# FISCAL NOTE

**Bill #:** SB 505

**Title:** Montana Energy Relief Act (encourage generating facilities)

**Primary Sponsor:** Mike Taylor

**Status:** House 3rd Reading

________________________________________________
Sponsor signature Date

________________________________________________
Chuck Swysgood, Budget Director Date

## Fiscal Summary

| | FY2002 Difference | FY2003 Difference |
|---|---|---|
| **Expenditures:** | | |
| General Fund | $29,235 | 0 |
| **Revenue:** | | |
| General Fund | | ($565,974) |
| **Net Impact on General Fund Balance:** | **($29,235)** | **($565,974)** |

| Yes | No | | Yes | No | |
|---|---|---|---|---|---|
| X | | Significant Local Gov. Impact | X | | Technical Concerns |
| | X | Included in the Executive Budget | X | | Significant Long-Term Impacts |
| | X | Dedicated Revenue Form Attached | | X | Family Impact Form Attached |

## Fiscal Analysis

ASSUMPTIONS

1. This proposal provides for the exemption of electrical generation facilities from the 95 statewide mill levy for the ten-year period following the commencement of construction of the facility. In order to qualify for the exemption, the owner or operator of the facility must offer contracts of at least 5-years to sell at least 33% of the facility's net generating output at cost of production plus a rate of return as designated by the public service commission for a 10-year period to customers for use within Montana.
2. The proposal provides for an impact fee for local government units, increases the tax deduction and eligibility requirements for the energy-conservation systems investment deduction, and provides for a tax credit for solar or wind electrical energy.
3. The proposal is effective upon passage, with the exception of facilities with a generating capacity of 50MW or greater and the energy-conservation deduction that are effective beginning in tax year 2002.
4. Currently, there are only three immediate proposals for electric generation facilities in Montana. There is contemplation of a new natural gas turbine generation facility to be located in a tax increment finance district (TIF) in Silver Bow County, a proposed 25MW wind generation facility to be constructed on the

Blackfeet reservation, and a new 240MW, $140 million gas turbine facility proposed by Northwestern Public Service (location is undetermined).

**Property Tax**

5. For demonstrative purposes, this fiscal note will assume that these three proposals will be constructed. It is also assumed that the decision to construct these facilities is independent of the proposal.
6. For the 2003 biennium, there is estimated to be no fiscal impact associated with the contemplated natural gas turbine generation facility located in Silver Bow County because the projected completion date is after June 2003. There also is no estimated fiscal impacts for the 2003 biennium associated with the wind generation facility located on the Blackfeet reservation, because at this time it is unknown if the wind generation facility will be completed in time to provide any fiscal impacts in the 2003 biennium.
7. Northwest Public Service proposes to have one-third of a plant operational by the end of tax year 2001, and the remaining two-thirds operational before the end of tax year 2002 (Billings Gazette).
8. Assuming that the value of the Northwest Public Service facility is apportioned according to the projected percent operational, the value of the property is estimated to be $46,662,000 ($140,000,000 x 33.33%) in tax year 2002 (fiscal 2003), and $140,000,000 ($140,000,000 x 100%) in tax year 2003 (fiscal 2004).
9. Generation facilities are classified under property class 13 and have a taxable rate of 6%.
10. The Northwest Public Service facility would have an estimated taxable value of $2,799,720 ($46,662,000 x 6%) in tax year 2002.
11. Under current law, the Northwest Public Service facility would generate an estimated $265,973 ($2,799,720 x 95 mills) in property tax revenue in fiscal year 2003.
12. State government will also lose an undetermined amount of revenue from a change in use of the land and improvements in the location where the new exempt facility would be constructed.

**Energy Conservation Deduction**

13. The proposal allows individuals to use the energy-conservation deduction toward individual income tax, and increases the deduction limits on residential buildings from $1,800 to $10,000, and from $3,600 to $10,000 on nonresidential buildings.
14. There is no available data on corporate tax deductions, and since individuals have not been eligible for this deduction in the past, there is no historical data. The proposal would have significant fiscal impacts, however it would be impossible to predict with confidence the fiscal impacts of including individuals, and increasing the energy-conservation deduction limits because there is no base line for either corporate or individual deductions. If 10,000 taxpayers claim an average deduction of $500 the deduction in general fund revenue would be approximately $300,000.

