

## HOUSE BILL NO. 604

INTRODUCED BY GALLIK, MATTHEWS, A. OLSON

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE DISTRIBUTION OF CERTAIN PROCEEDS FROM THE STATE PORTION OF NATURAL GAS PRODUCTION TAXES TO THE SCHOOL FLEXIBILITY ACCOUNT; AMENDING ~~SECTION~~ SECTIONS 15-36-324 AND 20-9-544, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 15-36-324, MCA, is amended to read:

**"15-36-324. (Temporary) Distribution of taxes -- rules.** (1) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalty collected under this part. For purposes of distribution of the taxes to county and school taxing units, the department shall determine the amount of oil and natural gas production taxes paid on production in the taxing unit.

(2) Except as provided in subsections (3) through (5), oil production taxes must be distributed as follows:

(a) The amount equal to 39.3% of the oil production taxes, including late payment interest and penalty, collected under this part must be distributed as provided in subsection (9).

(b) The remaining 60.7% of the oil production taxes, plus accumulated interest earned on the amount allocated under this subsection (2)(b), must be deposited in the state special revenue fund in the state treasury and transferred to the county and school taxing units for distribution as provided in subsection (12).

(3) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected from working interest owners on qualifying production occurring during the first 12 months of production must be distributed as provided in subsection (10).

(4) (a) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected from working interest owners on production from horizontally completed wells occurring during the first 18 months of production must be distributed as provided in subsection (10).

(b) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected from working interest owners on the incremental production from horizontally recompleted wells

occurring during the first 18 months of production must be distributed as provided in subsection (9).

(5) (a) The amount equal to 13.8% of the oil production taxes, including late payment interest and penalty, collected from working interest owners on the first 10 barrels of stripper oil production wells must be distributed as provided in subsection (10).

(b) The remaining 86.2% of the oil production taxes, plus accumulated interest earned on the amount allocated under this subsection (5)(b), must be deposited in the state special revenue fund in the state treasury and transferred to the county and school taxing units for distribution as provided in subsection (12).

(c) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected from working interest owners on stripper well exemption production from pre-1999 wells and post-1999 wells must be distributed as provided in subsection (10).

(6) Except as provided in subsections (7) and (8), natural gas production taxes must be allocated as follows:

(a) The amount equal to 14% of the natural gas production taxes, including late payment interest and penalty, collected under this part must be distributed as provided in subsection (11).

(b) The remaining 86% of the natural gas production taxes, plus accumulated interest earned on the amount allocated under this subsection (6)(b), must be deposited in the state special revenue fund in the state treasury and transferred to the county and school taxing units for distribution as provided in subsection (12).

(7) The amount equal to 100% of the natural gas production taxes, including late payment interest and penalty, collected from working interest owners under this part on production from wells occurring during the first 12 months of production must be distributed as provided in subsection (10).

(8) The amount equal to 100% of natural gas production taxes, including late payment interest and penalty, collected from working interest owners on production from horizontally completed wells occurring during the first 18 months of production must be distributed as provided in subsection (10).

(9) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of oil production taxes specified in subsections (2)(a) and (4)(b), including late payment interest and penalty collected, as follows:

(a) 86.21% to the state general fund;

(b) 5.17% to the state special revenue fund for the purpose of paying expenses of the board as provided in 82-11-135; and

(c) 8.62% to be distributed as follows:

(i) a total of \$400,000, including the proceeds from subsections (10)(b)(i) and (11)(c)(i), to the coal bed methane protection account established in 76-15-904;

(ii) for the fiscal year ending June 30, 2003, all of the remaining proceeds to the state general fund;

(iii) for the fiscal years beginning on or after July 1, 2003, 50% of the remaining proceeds to the reclamation and development grants special revenue account established in 90-2-1104; and

(iv) for the fiscal years beginning on or after July 1, 2003, 50% of the remaining proceeds to the orphan share account established in 75-10-743.

(10) The department shall distribute the state portion of oil and natural gas production taxes specified in subsections (3), (4)(a), (5)(a), (5)(c), (7), and (8), including late payment interest and penalty collected, as follows:

(a) 37.5% to the state special revenue fund for the purpose of paying expenses of the board as provided in 82-11-135; and

(b) 62.5% to be distributed as follows:

(i) a total of \$400,000, including the proceeds from subsections (9)(c)(i) and (11)(c)(i), to the coal bed methane protection account established in 76-15-904;

(ii) for the fiscal year ending June 30, 2003, all of the remaining proceeds to the state general fund;

(iii) for the fiscal years beginning on or after July 1, 2003, 50% of the remaining proceeds to the reclamation and development grants special revenue account established in 90-2-1104; and

(iv) for the fiscal years beginning on or after July 1, 2003, 50% of the remaining proceeds to the orphan share account established in 75-10-743.

