

HOUSE BILL NO. 478

INTRODUCED BY SCHYE

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

January 25, 1985	Introduced and referred to Committee on Taxation.
January 26, 1985	Fiscal Note requested.
February 1, 1985	Fiscal Note returned.
February 4, 1985	Committee recommend bill do pass. Report adopted.
	Bill printed and placed on members' desks.
February 6, 1985	Second reading, do pass. Considered correctly engrossed.
February 7, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 8, 1985	Introduced and referred to Committee on Taxation.
March 15, 1985	Committee recommend bill be concurrred in. Report adopted.
March 21, 1985	Second reading, concurrred in.
March 23, 1985	Third reading, concurrred in. Ayes, 47; Noes, 1.
	Returned to House.

IN THE HOUSE

March 25, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 478
 2 INTRODUCED BY Dehge
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PENALTY
 6 AND INTEREST PROVISIONS FOR FAILING, NEGLECTING, OR REFUSING
 7 TO FILE OIL AND GAS SEVERANCE TAX REPORTS; AMENDING SECTIONS
 8 15-36-105 AND 15-36-107, MCA; AND PROVIDING AN IMMEDIATE
 9 EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 15-36-105, MCA, is amended to read:
 13 "15-36-105. Statement to accompany payment -- records
 14 -- collection of tax -- refunds. (1) Each and every person
 15 must, within 60 days after the end of each following
 16 quarter, make out on forms prescribed by the department of
 17 revenue a statement showing the total number of barrels of
 18 merchantable or marketable petroleum and other mineral or
 19 crude oil or cubic feet of natural gas produced or extracted
 20 by such person in the state during each month of such
 21 quarter and during the whole quarter, the average value
 22 thereof during each month, and the total value thereof for
 23 the whole quarter, together with the total amount due to the
 24 state as severance taxes for such quarter, and must within
 25 such 60 days deliver such statement and, except as provided

1 in 15-36-121, pay to the department the amount of the taxes
 2 shown by such statement to be due to the state for the
 3 quarter for which such statement is made. Such statement
 4 must be signed by the individual or the president,
 5 vice-president, treasurer, assistant treasurer, or managing
 6 agent in this state of the association, corporation,
 7 joint-stock company, or syndicate making the statement. Any
 8 such person engaged in carrying on such business at more
 9 than one place in this state or owning, leasing,
 10 controlling, or operating more than one oil or gas well in
 11 this state may include all thereof in one statement. The
 12 department shall receive and file all such statements and
 13 collect and receive from such person making and filing a
 14 statement the amount of tax payable by such person, if any,
 15 as the same shall appear from the face of the statement.

16 (2) It shall be the duty of the department to examine
 17 each of such statements and compute the taxes thereon, and
 18 the amount so computed by the department shall be the taxes
 19 imposed, assessed against, and payable by the taxpayer
 20 making the statement for the quarter for which the statement
 21 is filed. If the tax found to be due shall be greater than
 22 the amount paid, the excess shall be paid by the taxpayer to
 23 the department within 10 days after written notice of the
 24 amount of the deficiency shall be mailed by the department
 25 to such taxpayer. If the tax imposed shall be less than the

1 amount paid, the difference must be applied as a credit
2 against tax liability for subsequent quarters or refunded if
3 there is no subsequent tax liability.

4 (3) If the tax is not paid on or before the due date,
5 there shall be assessed a penalty of 10% of the amount of
6 the tax, unless it is shown that the failure was due to
7 reasonable cause and not due to neglect. If any tax under
8 this chapter is not paid when due, interest shall be added
9 thereto at the rate of 1% a month or fraction thereof,
10 computed on the total amount of severance tax and penalty
11 from the due date until paid."

