

1 SENATE BILL NO. 519

2 INTRODUCED BY G. ROUSH, F. THOMAS, BOHLINGER, E. CLARK, DEPRATU, EKEGREN, ELLINGSON,
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4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF OIL FROM EXEMPT STRIPPER
6 WELL PRODUCTION; IMPOSING THE TAX IF THE AVERAGE PRICE FOR A BARREL OF OIL AS REPORTED
7 IN THE WALL STREET JOURNAL FOR WEST TEXAS INTERMEDIATE CRUDE OIL DURING A CALENDAR
8 QUARTER IS MORE THAN \$38 A BARREL; AMENDING SECTIONS 15-36-303 AND 15-36-304, MCA;
9 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

12
13 **Section 1.** Section 15-36-303, MCA, is amended to read:

14 **"15-36-303. Definitions.** As used in this part, the following definitions apply:

15 (1) "Board" means the board of oil and gas conservation provided for in 2-15-3303.

16 (2) "Department" means the department of revenue provided for in 2-15-1301.

17 (3) "Enhanced recovery project" means the use of any process for the displacement of oil from
18 the earth other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal,
19 or biological process.

20 (4) "Existing enhanced recovery project" means an enhanced recovery project that began
21 development before January 1, 1994.

22 (5) "Expanded enhanced recovery project" or "expansion" means the addition of injection wells
23 or production wells, the recompletion of existing wells as horizontally completed wells, the change of an
24 injection pattern, or other operating changes to an existing enhanced recovery project that will result in
25 the recovery of oil that would not otherwise be recovered. The project must be developed after December
26 31, 1993, and before January 1, 2002.

27 (6) "Gross taxable value", for the purpose of computing the oil and natural gas production tax,
28 means the gross value of the product as determined in 15-36-305.

29 (7) "Horizontal drain hole" means that portion of a well bore with 70 degrees to 110 degrees
30 deviation from the vertical and a horizontal projection within the common source of supply, as that term

1 is defined by the board, that exceeds 100 feet.

2 (8) "Horizontally completed well" means:

3 (a) a well with one or more horizontal drain holes; and

4 (b) any other well classified by the board as a horizontally completed well.

5 (9) "Incremental production" means:

6 (a) the volume of oil produced by a new enhanced recovery project, by a well in primary recovery
7 recompleted as a horizontally completed well, or by an expanded enhanced recovery project, which volume
8 of production is in excess of the production decline rate established under the conditions existing before:

9 (i) the commencement of the recompletion of a well as a horizontally completed well;

10 (ii) expansion of the existing enhanced recovery project; or

11 (iii) commencing a new enhanced recovery project; or

12 (b) in the case of any project that had no taxable production prior to commencing the enhanced
13 recovery project, all production of oil from the enhanced recovery project.

14 (10) "Natural gas" or "gas" means natural gas and other fluid hydrocarbons, other than oil,
15 produced at the wellhead.

16 (11) "New enhanced recovery project" means an enhanced recovery project that began
17 development after December 31, 1993, and before January 1, 2002.

18 (12) "Nonworking interest owner" means any interest owner who does not share in the
19 exploration, development, and operation costs of the lease or unit, except for production taxes.

20 (13) "Oil" means crude petroleum or mineral oil and other hydrocarbons, regardless of gravity, that
21 are produced at the wellhead in liquid form and that are not the result of condensation of gas after it leaves
22 the wellhead.

23 (14) "Operator" or "producer" means a person who produces oil or natural gas within this state
24 or who owns, controls, manages, leases, or operates within this state any well or wells from which any
25 marketable oil or natural gas is extracted or produced.

26 (15) "Post-1999 well" means an oil or natural gas well drilled on or after January 1, 1999, that
27 produces oil or natural gas or a well that has not produced oil or natural gas during the 5 years immediately
28 preceding the first month of qualifying as a post-1999 well.

29 (16) "Pre-1999 well" means an oil or natural gas well that was drilled before January 1, 1999.

30 (17) "Primary recovery" means the displacement of oil from the earth into the well bore by means

1 of the natural pressure of the oil reservoir and includes artificial lift.

2 (18) "Production decline rate" means the projected rate of future oil production, extrapolated by
3 a method approved by the board, that must be determined for a project area prior to commencing a new
4 or expanded enhanced recovery project or the recompletion of a well as a horizontally completed well. The
5 approved production decline rate must be certified in writing to the department by the board. In that
6 certification, the board shall identify the project area and shall specify the projected rate of future oil
7 production by calendar year and by calendar quarter within each year. The certified rate of future oil
8 production must be used to determine the volume of incremental production that qualifies for the tax rate
9 imposed under 15-36-304(5)(e).

