SENATE BILL NO. 462

Introduced: 02/18/83

Referred to Committee on Taxation: 02/18/83
Died in Committee.

Senate BILL NO. 462

INTRODUCED BY Dews

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 ACCOUNT; TO CREATE AN OIL AND GAS IMPACT BOARD TO CONTROL EXPENDITURES FROM THE IMPACT ACCOUNT; AMENDING SECTIONS 15-6-131, 15-36-101, AND 15-36-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, it is appropriate that 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 as provided in 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 commerce 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 account. Money is payable into this account under 15-36-112(2)(b). The state treasurer shall draw warrants from this account upon order of the oil and gas impact board.

NEW SECTION. Section 4. Definition. As used in [sections 2 through 11], "board" means the oil and gas

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impact board provided for in [section 1].

NEW SECTION. Section 5. Board chairman -- meetings -- compensation -- 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 commerce shall 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 advisers;

(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) Grants from the oil and gas impact account 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) (a) 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.

(b) 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. An application made under such circumstances may be rejected; however, special consideration must be given to those expenditures, such as road improvement and maintenance, for which special budget limitations apply.

(3) In determining the degree of local effort, the board shall consider the possibility of requiring the 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.

(4) 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.

(5) To the extent the applicant has no history of mill levies, subsection (2) does not apply.

NEW SECTION. Section 8. Priorities for impact grants. (1) The department of commerce 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. Subject to the appropriation by the legislature, the board shall, in awarding grants, to governmental units and state agencies for meeting the needs caused by oil and gas development, allocate at least 50% of all grants awarded each year to these designated governmental units.

(2) Attention must be given by the board to the need for community planning before the full impact is realized. Applicants must 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 only if 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 one 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 commerce;

(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, 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 state general fund.

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) ~~5%--of--the-total-gross-value-of-all-the-petroleum and-other-mineral-or-crude-oil-produced-by-such-person--from each--lease--or--unit--on--or-after-April-1,-1981,-and-on-or before-March-31,-1983,-and-6%~~ 8% of the total gross value of all the petroleum and other mineral or crude oil produced by

such person from each lease or unit thereafter; 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;

(b) ~~2.65%~~ 8% 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.

(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) 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 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);

<u>(b) 25% of the tax collected under 15-36-101(1) to the oil and gas impact account established in [section 3];</u>

~~(b)~~<u>(c)</u> any amount not allocated ~~to the county~~ under <u>(a) and (b) of</u> subsection (2)~~(a)~~ 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 administration.

(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 66 2/3% of its annual net proceeds after deducting the expenses specified and allowed by 15-23-603.

~~(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."

NEW SECTION. Section 15. Effective date -- applicability date. This act is effective on passage and approval and applies to any tax quarter beginning after January 1, 1983.

-End-

STATE OF MONTANA

REQUEST NO. 472-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 18, 19 83, there is hereby submitted a Fiscal Note for Senate Bill 462 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. 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:

Senate Bill 462 decreases the taxable valuation of net proceeds of oil and gas wells; increases the oil and gas severance tax in a comparable amount in order to provide for an oil and gas impact account; creates an oil and gas impact board to control expenditures from the impact account; and provides an immediate effective date and an applicability date.

ASSUMPTIONS:

1) The oil and natural gas severance tax forecasts prepared by the Office of Budget and Program Planning provide the basis for comparison.
2) The effective date of the proposal would affect severance tax receipts of the last quarter of FY 83. The reduced tax rate on net proceeds is assumed to apply to CY 1982 production, taxable in FY 84.
3) The taxable value of the state will be $2,246,035,000 and $2,299,731,000 in FY 84 and FY 85, respectively. The taxable value of oil and gas net proceeds will be $615.036M and $586.756 M in FY 84 and FY 85 respectively.
4) An average total mill levy of 123.5 mills is assumed to apply to net proceeds in future tax years.
5) 25% of the total oil and natural gas severance tax collections are deposited in the oil and gas impact account.
6) The Oil and Gas Board would spend 100% of its funds, and not revert monies to the state general fund, under the provision of section II.
7) Administrative costs for the Oil and Gas Board would be similar to current Coal Board costs and reasonable "start-up" costs and would be paid from the impact account. Thus, the new board would operate with 2½ FTE's.

FISCAL IMPACT:

Revenue:	FY 83	FY 84	FY 85
University Levy			
Under Current Law	No Effect	$ 13,476,210	$ 13,798,386
Under Proposed Law	No Effect	12,246,139	12,624,875
Estimated Decrease	No Effect	(1,230,071)	(1,173,511)

Continued

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-22-83

	FY 83	FY 84	FY 85
School Equalization Levy			
Under Current Law	No Effect	89,841,400	91,989,240
Under Proposed Law	No Effect	81,640,928	84,165,834
Estimated Decrease	No Effect	(8,200,472)	(7,823,406)
Oil Severance Tax			
Under Current Law	45,199,000	54,567,000	57,699,000
Under Proposed Law	51,805,022	72,756,000	76,932,000
Estimated Increase	6,606,022	18,189,000	19,233,000
Natural Gas Severance Tax			
Under Current Law	3,052,000	3,426,000	3,825,000
Under Proposed Law	4,592,396	10,342,642	11,551,500
Estimated Increase	1,540,396	6,916,642	7,726,500
General Fund (From These Two Taxes)			
Under Current Law	45,653,000	54,554,000	57,888,000
Under Proposed Law	48,381,267	56,594,170	60,273,605
Estimated Decrease	2,728,267	2,040,170	2,385,605
Refunds to Producing Counties			
Under Current Law	2,598,000	3,439,000	3,636,020
Under Proposed Law	3,036,287	5,729,811	6,089,020
Estimated Decrease	438,287	2,290,811	2,453,020
Oil and Gas Impact Account			
Under Current Law	-0-	-0-	-0-
Under Proposed Law	4,979,864	20,774,661	22,120,875
Estimated Increase	4,979,864	20,774,661	22,120,875

Continued

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Expenditures:

	FY 83	FY 84	FY 85
Personal Services	17,844	71,376	71,218
Operating Expenses	38,155	152,620	146,139
Capital Outlay (Equip.)	3,096	96	96
Local Asst. Grants	4,920,769	20,550,569	21,903,422
Total Expenditures	4,979,864	20,774,661	22,120,875

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

The bill will result in a decline of property tax collections of $15.89M in FY 84 and $15.16M in FY 85, assuming constant mill levies. These estimates are net of the impact on the university and school equalization levies.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

The effective date of the proposal is unclear. Different effective dates for the severance tax increases and net proceeds decreases will be necessary to change the revenue flows simultaneously.