Fiscal Note 2015 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	HB0228	**Title:**	Exempt certain schools from oil and gas tax allocations and limit provisions
Primary Sponsor:	Randall, Lee	**Status:**	As Introduced

- ☐ Significant Local Gov Impact
- ☑ Needs to be included in HB 2
- ☐ Technical Concerns
- ☐ Included in the Executive Budget
- ☐ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2013 Difference	FY 2014 Difference	FY 2015 Difference	FY 2016 Difference	FY 2017 Difference
Expenditures:					
General Fund	$13,592,095	$6,685,700	$6,477,106	$6,455,084	$0
State Special Revenue (Guarantee Acct-SA)	($6,605,770)	($6,685,700)	($6,477,106)	($6,455,084)	$0
State Special Revenue (Schl O&G Impact)	$0	$0	$0	$0	$0
State Special Revenue (Co Schl O&G Impact)	$0	$0	$0	$0	$0
Revenue:					
General Fund	$0	$0	$0	$0	$0
State Special Revenue (Guarantee Acct-SA)	($6,605,770)	($6,685,700)	($6,477,106)	($6,455,084)	$0
State Special Revenue (Schl O&G Impact)	($471,841)	($477,550)	($462,650)	($461,077)	$0
State Special Revenue (Co Schl O&G Impact)	($2,359,204)	($2,387,750)	($2,313,252)	($2,305,387)	$0
Net Impact-General Fund Balance:	($13,592,095)	($6,685,700)	($6,477,106)	($6,455,084)	$0

Description of fiscal impact: HB 228 exempts for six years, qualifying school districts from the 130% cap on oil and natural gas production taxes revenue a district can retain if the district's enrollment increases by 5% or more. The exemption would decrease revenue to the state special revenue guarantee account and increase expenditures in the state general fund by $13.6 million in FY 2013, $6.7 million in FY 2014, $6.5 million in FY 2015, and FY 2016.

FISCAL ANALYSIS

Assumptions:

1. Under present law, school districts are allowed to receive oil and natural gas production taxes revenue under the provisions of 15-36-331 and 332, MCA, up to 130% of the school district maximum general fund budget.

2. HB 228 exempts certain school district from the 130% limit if they have and increased enrollment of 5% or more between school year fall enrollment counts. The 130% limit in 20-9-310, MCA, first became effective for school districts in FY 2012.
3. The enrollment count used for determining enrollment growth for this fiscal note is the fall enrollment count taken on the first Monday in October each year.
4. HB 228 has a retroactive applicability to include school districts whose enrollment increased by 5% or more in school fiscal year 2012 or thereafter.
5. The 5% or more increase in enrollment determination in HB 228 is based on enrollment change from the immediately preceding school year. Therefore, for FY 2012 revenues, the comparison for enrollment increases would be between the October 2010 and October 2011 counts.
6. There were 417 operating school districts in FY 2012 in Montana and 86 of those school districts reported an enrollment increase of 5% or more between the October 2010 and October 2011 enrollment counts.
7. Of the 86 school districts reporting a 5% or more enrollment increase, only four school districts also received the limit of 130% of the school district's maximum general fund budget in oil and natural gas production taxes revenue.
8. Under current law, the oil and natural gas production taxes in excess of the 130% limit paid to the state special revenue guarantee account in FY 2012 from all school districts, was $13.4 million. Seven million dollars of the revenue was attributable to the four schools districts who received 130% limit of oil and natural gas taxes revenue and a 5% enrollment increase.
9. The retroactive applicability of HB 228 would mean a reimbursement of $7.0 million of FY 2012 state special guarantee account revenue which was expended through a statutory appropriation from the guarantee account in FY 2012 for K-12 BASE aid. For purposes of this fiscal note, it is assumed the retroactive reimbursement to these school districts would be paid from the state general fund
10. HB 228 allows school districts that qualify in any one year to be exempt from the 130% limit to continue being exempt for six years from the last year enrollment increased by 5% or more. Therefore, the four school districts exempt in FY 2012 would continue to be exempt until FY 2017.
11. There are 415 operating school districts in Montana in FY 2013 and 120 of those districts reported an enrollment increase of 5% or more between the count in October 2011 and the count in October 2012.
12. Of the 120 school districts reporting a 5% or more enrollment increase, 40 had an enrollment increase of 5% or more and received oil and natural gas production taxes revenue.
13. Seven of the qualifying school districts had an enrollment increase of 5% or more and are projected to receive oil and natural gas production taxes revenue in FY 2012 that will exceed 130% of the school district FY 2013 maximum school district general fund budget, the criteria for the exemption in HB 228. Four of these districts qualified for the exemption in FY 2012 so three additional school districts qualify in FY 2013 for the exemption.
14. It is unlikely there would be additional school districts that meet the HB 228 criteria for exemption to receive additional oil and natural gas production taxes revenue and have a 5% or more enrollment increase in the 2015 biennium.
15. Oil and natural gas production taxes are projected to fluctuate over the next two biennia. The following table shows the anticipated oil and natural gas production taxes growth for FY 2013 through FY 2016:

	Anticipated Oil & Natural Gas Growth
FY 2013	101.72%
FY 2014	101.21%
FY 2015	96.88%
FY 2016	99.66%