**Expenditures**

15. To comply with the proposal, the Department of Revenue will require 490 hours of contracted programming time to insert and recalculate credits and deductions in its database system. The one time expenditure for programming hours is estimated to be $29,235 in FY 02

| FISCAL IMPACT: | FY2002 Difference | FY2003 Difference |
|---|---|---|
| Expenditures: | | |
| Operating Expenses | $29,235 | 0 |
| | | |
| Funding: | | |
| General Fund (01) | $29,235 | 0 |
| | | |
| Revenues: | | |

General Fund (01) ($565,974)

Net Impact to Fund Balance (Revenue minus Expenditure):
General Fund (01) ($29,235) ($565,974)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

1. Assuming that the value of the Northwest Public Service facility is apportioned according to the projected percent operational, the value of the property is estimated to be $46,662,000 ($140,000,000 x 33.33%) in tax year 2002, and $140,000,000 ($140,000,000 x 100%) in tax year 2003.
2. Generation facilities are classified under property class 13 and have a taxable rate of 6%.
3. The Northwest Public Service facility would have an estimated taxable value of $2,799,720 ($46,662,000 x 6%) in tax year 2002, increasing to $8,400,000 ($140,000,000 x 6%) in tax year 2003.
4. The average mill levy for class 13 property associated with local government purposes, which includes county, city, school and miscellaneous mill levies in FY 2001 was 218.43.
5. Under current law, the Northwest Public Service facility will generate an estimated $611,543 ($2,799,720 x 218.43 mills) in fiscal year 2003, and $1,834,812 ($8,400,000 x 218.43 mills) in fiscal year 2004.
6. In addition to property tax revenues received from local mills, the proposal also has a provision that allows local governments to assess an infrastructure impact fee on the exempt (from the state's 95 mill levy) generation facilities total cost of construction. The infrastructure impact fee may be up to 1.5% of the total cost of construction in the first year, and in each successive year, the impact fee is not to exceed the lesser of 0.5% of the cost of construction or $500,000.
7. If the Northwest Public Service facility with a construction value of $140,000,000 qualifies and opts for the proposed exemption, the local government unit could assess an impact fee in the first year for as much as $2,100,000 ($140,000,000 x .015), and $500,000 each year thereafter.
8. For comparison, recall that under current law the 95 state mill levy is estimated to collect $265,974 (1/3 of the facility being operational) the first year, and $798,000 each year thereafter. If local government opted for the abovementioned maximum impact fee, the new natural gas turbine facility would pay $1,834,026 ($2,100,000 - $265,974) more in taxes in the first year if they opted for the 95-mill exemption. Under the proposal, the new facility would pay $298,000 ($798,000 - $500,000) less each year after the first years initial 1.5% impact fee. Under the proposal, it would take 7 ($2,100,000 / $298,000) years for the new facility to recoup the cost of impact fees. Using the above assumptions to calculate the tax benefit, the new gas turbine facility would not net any tax benefit until the 8th year (see table below).

**Comparison of Property Tax and Fees for Qualifying and Non-Qualifying Property**
**$140,000,000 Facility 1/3 Operational in the First Year, 100% Operational in Second Year**

