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Education Interim Committee
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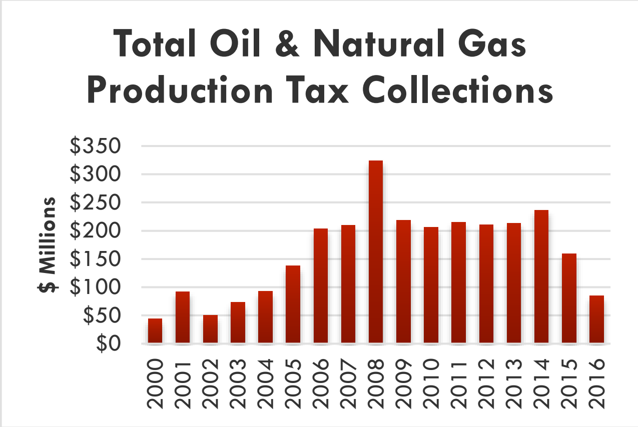
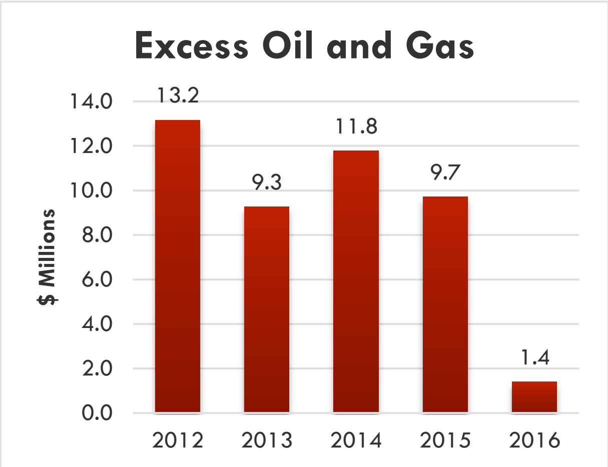
OIL AND NATURAL GAS PRODUCTION TAXES AND SCHOOL FUNDING 2011 - 2017

The refinement of hydraulic fracturing technology and high oil and natural gas prices contributed to Montana's most recent oil and natural gas boom from roughly 2005 through 2015. The amount of oil and natural gas production tax revenues retained by some school districts, the lack of revenues in neighboring districts feeling the impacts of the boom, and state general fund revenue pressure following the 2008 recession led the Montana Legislature to examine and revise the distribution of oil and natural gas production taxes (O&G) to school districts in each of the last four sessions.



2011—SB 329 (Zinke)

- Established 20-9-310 -- Oil and natural gas production taxes for school districts -- allocation and limits. This section and its changes were to terminate after FY 2016.
- Created a cap of 130% of the district's maximum general fund budget (with some exceptions) on the amount of O&G that a school district can retain. Anything over this cap is termed "excess O&G".
- Required districts to allocate increasing percentages of O&G retained in the prior year to the district's general fund budget in the ensuing year.



- For 2012 any excess O&G is transferred to the guarantee account, reducing the amount of state general fund money needed to fund schools.
- For 2013 and beyond, any excess O&G is distributed:
  - 70% to the guarantee account;
  - 25% to a new County O&G Impact Fund (20-9-518), which is basically a "bust" fund that accumulates money during "boom" then distributes as O&G revenues decline; and
  - 5% to a new State O&G Impact Account (20-9-517), which funds grants to school districts that feel the impacts of O&G development (increased enrollment, greater hiring difficulty, etc.) but do not receive much O&G money due to location of wells.

2013—SB 175 (Llew Jones)

For 2014, 2015, and 2016, SB 175, as part of a major revision to school funding, temporarily replaced the 70-25-5 split described above with "concentric circles" distribution that, like a champagne fountain, directs excess O&G to overflow to adjacent and then nearby districts. SB 175 also repealed the termination date for 20-9-310, MCA.

2015—SB 260 (Moore)

Following the termination of concentric circles, and for 2017, 2018, and 2019, SB 260 directed the distribution of excess O&G as determined by two negotiated rulemaking committees (one for districts in or adjacent to producing counties and one for districts in counties impacted by development but farther from production areas).

2017—HB 647 (Don Jones; this was the HB 2, Section E, "companion bill")

HB 647 terminated SB 260's negotiated rulemaking distribution two years early and amended 20-9-310 so that starting in 2018 and moving forward all excess O&G goes to the guarantee account, reducing the amount of state general fund money needed to fund schools.

Policy Consideration and Technical Issues

Over the past seven years, three different approaches were used in an attempt to address the problem that the families and kids associated with oil booms don't necessarily live and go to school in the same school district *in which* oil wells are located, and *to which* attendant production taxes are distributed. If and when the next boom hits, this issue will likely emerge again. Because the legislative process takes time and because all excess oil and natural gas production taxes are currently going to the guarantee account and offsetting state general fund requirements to support schools, policymakers may wish to contemplate sooner rather than later whether and how best to address this problem going forward.

Technical Issue #1

Senate Bills No. 329 and 175 created various accounts at the state and county level related to distributing excess oil and natural gas production taxes. None of these accounts have any revenue directed to them. They are a bit like ghost ships in statute and if the legislature has no inclination to make use of them again, the sections of statute creating them should be repealed to avoid unnecessary confusion.

20-9-517, MCA, is a state special revenue account used by OPI in 2014 and 2015 to distribute about $450,000 in grants to school districts impacted by oil and gas development but not receiving oil and natural gas production taxes "in an amount sufficient to address oil and natural gas development impacts."

20-9-518, MCA, directed counties receiving allocations under 20-9-310 to create a "county school oil and natural gas impact fund." No allocations were ever made to counties.

20-9-520, MCA, is a state special revenue account that received excess oil and natural gas production taxes that were distributed through "concentric circles" in SB 175 and the negotiated rulemaking committees in SB 260.

Technical Issue #2

Senate Bill No. 175 removed the termination date from a temporary version of 20-9-310, MCA, but neglected to do the same for 15-36-332, MCA. This should be corrected next session through an amendment to 2013 session law to clarify statute.

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