court or before the State Tax Appeals Board and that this too is expensive to the state.

He said the antagonism over the net proceeds tax keeps out-of-state operators from working in Montana. He said 90 percent of the operators are currently from out-of-state. He said that with this bill clarity and investment would increase, providing more jobs in Montana. He noted that increased production would also bring increased severance tax.

Mr. Lewis Pepples, Branch Oil and Gas, Shelby, urged committee support of the bill without comment.

OPPONENTS

Mr. Rich Marble of the Department of Revenue said they oppose the bill because it is a departure from the traditional concept of the net proceeds tax. He said that if administrative costs could be deducted the revenue to schools and local governments would decrease. He said that having the net proceeds tax already gives a tax break. He said there would be no equity in allowing costs not related to extraction. He said the bill does clear somethings, but that it confuses others.

He said the bill has no definition of "operating agreement". He said this is often simply an internal document that allocates costs. He felt it would be used solely to establish deductions. He said there is also a problem with the definition of "stripper wells". He said once a well qualified it would get a 25 percent deduction of its life even if reworking the well increased its volume production.

Mr. Mike Stephens, representing the Montana Oil, Gas and Coal Counties, said that he would support fair administration of these taxes but that for many of the counties involved this is a substantial amount of the tax base. He said they would hold the line for the property tax base so long as the end result is a revenue loss.

Questions from the committee were called for.

Senator Halligan asked about the definition of a "stripper well". Mr. Marble explained that a stripper well was one producing less than 10 barrels daily for a 12-month period. He said it could produce more after it was reworked. He said it was hard to see the bill as fiscal neutral. He said the operators do currently take deductions, but that the Department of Revenue adjusts these. He said the only administrative costs allowed are those directly related to production of oil and that clerical and accounting work off site are currently disallowed.

Senator Lybeck said that if the fiscal note was correct this impact would be substantial. Senator Gage said that this money will not be lost and that the fiscal note is incorrect.

Senator Mazurek asked if the tax was owed or not. Senator Gage said that dollars are not now being paid in as a result of poor record keeping.

In response to a question from Senator Eck, Mr. Stephens acknowledged that the current system is not perfect, but said that the counties are tied to it.

Senator Mazurek asked where within the bill are the deductions being added that are not currently allowed. Mr. Marble said the main problem was with administrative costs.

Senator Keating defended the operating agreement saying that the nonoperator will not pay more than necessary. He said if it is the case of an owner-operator, then they are subject to audit.

Mr. Buyske said that certain clerical expenses are directly related to the extraction of the oil, but that these are not interpreted by the Department as allowable deductions. He said they are trying to avoid those conflicts with the Department by offering the percentage rate.

Senator Mazurek asked Mr. James Oppedahl, Office of Budget and Program Planning, where the impact of the bill comes,if others consider it tax neutral. Mr. Oppendahl referred the committee to assumption six on the fiscal note.

Senator Gage closed saying that this tax is on 100 percent of the value. He recited all the others who have been allowed out of the property tax base. He said these problems were not created by the Department of Revenue. He said some of the problem comes because the operators are treated differently because some keep more careful records than others and that leads them to perceive an inequity that is of their own making.

Senator Gage said the stripper status wells rarely increase their production. He said people are always producing as much as they can and not trying to stay in this status. He said the problem is one of accounting and clarity, not so much an objection to paying the amount of the tax. He said that producers and investors need to have this bill.

Vice Chairman Mazurek adjourned the meeting at 8:35 am.

Chairman

ROLL CALL

SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date 9 March 85 7:35am.

Location -- Room 413-415

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Name	Present	Absent	Excused
Senator Brown	✓		
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	✓		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	✓		
Senator McCallum	✓		
Senator Neuman	✓		
Senator Severson			✓
Senator Towe	✓		

DATE March 9, 1985

COMMITTEE ON TAXATION

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Oppose
Rick Marble	Dept of Revenue	SB462		X
BRIAN HATTEL	MONTANA OIL & GAS ASSOC	SB462	✓	
Lewis A Peoples	BRANCH OIL + GAS/MONTANA OIL+GAS ASSN	SB462	✓	
MARC G. BUYSKE	Montana Oil & Gas Assoc	SB462	✓	
Dat Melby	Mont O+G Ass'n	SB462	✓	
Tom Keating	Billings Dist 44	SB462	✓	
Mike Oleyh	Mt Oil Gas + Coal Co	SB462		X

(Please leave prepared statement with Secretary)

49th Legislature LC 763

STATEMENT OF INTENT

A statement of intent is required for this bill because section 3 grants rulemaking authority to the department of health and environmental sciences to promulgate rules establishing emission testing and emission certification standards for low emission wood or biomass combustion devices and listing such devices that are certified.

It is the intent of the legislature that the department review and incorporate into its rules, as appropriate, the testing criteria and procedures for wood stove certification contained in sections 340-21-100 through 340-21-190 of the Oregon Administrative Rules. None of the rules adopted by the department to implement this bill may regulate the use of wood stoves. The rules may only address certification procedures for determining qualification for a tax credit for the installation of low emission wood or biomass combustion devices.

Exhibit 1 -- SB 309
March 8, 1985

<u>TESTIMONY BEFORE SENATE TAXATION COMMITTEE</u>

March 9, 1985

My name is Marc G. Buyske, and I am appearing here as a member of the Montana Oil and Gas Association and as a private attorney who has worked with the net proceeds tax sections of the Montana Code Annotated. I urge your committee's support for the passage of Senate Bill 462.

Initially, I think it is important to recognize who will receive the benefits, if any, from this legislation and who will not. This legislation will not increase tax breaks for major oil companies. This legislation will have a positive impact on the small Montana oil and gas operator, who, like the Montana farmer, lives on or near his source of business and derives his livelihood from that source of business.

The intent of this proposed legislation is to make more specific the deductions allowed to an oil and gas operator in computing the net proceeds attributable to the oil and gas production. The present statutory scheme was lifted <u>in toto</u> from the net proceeds deductions enacted with respect to mining operations. Consequently, this statutory scheme does not fit well with oil and gas operations and has caused a significant amount of dispute between the operators and the Department of Revenue.

The legislation proposed here does not create any deductions not already in the statutes or recognized by the Department of Revenue, with two exceptions. The major revisions are directed to those owner/operators who are small producers, who generally have their place of business in Montana, who spend their business dollars in Montana and who pay 100% of their tax dollars in Montana.

The percentage amounts in proposed new Section 15-23-603(1)(H) are, according to my calculations, less than what has been claimed for superintendence ~~and clerical expenses~~ by operators.

Exhibit 2 -- SB 462
March 8, 1985

I believe this legislation to be fiscally neutral, in that the deductions covered by this legislation are presently being taken by operators and as a result counties do not receive this money up front and only receive additional money if after several years the Department of Revenue successfully audits the operator and assesses additional proceeds. I believe this legislation would provide much needed certainty to the area of net proceeds taxation and would significantly reduce the burden on the Department of Revenue and the operators with respect to any future audits of net proceeds returns.

For the above reasons, I strongly urge this committee to recommend passage of Senate Bill 462.

MARC G. BUYSKE

STANDING COMMITTEE REPORT

March 9, 1985

MR. PRESIDENT

We, your committee on Taxation

having had under consideration House Bill No. 171

third reading copy (blue
color)

(Senator Eck)

INCREASED INTEREST ON DELINQUENT PROPERTY TAXES.

Respectfully report as follows: That House Bill No. 171

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Thomas E. Towe, Chairman.