Senate Bill 317

In The Senate

January 29, 1981	Introduced and referred to Committee on Taxation.
	Fiscal note requested.
February 4, 1981	Fiscal note returned.
April 23, 1981	Died in Committee.

Senate BILL NO. 317

INTRODUCED BY Towe Blaylock Fuller Eck Berg Conover Ryan Hollyard Stimatz Jacobson +

A BILL FOR AN ACT ENTITLED: "AN ACT TO DECREASE THE TAXABLE VALUATION OF NET PROCEEDS OF OIL AND GAS WELLS; TO INCREASE THE OIL AND GAS SEVERANCE TAX IN A COMPARABLE AMOUNT IN ORDER TO PROVIDE FOR AN OIL AND GAS IMPACT FUND; TO CREATE AN OIL AND GAS IMPACT BOARD TO CONTROL EXPENDITURES FROM THE IMPACT FUND; AMENDING SECTIONS 15-6-131, 15-36-101, AND 15-36-112, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, a greatly increased impact on this state from oil and gas development can be expected in the future as a result of the deregulation of the industry; and

WHEREAS, large amounts of tax revenue will result from the increased development and increased price of oil and gas from the existing tax laws applicable to oil and gas extraction; and

WHEREAS, it is appropriate that some of this additional revenue be made available to local governments to insure that impacted areas are able to meet the increased demand for public services resulting from increased oil and gas development. In particular, local roads are heavily impacted by oil and gas development and need revenues that are not otherwise available.

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

NEW SECTION. Section 1. Oil and gas impact board -- allocation -- composition. (1) There is an oil and gas impact board composed of seven members appointed by the governor under 2-15-124, as follows:

(a) Two members shall be from impact areas.

(b) No more than four members may be from the same congressional district.

(c) Consideration must be given to people from the following fields:

(i) business and commerce;

(ii) education;

(iii) public administration; and

(iv) planning.

(2) The board is allocated to the department of community affairs for administrative purposes only as prescribed in 2-15-121.

NEW SECTION. Section 2. Purpose. The purpose of [sections 2 through 11] is to assist governmental units that have been required to expand the provision of public services as a consequence of large-scale development of oil and gas production facilities.

NEW SECTION. Section 3. Account established. There is within the earmarked revenue fund an oil and gas impact

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account. Money is payable into this account under 15-36-112(2)(a). The state treasurer shall draw warrants from this account upon order of the oil and gas impact board.

NEW SECTION. Section 4. Definition of board. As used in [sections 2 through 11], "board" means the oil and gas impact board provided for in [section 1].

NEW SECTION. Section 5. Chairman, meetings, compensation, and facilities. (1) The board shall elect a chairman from among its members.

(2) The board shall meet quarterly and may meet at other times as called by the chairman or a majority of the members.

(3) Members are entitled to compensation as provided for in 2-15-124(7).

(4) The department of community affairs will provide suitable office facilities and the necessary staff for the board.

NEW SECTION. Section 6. General powers of the board. The board may:

(1) retain professional consultants and advisors;

(2) adopt rules governing its proceedings;

(3) consider applications for grants from the oil and gas impact account; and

(4) award grants in accordance with [sections 2

through 11].

NEW SECTION. Section 7. Basis for awarding grants. (1) Such grants shall be awarded on the basis of:

(a) need;

(b) degree of severity of impact from oil and gas development;

(c) availability of funds; and

(d) degree of local effort in meeting these needs.

(2) In determining the degree of local effort, the board shall review the millage rates levied for the present fiscal year in relation to the average millage rates levied during the 3 years immediately preceding oil and gas development in that area or 1970, whichever is later, that impacts the local government unit applying for assistance.

(3) Millage rates for the present fiscal year that are lower than the average millage rate levied during the 3 years immediately preceding oil and gas development in that area or 1970, whichever is later, shall be considered by the board to indicate the lack of local effort. The application under such circumstances may be rejected. However, special consideration shall be given to those expenditures, such as road improvement and maintenance, for which special budget limitations apply.

(4) Further, in determining the degree of local effort, the board shall consider the possibility of

requiring that local government unit to increase its bonded indebtedness to provide all or part of the governmental service or facility that is needed as a direct consequence of oil and gas development.

(5) To the extent funds are needed to evaluate and plan for the impact needs caused by oil and gas development, consideration of bond issues and millage levies may be waived.

(6) To the extent the applicant has no history of mill levies, subsections (2) and (3) do not apply.

NEW SECTION. Section 8. Priorities for impact grants. (1) The department of community affairs shall designate counties, towns, school districts, and other governmental units that have had or expect to have an increase in estimated population of at least 10% during any 3 years since 1977 as a result of oil and gas development. The board shall, subject to the appropriations of the legislature, award at least 50% of all grants awarded to governmental units and state agencies for meeting the needs caused by oil and gas development each year to these designated governmental units.

(2) Attention should be given by the board to the need for community planning before the full impact is realized. Applicants should be able to show how their request reasonably fits into an overall plan for the orderly

management of the existing or contemplated growth problems.