12 Section 2. Section 15-36-107, MCA, is amended to read:

13 "15-36-107. Procedure to compute tax in absence of
14 statement -- penalty and interest. If any such person shall
15 fail, neglect, or refuse to file any statement required by
16 15-36-105 within the time therein required, the department
17 of revenue shall, immediately after such time has expired,
18 proceed to inform itself as best it may regarding the number
19 of barrels of petroleum and other mineral or crude oil or
20 cubic feet of gas extracted and produced by such person in
21 this state during such quarter and during each month thereof
22 and the average value thereof during each such month and
23 shall determine and fix the amount of the severance taxes
24 due to the state from such person for such quarter and shall
25 add to the amount of such severance taxes a penalty of 25%

1 10% thereof plus interest at the rate of 1% per month or
2 fraction thereof computed on the total amount of severance
3 taxes and penalty. Interest shall be computed from the date
4 the severance taxes were due to the date of payment. The
5 department shall mail to the person required to file a
6 quarterly statement and pay any severance tax, a letter
7 setting forth the amount of severance tax, penalty, and
8 interest due, and the letter shall further contain a
9 statement that if payment is not made, a warrant for
10 distrainment may be filed. The 25% 10% penalty herein provided
11 may be waived by the department if reasonable cause for the
12 failure and neglect to file the statement required by
13 15-36-105 is provided to the department."

14 NEW SECTION. Section 3. Extension of authority. Any
15 existing authority of the department of revenue to make
16 rules on the subject of the provisions of this act is
17 extended to the provisions of this act.

18 NEW SECTION. Section 4. Effective date. This act is
19 effective on passage and approval.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN238-85

Form BD-15

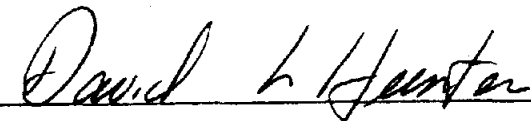
In compliance with a written request received January 26, 19 85, there is hereby submitted a Fiscal Note for H.B. 478 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

An act revising the penalty and interest provisions for failing, neglecting, or refusing to file oil and gas severance tax reports.

ASSUMPTIONS

The proposed legislation will decrease the penalty for failing, neglecting, or refusing to file oil and gas severance tax reports from 25% to 10% of the delinquent amount. The penalty will be equivalent to the penalties applied to other taxes administered by the Department of Revenue. The proposed bill should have minimal fiscal impact.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date:

Feb 1, 1985
HB 478

APPROVED BY COMMITTEE
ON TAXATION

1 HOUSE BILL NO. 478
 2 INTRODUCED BY Dehge
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PENALTY
 6 AND INTEREST PROVISIONS FOR FAILING, NEGLECTING, OR REFUSING
 7 TO FILE OIL AND GAS SEVERANCE TAX REPORTS; AMENDING SECTIONS
 8 15-36-105 AND 15-36-107, MCA; AND PROVIDING AN IMMEDIATE
 9 EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 15-36-105, MCA, is amended to read:
 13 "15-36-105. Statement to accompany payment -- records
 14 -- collection of tax -- refunds. (1) Each and every person
 15 must, within 60 days after the end of each following
 16 quarter, make out on forms prescribed by the department of
 17 revenue a statement showing the total number of barrels of
 18 merchantable or marketable petroleum and other mineral or
 19 crude oil or cubic feet of natural gas produced or extracted
 20 by such person in the state during each month of such
 21 quarter and during the whole quarter, the average value
 22 thereof during each month, and the total value thereof for
 23 the whole quarter, together with the total amount due to the
 24 state as severance taxes for such quarter, and must within
 25 such 60 days deliver such statement and, except as provided

1 in 15-36-121, pay to the department the amount of the taxes
 2 shown by such statement to be due to the state for the
 3 quarter for which such statement is made. Such statement
 4 must be signed by the individual or the president,
 5 vice-president, treasurer, assistant treasurer, or managing
 6 agent in this state of the association, corporation,
 7 joint-stock company, or syndicate making the statement. Any
 8 such person engaged in carrying on such business at more
 9 than one place in this state or owning, leasing,
 10 controlling, or operating more than one oil or gas well in
 11 this state may include all thereof in one statement. The
 12 department shall receive and file all such statements and
 13 collect and receive from such person making and filing a
 14 statement the amount of tax payable by such person, if any,
 15 as the same shall appear from the face of the statement.