10 (19) "Qualifying production" means the first 12 months of production of oil or natural gas from a
11 well drilled after December 31, 1998, or the first 18 months of production of oil or natural gas from a
12 horizontally completed well drilled after December 31, 1998, or from a well that has not produced oil or
13 natural gas during the 5 years immediately preceding the first month of qualifying production. Qualifying
14 production does not include oil production from a horizontally recompleted well.

15 (20) "Secondary recovery project" means an enhanced recovery project, other than a tertiary
16 recovery project, that commenced or was expanded after December 31, 1993, and before January 1,
17 2002, and meets each of the following requirements:

18 (a) The project must be certified as a secondary recovery project to the department by the board.
19 The certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.

20 (b) The property to be affected by the project must be adequately delineated according to the
21 specifications required by the board.

22 (c) The project must involve the application of secondary recovery methods that can reasonably
23 be expected to result in an increase, determined by the board to be significant in light of all the facts and
24 circumstances, in the amount of oil that may potentially be recovered. For purposes of this part, secondary
25 recovery methods include but are not limited to:

26 (i) the injection of water into the producing formation for the purposes of maintaining pressure in
27 that formation or for the purpose of increasing the flow of oil from the producing formation to a producing
28 well bore; or

29 (ii) any other method approved by the board as a secondary recovery method.

30 (21) "Stripper natural gas" means the natural gas produced from any well that produces less than

1 60,000 cubic feet of natural gas a day during the calendar year immediately preceding the current year.
2 Production must be determined by dividing the amount of production from a lease or unitized area for the
3 year immediately preceding the current calendar year by the number of producing wells in the lease or
4 unitized area and by dividing the resulting quotient by 365.

5 (22) "Stripper oil" means the oil produced from any well that produces less than 15 barrels a day
6 for the calendar year immediately preceding the current year if the average price for a barrel of oil as
7 reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less
8 than \$30 a barrel. If the price of oil is equal to or greater than \$30 a barrel in a calendar quarter, there is
9 no stripper tax rate, ~~including stripper well exemption tax rate,~~ in that quarter. There is no stripper well
10 exemption tax rate if the average price for a barrel of oil as reported in the Wall Street Journal for west
11 Texas intermediate crude oil during a calendar quarter is less MORE than \$38 a barrel. The average price
12 for a barrel is computed by dividing the sum of the daily price for west Texas intermediate crude oil as
13 reported in the Wall Street Journal for the calendar quarter by the number of days on which the price was
14 reported in the quarter. Production must be determined by dividing the amount of production from a lease
15 or unitized area for the year immediately preceding the current calendar year by the number of producing
16 wells in the lease or unitized area and by dividing the resulting quotient by 365.

17 (23) "Stripper well exemption" means petroleum and other mineral or crude oil produced by a
18 stripper well that produces 3 barrels a day or less.

19 (24) "Tertiary recovery project" means an enhanced recovery project, other than a secondary
20 recovery project, using a tertiary recovery method that meets the following requirements:

21 (a) The project must be certified as a tertiary recovery project to the department by the board. The
22 certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.

23 (b) The property to be affected by the project must be adequately delineated in the certification
24 according to the specifications required by the board.

25 (c) The project must involve the application of one or more tertiary recovery methods that can
26 reasonably be expected to result in an increase, determined by the board to be significant in light of all the
27 facts and circumstances, in the amount of crude oil that may potentially be recovered. For purposes of this
28 part, tertiary recovery methods include but are not limited to:

29 (i) miscible fluid displacement;

30 (ii) steam drive injection;

- 1 (iii) micellar/emulsion flooding;
- 2 (iv) in situ combustion;
- 3 (v) polymer augmented water flooding;
- 4 (vi) cyclic steam injection;
- 5 (vii) alkaline or caustic flooding;
- 6 (viii) carbon dioxide water flooding;
- 7 (ix) immiscible carbon dioxide displacement; or
- 8 (x) any other method approved by the board as a tertiary recovery method.
- 9 (25) "Well" or "wells" means a single well or a group of wells in one field or production unit and
- 10 under the control of one operator or producer.

11 (26) "Working interest owner" means the owner of an interest in an oil or natural gas well or wells
 12 who bears any portion of the exploration, development, and operating costs of the well or wells."

13

14 **Section 2.** Section 15-36-304, MCA, is amended to read:

15 **"15-36-304. Production tax rates imposed on oil and natural gas.** (1) The production of oil and
 16 natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-324.