16. Present law, 20-9-310, MCA, states that the department will distribute any excess revenue not distributable to a school district in assumption #1 as follows: 70% to the state special revenue guarantee account, 5% to the state school oil and natural gas impact account, and 25% to the counties for deposit in the county school oil and natural gas impact fund.
17. The following table represents the decrease to the funds affected by HB 228:

	FY 2013	FY 2014	FY 2015	FY 2016
Oil & Natural Gas Growth	101.72%	101.21%	96.88%	99.66%
70% - State special revenue guarantee acct	$6,605,770	$6,685,700	$6,477,106	$6,455,084
5% - State schl oil & natural gas impact acct	$471,841	$477,550	$462,650	$461,077
25% - Co schl oil & natural gas impact fund	$2,359,204	$2,387,750	$2,313,252	$2,305,387
Total	$9,436,815	$9,551,000	$9,253,009	$9,221,549

18. None of the seven school districts meeting the exemption in HB 228 receive guaranteed tax base aid (GTB), therefore, there would be no change in to state GTB payments.
19. Because the state special revenue guarantee account is the first source of funding for K-12 BASE aid, a reduction in the guarantee account would be offset by an increase in state general fund expenditures for K-12 BASE aid.
20. Dependent upon the budgeted fund into which the affected districts deposit the additional revenue, an effect on property taxes may or may not occur.
21. The provisions of 20-9-310, MCA, are set to terminate June 30, 2016, so there is no fiscal impact of HB 228 beyond FY 2016.

Secretary of State

22. This bill will have minimal cost for postage and administrative duties related to tribal notifications in section 4 of the bill. The Office of the Secretary of State does not receive general fund monies for office operations, but has agreed to assume the fiscal responsibility for this bill.

	FY 2013 Difference	FY 2014 Difference	FY 2015 Difference	FY 2016 Difference	FY 2017 Difference
Fiscal Impact:					
Expenditures:					
Reimburse FY 2012 revenues	$6,986,325	$0	$0	$0	$0
K-12 BASE Aid (General Fund)	$6,605,770	$6,685,700	$6,477,106	$6,455,084	$0
K-12 BASE Aid (Guarantee Account-SA)	($6,605,770)	($6,685,700)	($6,477,106)	($6,455,084)	$0
TOTAL Expenditures	$6,986,325	$0	$0	$0	$0
Funding of Expenditures:					
General Fund (01)	$13,592,095	$6,685,700	$6,477,106	$6,455,084	$0
Guarantee Account - SA (02)	($6,605,770)	($6,685,700)	($6,477,106)	($6,455,084)	$0
State School O&G Impact Account (02)	$0	$0	$0	$0	$0
County School O&G Impact Fund (02)	$0	$0	$0	$0	$0
TOTAL Funding of Exp.	$6,986,325	$0	$0	$0	$0
Revenues:					
General Fund (01)	$0	$0	$0	$0	$0
Guarantee Account - SA (02)	($6,605,770)	($6,685,700)	($6,477,106)	($6,455,084)	$0
State School O&G Impact Account (02)	($471,841)	($477,550)	($462,650)	($461,077)	$0
County School O&G Impact Fund (02)	($2,359,204)	($2,387,750)	($2,313,252)	($2,305,387)	$0
TOTAL Revenues	($9,436,815)	($9,551,000)	($9,253,008)	($9,221,548)	$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):					
General Fund (01)	($13,592,095)	($6,685,700)	($6,477,106)	($6,455,084)	$0
Guarantee Account - SA (02)	$0	$0	$0	$0	$0
State School O&G Impact Account (02)	($471,841)	($477,550)	($462,650)	($461,077)	$0
County School O&G Impact Fund (02)	($2,359,204)	($2,387,750)	($2,313,252)	($2,305,387)	$0

Effect on County or Other Local Revenues or Expenditures:

1. A reduction in the amount of revenue retained by the Department of Revenue (DOR) and deposited into the state school oil and gas impact account and the county school oil and gas impact fund would mean a decrease of revenue to school districts impacted by those accounts of $2.8 million per year.

Technical Notes:

1. Under current law, some school districts currently meet the 130% of maximum budget limitation. If HB 228 is passed, distribution of the first quarter oil and natural gas production taxes revenue by the Department of Revenue (DOR) will have occurred and a cap may have been put in place. If the fall enrollment to be collected exceeds 5% or greater for school districts that have met the 130% limit, the second quarter oil and gas distribution will have to be calculated to both distribute the second quarter payment and retroactively distribute the additional oil and natural gas production taxes revenue that was retain by the DOR because of the 130% limit imposed in the first quarter.
2. The bill states enrollment increase without regard to anticipated or unanticipated enrollment increase and does not specify which enrollment count is to be used for calculating the enrollment increase change.

3. HB 228 is unclear when the retroactive reimbursements for FY 2012 and if applicable, for FY 2013 are to be paid and from what funds.
4. Section 3, 20-9-518(3), MCA, states:
   "(3) Within 30 days of any of the circumstances described in subsections (2)(a) through (2)(c) occurring, the governing body of the county shall allocate 80% of the money proportionally to affected high school districts and elementary school districts in the county." However,
   a) The state has no authority to distribute these funds to the counties and statute provides no definition of proportional or affected.
   b) A county governing body is not provided sufficient information to make the distribution to high school districts and elementary school districts in the county.
5. There is no appropriation for distribution of the state school oil and gas impact account or for the county school oil and gas impact fund.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*