NEW SECTION. Section 9. Applications for grants. The governing body of a city, town, county, or school district or any other local or state governmental unit or agency may apply for a grant to enable it to provide governmental services that are needed as a direct consequence of oil and gas development. The board shall prescribe the form for applications. Applicants shall describe the nature of their proposed expenditures and the time involved.

NEW SECTION. Section 10. Limitations on grants. (1) The board may commit itself to the expenditure of funds for more than 1 year for a single project, as long as the grant does not extend over more than 10 years and does not exceed reasonable revenue expectations. No state agency may receive grants that exceed 5% of the money allocated to the board.

(2) The total amount of grants awarded for any 1 year may not exceed the product of subsection (2)(a) times subsection (2)(b) times subsection (2)(c):

(a) the increase during the year in the number of persons employed directly in oil and gas development, as determined by the department of community affairs;

(b) a reasonable multiplier representing the ratio that the increase in number of oil and gas employees bears to the total increase in population during the year; and

(c) the average per capita cost during the year,

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including operating and capital costs, of all services normally provided to Montana citizens by state or local government.

(3) If persons employed in oil and gas development elsewhere are living in an impacted community, the board shall make a suitable adjustment to take this factor into consideration.

NEW SECTION. Section 11. Deposit of unused money. Any money in the oil and gas impact account not used by the end of each biennium must be deposited in the permanent coal tax constitutional trust fund, to be added to the principal.

Section 12. Section 15-36-101, MCA, is amended to read:

"15-36-101. Definitions and rate of 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 sufficient in quantity to justify the marketing of the same must, except as provided in 15-36-121, each year when engaged in or carrying on any such business in this state pay to the department of revenue for the exclusive use and benefit of the state of Montana a

severance tax computed at the following rates:

(a) 2.1% of the first $6,000 of the total gross value of all the petroleum and other mineral or crude oil produced by such person from each lease or each lease within a unitized property in the calendar quarter;

(b) ~~2.65%~~ the following percentage of the total gross value of that portion of all the production of such person from each lease or each lease within a unitized property in each calendar quarter in excess of the first $6,000 of the total gross value; but in determining the amount of such tax there shall be excluded from consideration all petroleum or other crude or mineral oil produced and used by such person during such year in connection with his operations in prospecting for, developing, and producing such petroleum or crude or mineral oil~~;~~:

(i) 4% during taxable year 1981;

(ii) 5% during taxable year 1982; and

(iii) 7% during taxable year 1983 and thereafter;

(c) ~~2.65%~~ the following percentage of the total gross value of natural gas produced from each lease or unit; but in determining the amount of such tax there shall be excluded from consideration all gas produced and used by such person during such year in connection with his operations in prospecting for, developing, and producing such gas or petroleum or crude or mineral oil; and there shall also be excluded from consideration all gas recycled or reinjected into the ground.;

(i) 4% during taxable year 1981;

(ii) 5% during taxable year 1982; and

(iii) 7% during taxable year 1983 and thereafter.

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

(3) For purposes of computing the tax in subsections (1)(a) and (1)(b) above, lease count includes all leases contributing to the unitized area within a unit or all tracts within a unit participating in production.

(4) Every person required to pay such tax hereunder shall pay the same 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 such extracted marketable petroleum or other mineral or crude oil or natural gas, except that any of the aforesaid interests that are owned by the federal, state, county, or municipal governments shall be 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 said lease or leases or division of proceeds orders or other contracts."

Section 13. Section 15-36-112, MCA, is amended to read:

"15-36-112. Disposition of oil and gas severance

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taxes. (1) Each year the department of revenue shall determine the amount of tax collected under this chapter from within each county.

(2) The severance taxes collected under this chapter are allocated as follows:

(a) the amount, if any, by which the tax collected from within a county for any fiscal year exceeds the total amount collected from within that county for the previous fiscal year, by reason of increased production and not because of increase in or elimination of federal price ceilings on oil and gas, is allocated to the general fund of the county for distribution as provided in subsection (3);

(b) to the oil and gas impact fund established in [section 3], the following amounts:

(i) 34.750% of the tax collected under subsections (1)(b) and (1)(c) of 15-36-101 during 1981;

(ii) 56.500% of the tax collected under subsections (1)(b) and (1)(c) of 15-36-101 during 1982; and

(iii) 67.375% of the tax collected under subsections (1)(b) and (1)(c) of 15-36-101 during 1983 and each year thereafter;

~~(b)~~(c) any amount not allocated ~~to--the--county~~ under ~~subsection~~ subsections (2)(a) and (2)(b) is allocated to the state general fund.

(3) (a) The county treasurer shall distribute the

money received under this section to the county and to all the incorporated cities and towns within the county in the following manner. The county receives the available money multiplied by the ratio of the rural population to the county population. Each incorporated municipality receives the available money multiplied by the ratio of the population of the incorporated municipality to the county population. The rural population is that population of the county living outside the boundaries of an incorporated municipality. Population shall be based on the most recent figures as determined by the department of community affairs.