17 (2) Natural gas is taxed on the gross taxable value of production based on the type of well and
 18 type of production according to the following schedule for working interest and nonworking interest
 19 owners:

	Working	Nonworking
	Interest	Interest
22 (a) (i) first 12 months of qualifying production	0.5%	14.8%
23 (ii) after 12 months		
24 (A) pre-1999 wells	14.8%	14.8%
25 (B) post-1999 wells	9%	14.8%
26 (b) stripper natural gas		
27 pre-1999 wells	11%	14.8%
28 (c) horizontally completed well		
29 production		
30 (i) first 18 months of qualifying		

1	production	0.5%	14.8%
2	(ii) after 18 months	9%	14.8%
3	(3) The reduced tax rates under subsection (2)(a)(i) on production for the first 12 months of		
4	natural gas production from a well begins following the last day of the calendar month immediately		
5	preceding the month in which natural gas is placed in a natural gas distribution system, provided that		
6	notification has been given to the department.		
7	(4) The reduced tax rate under subsection (2)(c)(i) on production from a horizontally completed		
8	well for the first 18 months of production begins following the last day of the calendar month immediately		
9	preceding the month in which natural gas is placed in a natural gas distribution system, provided that		
10	notification has been given to the department.		
11	(5) Oil is taxed on the gross taxable value of production based on the type of well and type of		
12	production according to the following schedule for working interest and nonworking interest owners:		
13		Working	Nonworking
14		Interest	Interest
15	(a) primary recovery production		
16	(i) first 12 months of qualifying		
17	production	0.5%	14.8%
18	(ii) after 12 months		
19	(A) pre-1999 wells	12.5%	14.8%
20	(B) post-1999 wells	9%	14.8%
21	(b) stripper oil production		
22	(i) first 1 through 10 barrels a day		
23	production	5.5%	14.8%
24	(ii) more than 10 barrels a day		
25	production	9.0%	14.8%
26	(c) stripper well exemption		
27	production	0.5%	14.8%
28	(d) horizontally completed well production		
29	(i) first 18 months of qualifying		
30	production	0.5%	14.8%

1	(ii) after 18 months		
2	(A) pre-1999 wells	12.5%	14.8%
3	(B) post-1999 wells	9%	14.8%
4	(e) incremental production		
5	(i) new or expanded secondary		
6	recovery production	8.5%	14.8%
7	(ii) new or expanded tertiary		
8	production	5.8%	14.8%
9	(f) horizontally recompleted well		
10	(i) first 18 months	5.5%	14.8%
11	(ii) after 18 months		
12	(A) pre-1999 wells	12.5%	14.8%
13	(B) post-1999 wells	9%	14.8%
14	(6) (a) The reduced tax rates under subsection (5)(a)(i) for the first 12 months of oil production		
15	from a well begins following the last day of the calendar month immediately preceding the month in which		
16	oil is pumped or flows, provided that notification has been given to the department.		
17	(b) (i) The reduced tax rates under subsection (5)(d)(i) on oil production from a horizontally		
18	completed well for the first 18 months of production begins following the last day of the calendar month		
19	immediately preceding the month in which oil is pumped or flows, provided that the well has been certified		
20	as a horizontally completed well to the department by the board.		
21	(ii) The reduced tax rate under subsection (5)(f)(i) on oil production from a horizontally recompleted		
22	well for the first 18 months of production begins following the last day of the calendar month immediately		
23	preceding the month in which oil is pumped or flows, provided that the well has been certified as a		
24	horizontally recompleted well to the department by the board.		
25	(c) Incremental production is taxed as provided in subsection (5)(e) if the average price for each		
26	barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar		
27	quarter is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 a barrel in a calendar		
28	quarter as determined in subsection (6)(d), then incremental production from pre-1999 wells and from		
29	post-1999 wells is taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A)		
30	and (5)(a)(ii)(B), respectively, for production occurring in that quarter, <u>other than exempt stripper well</u>		

1 production. Stripper well exemption production is ~~taxable~~ TAXED AS PROVIDED IN SUBSECTION (5)(C) only if
2 the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate
3 crude oil during a calendar quarter is ~~greater~~ LESS than \$38 a barrel.

4 (d) For the purposes of subsection (6)(c), the average price for each barrel must be computed by
5 dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street
6 Journal for the calendar quarter by the number of days on which the price was reported in the quarter.

7 (7) The tax rates imposed under subsections (2) and (5) on working interest owners and
8 nonworking interest owners must be adjusted to include the privilege and license tax adopted by the board
9 of oil and gas conservation pursuant to 82-11-131."

10

11 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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13 NEW SECTION. Section 4. Retroactive applicability. [This act] applies retroactively, within the
14 meaning of 1-2-109, to production occurring on or after January 1, 2001.

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- END -