16 (2) It shall be the duty of the department to examine
 17 each of such statements and compute the taxes thereon, and
 18 the amount so computed by the department shall be the taxes
 19 imposed, assessed against, and payable by the taxpayer
 20 making the statement for the quarter for which the statement
 21 is filed. If the tax found to be due shall be greater than
 22 the amount paid, the excess shall be paid by the taxpayer to
 23 the department within 10 days after written notice of the
 24 amount of the deficiency shall be mailed by the department
 25 to such taxpayer. If the tax imposed shall be less than the

1 amount paid, the difference must be applied as a credit
2 against tax liability for subsequent quarters or refunded if
3 there is no subsequent tax liability.

4 (3) If the tax is not paid on or before the due date,
5 there shall be assessed a penalty of 10% of the amount of
6 the tax, unless it is shown that the failure was due to
7 reasonable cause and not due to neglect. If any tax under
8 this chapter is not paid when due, interest shall be added
9 thereto at the rate of 1% a month or fraction thereof,
10 computed on the total amount of severance tax and penalty
11 from the due date until paid."

12 Section 2. Section 15-36-107, MCA, is amended to read:

13 "15-36-107. Procedure to compute tax in absence of
14 statement -- penalty and interest. If any such person shall
15 fail, neglect, or refuse to file any statement required by
16 15-36-105 within the time therein required, the department
17 of revenue shall, immediately after such time has expired,
18 proceed to inform itself as best it may regarding the number
19 of barrels of petroleum and other mineral or crude oil or
20 cubic feet of gas extracted and produced by such person in
21 this state during such quarter and during each month thereof
22 and the average value thereof during each such month and
23 shall determine and fix the amount of the severance taxes
24 due to the state from such person for such quarter and shall
25 add to the amount of such severance taxes a penalty of 25%

1 10% thereof plus interest at the rate of 1% per month or
2 fraction thereof computed on the total amount of severance
3 taxes and penalty. Interest shall be computed from the date
4 the severance taxes were due to the date of payment. The
5 department shall mail to the person required to file a
6 quarterly statement and pay any severance tax, a letter
7 setting forth the amount of severance tax, penalty, and
8 interest due, and the letter shall further contain a
9 statement that if payment is not made, a warrant for
10 distraint may be filed. The ~~25%~~ 10% penalty herein provided
11 may be waived by the department if reasonable cause for the
12 failure and neglect to file the statement required by
13 15-36-105 is provided to the department."

14 NEW SECTION. Section 3. Extension of authority. Any
15 existing authority of the department of revenue to make
16 rules on the subject of the provisions of this act is
17 extended to the provisions of this act.

18 NEW SECTION. Section 4. Effective date. This act is
19 effective on passage and approval.

-End-

1 HOUSE BILL NO. 478

2 INTRODUCED BY DeBoer

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PENALTY
6 AND INTEREST PROVISIONS FOR FAILING, NEGLECTING, OR REFUSING
7 TO FILE OIL AND GAS SEVERANCE TAX REPORTS; AMENDING SECTIONS
8 15-36-105 AND 15-36-107, MCA; AND PROVIDING AN IMMEDIATE
9 EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 15-36-105, MCA, is amended to read:

13 "15-36-105. Statement to accompany payment -- records
14 -- collection of tax -- refunds. (1) Each and every person
15 must, within 60 days after the end of each following
16 quarter, make out on forms prescribed by the department of
17 revenue a statement showing the total number of barrels of
18 merchantable or marketable petroleum and other mineral or
19 crude oil or cubic feet of natural gas produced or extracted
20 by such person in the state during each month of such
21 quarter and during the whole quarter, the average value
22 thereof during each month, and the total value thereof for
23 the whole quarter, together with the total amount due to the
24 state as severance taxes for such quarter, and must within
25 such 60 days deliver such statement and, except as provided