(b) The money distributed under this subsection may be used for any purpose as determined by the governing body of the county, city, or town."

Section 14. Section 15-6-131, MCA, is amended to read:

"15-6-131. Class one property -- description -- taxable percentage. (1) Class one property includes:

(a) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect, or dig for oil, gas, coal, or minerals; ~~and~~

(b) the annual net proceeds of all oil and gas wells; and

~~(b)~~(c) the annual net proceeds of all mines and mining claims except coal and metal mines.

(2) Class one property is taxed as follows:

(a) Property described in subsection (1)(a) is taxed at 100% of its market value, as determined by the department of revenue.

(b) Property described in subsection (1)(b) is taxed at the following percentage of its annual net proceeds after deducting the expenses specified and allowed by 15-23-603:

(i) 85% of the annual net proceeds assessed in 1981;

(ii) 65% of the annual net proceeds assessed in 1982; and

(iii) 45% of the annual net proceeds assessed in 1983 and thereafter.

~~(b)~~(c) Property described in subsection (1)~~(b)~~(c) is taxed at 100% of its annual net proceeds after deducting the expenses specified and allowed by 15-23-503."

Section 15. Effective date and application. This act is effective on passage and approval and applies to any tax quarter beginning after January 1, 1981.

-End-

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'TATE OF MONTANA

REQUEST NO. 256-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 2, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 317 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

An act to decrease the taxable valuation of net proceeds of oil and gas wells, to increase the oil and gas severance tax in a comparable amount in order to provide for an oil and gas impact fund; to create an oil and gas impact board to control expenditures from the impact fund.

Impact to the Department of Revenue

Assumptions

1. The gross value of oil produced will be $757 million in FY 1982 and $885 million in FY 1983.
2. The gross value of natural gas will be $88.6 million in FY 1982 and $110.1 million in FY 1983.
3. Currently, allowable deductions average 44.57% of the gross value of oil and 26% of the gross value of natural gas.
4. Mill levies are 150 for local governments and 6 mills for the University Levy.
5. The proposal increases the effective severance tax rate on oil to 4.71% in FY 1982 and to 6.51% in FY 1983.
6. The proposal increases the effective severance tax rate on natural gas to 5% in FY 1982 and 7% in FY 1983.
7. The analysis ignores distributions of severance tax revenue to counties that experience increased production.

Fiscal Impact	FY 1982	FY 1983
Natural Gas Severance Tax		
Under current law	$2,347,000	$2,917,000
Under proposed law	4,430,000	5,505,000
Estimated Increase	$2,083,000	$2,588,000
Oil Severance Tax		
Under current law	$20,066,000	$23,457,000
Under proposed law	35,654,700	57,613,500
Estimated Increase	$15,588,700	$34,156,500
UNIVERSITY LEVY		
Net Proceeds of Gas		
Under current law	$393,400	$488,840
Under proposed law	255,700	219,980
Estimated Decrease	($137,700)	($268,860)
Net Proceeds of Oil		
Under current law	$2,517,660	$2,943,400
Under proposed law	1,636,480	1,324,500
Estimated Decrease	($ 881,180)	($1,618,900)

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-3-81

	FY 1982	FY 1983
ALLOCATION OF SEVERANCE TAX REVENUE*		
General Fund		
Under current law	$22,413,000	$26,374,000
Under proposed law	17,436,845	20,592,411
Estimated Decrease	($ 4,976,155)	($ 5,781,589)
Oil and Gas Impact Fund		
Under current law	$ 0	$ 0
Under proposed law	22,647,856	42,526,089
Estimated Increase+	$22,647,856	$42,526,089

*Ignores any distributions of severance tax revenue to counties that experiences increased production (15-36-112, 2a, MCA)
+See Fiscal Impact to the Department of Community Affairs

Effect on Local Government	FY 1982	FY 1983
Net Proceeds Under current law	$72,775,365	$85,804,350
Net Proceeds Under proposed law	47,303,987	38,611,991
Estimated Decrease	($25,471,378)	($47,192,359)

Note the actual loss of county revenue will depend on the distribution of revenue from the oil and gas impact fund.

Impact to the Department of Community Affairs

1. New board administrative staff comparable to curre t Coal Board staff.
2. Board compensation for 8 meetings per year at current rate of $25 per day.
3. Oil and gas employment will continue its explosive growth platform established on the period of calendar 1977-79 through FY 1982-83.
4. Employment and population multiplier used to derive the total population report for FY 1982 and FY 1983 assumed to be 1978 ratios.
5. Average rather than marginal multipliers were assumed to apply.
6. Local and state government per capita expenditures for FY 1979 were assumed to apply to FY 1982 and FY 1983.

Fiscal Impact	FY 1982	FY 1983
Revenue:		
Oil & Gas Severance Tax	$22,647,856	$42,526,089
Expenditures:		
Administration	$ 162,783	$ 149,073
Grants	4,892,486	4,782,611
Revert to Coal Trust Fund	16,592,587	37,594,355
Total	$22,647,856	$42,526,087