| | Qualifying Property | | | | | Non-Qualifying Property | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Year | Local Property Tax | State * Property Tax | Fees | Total | Cumulative Total | Local Property Tax | State * Property Tax | Fees | Total | Cumulative Total |
| 1 | $ 611,543 | $ 16,798 | $2,100,000 | $2,728,341 | $ 2,728,341 | $ 611,543 | $ 282,772 | $ - | $ 894,315 | $ 894,315 |
| 2 | $ 1,834,812 | $ 50,400 | $ 500,000 | $2,385,212 | $ 5,113,553 | $1,834,812 | $ 848,400 | $ - | $2,683,212 | $ 3,577,527 |
| 3 | $ 1,834,812 | $ 50,400 | $ 500,000 | $2,385,212 | $ 7,498,765 | $1,834,812 | $ 848,400 | $ - | $2,683,212 | $ 6,260,739 |
| 4 | $ 1,834,812 | $ 50,400 | $ 500,000 | $2,385,212 | $ 9,883,977 | $1,834,812 | $ 848,400 | $ - | $2,683,212 | $ 8,943,951 |
| 5 | $ 1,834,812 | $ 50,400 | $ 500,000 | $2,385,212 | $12,269,189 | $1,834,812 | $ 848,400 | $ - | $2,683,212 | $11,627,163 |
| 6 | $ 1,834,812 | $ 50,400 | $ 500,000 | $2,385,212 | $14,654,401 | $1,834,812 | $ 848,400 | $ - | $2,683,212 | $14,310,375 |
| 7 | $ 1,834,812 | $ 50,400 | $ 500,000 | $2,385,212 | $17,039,613 | $1,834,812 | $ 848,400 | $ - | $2,683,212 | $16,993,587 |
| 8 | $ 1,834,812 | $ 50,400 | $ 500,000 | $2,385,212 | $19,424,825 | $1,834,812 | $ 848,400 | $ - | $2,683,212 | $19,676,799 |
| 9 | $ 1,834,812 | $ 50,400 | $ 500,000 | $2,385,212 | $21,810,037 | $1,834,812 | $ 848,400 | $ - | $2,683,212 | $22,360,011 |
| 10 | $ 1,834,812 | $ 50,400 | $ 500,000 | $2,385,212 | $24,195,249 | $1,834,812 | $ 848,400 | $ - | $2,683,212 | $25,043,223 |

* Property owners will pay the university system 6 mill under both scenarios

LONG-RANGE IMPACTS:

**Property**

1. The general fund will lose property tax revenues from change in use of property currently paying taxes on the land and improvements when an exempt facility is constructed. In addition to the loss of current property tax revenues, future revenues from generation facilities that would have been constructed regardless of the proposal will be lost.
2. Northwest Public Service proposes to have one-third of a plant operational by the end of tax year 2001, and the remaining two-thirds operational before the end of tax year 2002 (Billings Gazette).
3. Assuming that the value of the Northwest Public Service facility is apportioned according to the projected percent operational, the value of the property is estimated to be $46,662,000 ($140,000,000 x 33.33%) in tax year 2002, and $140,000,000 ($140,000,000 x 100%) in tax year 2003.
4. Generation facilities are classified under property class 13 and have a taxable rate of 6%.
5. The Northwest Public Service facility would have an estimated taxable value of $2,799,720 ($46,662,000 x 6%) in tax year 2002, and $8,400,000 ($140,000,000 x 6%) in tax year 2003.
6. Under current law, the Northwest Public Service facility would generate an estimated $265,973 ($2,799,720 x 95 mills) in property tax revenue in fiscal year 2003, and an estimated $798,000 ($8,400,000 x 95 mills) in property tax revenue in fiscal year 2004 and thereafter.
7. For the natural gas turbine generation facility being considered in Silver Bow County, under 7-15-4286 MCA, the only future impacts on property tax revenue will be to the TIF district.

TECHNICAL NOTES:

1. The exemption is granted to an owner or operator of a generating facility who "offers contracts" to sell electricity at the prescribed price. Offering to contract is different from actually contracting. An offer is the act of presenting something for acceptance, a contract does not exist until the offer is accepted and an offer can be revoked at anytime prior to acceptance.
2. The proposal has a termination date of January 1, 2012. It is unclear whether a facility that is built in subsequent years after January 1, 2002 would be eligible for the entire ten-year exemption, or be subject to the rollback tax when the proposal expires. For example, if a facility is built in fiscal 2010, would they only be eligible for a two-year property tax exemption (FY 2010 to FY 2012), and after January 1, 2012 would they be subject to the rollback tax for breaking a five or ten-year contract?
3. The amended language in section 1, that specifies the duration of the contract offer must be at least 5 years, seems inconsistent with the language following the insertion, which specifies the contracts will be to provide electricity to customers in Montana for a period of 10 years.