1 in 15-36-121, pay to the department the amount of the taxes
2 shown by such statement to be due to the state for the
3 quarter for which such statement is made. Such statement
4 must be signed by the individual or the president,
5 vice-president, treasurer, assistant treasurer, or managing
6 agent in this state of the association, corporation,
7 joint-stock company, or syndicate making the statement. Any
8 such person engaged in carrying on such business at more
9 than one place in this state or owning, leasing,
10 controlling, or operating more than one oil or gas well in
11 this state may include all thereof in one statement. The
12 department shall receive and file all such statements and
13 collect and receive from such person making and filing a
14 statement the amount of tax payable by such person, if any,
15 as the same shall appear from the face of the statement.

16 (2) It shall be the duty of the department to examine
17 each of such statements and compute the taxes thereon, and
18 the amount so computed by the department shall be the taxes
19 imposed, assessed against, and payable by the taxpayer
20 making the statement for the quarter for which the statement
21 is filed. If the tax found to be due shall be greater than
22 the amount paid, the excess shall be paid by the taxpayer to
23 the department within 10 days after written notice of the
24 amount of the deficiency shall be mailed by the department
25 to such taxpayer. If the tax imposed shall be less than the

1 amount paid, the difference must be applied as a credit
2 against tax liability for subsequent quarters or refunded if
3 there is no subsequent tax liability.

4 (3) If the tax is not paid on or before the due date,
5 there shall be assessed a penalty of 10% of the amount of
6 the tax, unless it is shown that the failure was due to
7 reasonable cause and not due to neglect. If any tax under
8 this chapter is not paid when due, interest shall be added
9 thereto at the rate of 1% a month or fraction thereof,
10 computed on the total amount of severance tax and penalty
11 from the due date until paid."

12 Section 2. Section 15-36-107, MCA, is amended to read:

13 "15-36-107. Procedure to compute tax in absence of
14 statement -- penalty and interest. If any such person shall
15 fail, neglect, or refuse to file any statement required by
16 15-36-105 within the time therein required, the department
17 of revenue shall, immediately after such time has expired,
18 proceed to inform itself as best it may regarding the number
19 of barrels of petroleum and other mineral or crude oil or
20 cubic feet of gas extracted and produced by such person in
21 this state during such quarter and during each month thereof
22 and the average value thereof during each such month and
23 shall determine and fix the amount of the severance taxes
24 due to the state from such person for such quarter and shall
25 add to the amount of such severance tax a penalty of 25%

1 10% thereof plus interest at the rate of 1% per month or
2 fraction thereof computed on the total amount of severance
3 taxes and penalty. Interest shall be computed from the date
4 the severance taxes were due to the date of payment. The
5 department shall mail to the person required to file a
6 quarterly statement and pay any severance tax, a letter
7 setting forth the amount of severance tax, penalty, and
8 interest due, and the letter shall further contain a
9 statement that if payment is not made, a warrant for
10 distrainment may be filed. The 25% 10% penalty herein provided
11 may be waived by the department if reasonable cause for the
12 failure and neglect to file the statement required by
13 15-36-105 is provided to the department."

14 NEW SECTION. Section 3. Extension of authority. Any
15 existing authority of the department of revenue to make
16 rules on the subject of the provisions of this act is
17 extended to the provisions of this act.

18 NEW SECTION. Section 4. Effective date. This act is
19 effective on passage and approval.

-End-

1 HOUSE BILL NO. 478

2 INTRODUCED BY SCHYE

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PENALTY
6 AND INTEREST PROVISIONS FOR FAILING, NEGLECTING, OR REFUSING
7 TO FILE OIL AND GAS SEVERANCE TAX REPORTS; AMENDING SECTIONS
8 15-36-105 AND 15-36-107, MCA; AND PROVIDING AN IMMEDIATE
9 EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 15-36-105, MCA, is amended to read:

13 "15-36-105. Statement to accompany payment -- records
14 -- collection of tax -- refunds. (1) Each and every person
15 must, within 60 days after the end of each following
16 quarter, make out on forms prescribed by the department of
17 revenue a statement showing the total number of barrels of
18 merchantable or marketable petroleum and other mineral or
19 crude oil or cubic feet of natural gas produced or extracted
20 by such person in the state during each month of such
21 quarter and during the whole quarter, the average value
22 thereof during each month, and the total value thereof for
23 the whole quarter, together with the total amount due to the
24 state as severance taxes for such quarter, and must within
25 such 60 days deliver such statement and, except as provided

1 in 15-36-121, pay to the department the amount of the taxes
2 shown by such statement to be due to the state for the
3 quarter for which such statement is made. Such statement
4 must be signed by the individual or the president,
5 vice-president, treasurer, assistant treasurer, or managing
6 agent in this state of the association, corporation,
7 joint-stock company, or syndicate making the statement. Any
8 such person engaged in carrying on such business at more
9 than one place in this state or owning, leasing,
10 controlling, or operating more than one oil or gas well in
11 this state may include all thereof in one statement. The
12 department shall receive and file all such statements and
13 collect and receive from such person making and filing a
14 statement the amount of tax payable by such person, if any,
15 as the same shall appear from the face of the statement.

16 (2) It shall be the duty of the department to examine
17 each of such statements and compute the taxes thereon, and
18 the amount so computed by the department shall be the taxes
19 imposed, assessed against, and payable by the taxpayer
20 making the statement for the quarter for which the statement
21 is filed. If the tax found to be due shall be greater than
22 the amount paid, the excess shall be paid by the taxpayer to
23 the department within 10 days after written notice of the
24 amount of the deficiency shall be mailed by the department
25 to such taxpayer. If the tax imposed shall be less than the

1 amount paid, the difference must be applied as a credit
 2 against tax liability for subsequent quarters or refunded if
 3 there is no subsequent tax liability.

4 (3) If the tax is not paid on or before the due date,
 5 there shall be assessed a penalty of 10% of the amount of
 6 the tax, unless it is shown that the failure was due to
 7 reasonable cause and not due to neglect. If any tax under
 8 this chapter is not paid when due, interest shall be added
 9 thereto at the rate of 1% a month or fraction thereof,
 10 computed on the total amount of severance tax and penalty
 11 from the due date until paid."

12 Section 2. Section 15-36-107, MCA, is amended to read:

13 "15-36-107. Procedure to compute tax in absence of
 14 statement -- penalty and interest. If any such person shall
 15 fail, neglect, or refuse to file any statement required by
 16 15-36-105 within the time therein required, the department
 17 of revenue shall, immediately after such time has expired,
 18 proceed to inform itself as best it may regarding the number
 19 of barrels of petroleum and other mineral or crude oil or
 20 cubic feet of gas extracted and produced by such person in
 21 this state during such quarter and during each month thereof
 22 and the average value thereof during each such month and
 23 shall determine and fix the amount of the severance taxes
 24 due to the state from such person for such quarter and shall
 25 add to the amount of such severance taxes a penalty of 25%

1 10% thereof plus interest at the rate of 1% per month or
 2 fraction thereof computed on the total amount of severance
 3 taxes and penalty. Interest shall be computed from the date
 4 the severance taxes were due to the date of payment. The
 5 department shall mail to the person required to file a
 6 quarterly statement and pay any severance tax, a letter
 7 setting forth the amount of severance tax, penalty, and
 8 interest due, and the letter shall further contain a
 9 statement that if payment is not made, a warrant for
 10 distrainment may be filed. The 25% 10% penalty herein provided
 11 may be waived by the department if reasonable cause for the
 12 failure and neglect to file the statement required by
 13 15-36-105 is provided to the department."

14 NEW SECTION. Section 3. Extension of authority. Any
 15 existing authority of the department of revenue to make
 16 rules on the subject of the provisions of this act is
 17 extended to the provisions of this act.

18 NEW SECTION. Section 4. Effective date. This act is
 19 effective on passage and approval.

-End-