(11) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of natural gas production taxes specified in subsection (6)(a), including late payment interest and penalty collected, as follows:

(a) 76.8% ~~to be distributed as follows~~ IN THE FOLLOWING ORDER:

(i) for the fiscal year ending June 30, 2004-:

(A) \$2.859 million to the state general fund and all of the remaining proceeds;

(B) \$3.141 MILLION to the school flexibility account created in 20-9-542 FOR DISTRIBUTION IN THE ENSUING FISCAL YEAR; and

(C) ALL OF THE REMAINING PROCEEDS TO THE STATE GENERAL FUND; AND

(ii) for the fiscal years beginning on or after July 1, 2004-;

1 (A) \$2.915 million to the state general fund and all of the remaining proceeds;

2 (B) \$3.085 MILLION to the school flexibility account created in 20-9-542 FOR DISTRIBUTION IN THE ENSUING  
3 FISCAL YEAR; AND

4 (C) ALL OF THE REMAINING PROCEEDS TO THE STATE GENERAL FUND;

5 (b) 8.7% to the state special revenue fund for the purpose of paying expenses of the board as provided  
6 in 82-11-135; and

7 (c) 14.5% to be distributed as follows:

8 (i) a total of \$400,000, including the proceeds from subsections (9)(c)(i) and (10)(b)(i), to the coal bed  
9 methane protection account established in 76-15-904;

10 (ii) for the fiscal year ending June 30, 2003, all of the remaining proceeds to the state general fund;

11 (iii) for the fiscal years beginning on or after July 1, 2003, 50% of the remaining proceeds to the  
12 reclamation and development grants special revenue account established in 90-2-1104; and

13 (iv) for the fiscal years beginning on or after July 1, 2003, 50% of the remaining proceeds to the orphan  
14 share account established in 75-10-743.

15 (12) (a) By the dates referred to in subsection (13), the department shall, except as provided in  
16 subsection (12)(b), calculate and distribute oil and natural gas production taxes received under subsections  
17 (2)(b), (5)(b), and (6)(b) to each eligible county in proportion to the oil and natural gas production taxes received  
18 under subsections (2)(b), (5)(b), and (6)(b) that are attributable to production in that county.

19 (b) The department shall distribute 5% of the oil and natural gas production taxes received under  
20 subsections (2)(b), (5)(b), and (6)(b) from pre-1999 wells to eligible counties in proportion to the underfunding  
21 that would have occurred from the tax liability distribution of pre-1985 oil and natural gas production taxes for  
22 production in calendar year 1997.

23 (c) Except as provided in subsection (12)(d), the county treasurer shall distribute the money received  
24 under subsection (12)(b) to the taxing units that levied mills in fiscal year 1990 against calendar year 1988  
25 production in the same manner that all other property tax proceeds were distributed during fiscal year 1990 in  
26 the taxing unit, except that a distribution may not be made to a municipal taxing unit.

27 (d) The board of county commissioners of a county may direct the county treasurer to reallocate the  
28 distribution of oil and natural gas production tax money that would have gone to a taxing unit, as provided in  
29 subsection (12)(c), to another taxing unit or taxing units, other than an elementary school or high school, within  
30 the county under the following conditions:

1 (i) The county treasurer shall first allocate the oil and natural gas production taxes to the taxing units  
2 within the county in the same proportion that all other property tax proceeds were distributed in the county in  
3 fiscal year 1990.

4 (ii) If the allocation in subsection (12)(d)(i) exceeds the total budget for a taxing unit, the commissioners  
5 may direct the county treasurer to allocate the excess to any taxing unit within the county.

6 (e) The board of trustees of an elementary or high school district may reallocate the oil and natural gas  
7 production taxes distributed to the district by the county treasurer under the following conditions:

8 (i) The district shall first allocate the oil and natural gas production taxes to the budgeted funds of the  
9 district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year  
10 1990.

11 (ii) If the allocation under subsection (12)(e)(i) exceeds the total budget for a fund, the trustees may  
12 allocate the excess to any budgeted fund of the school district.

13 (f) The county treasurer shall distribute oil and natural gas production taxes received under subsection  
14 (12)(a) between county and school taxing units in the relative proportions required by the levies for state, county,  
15 and school district purposes in the same manner as property taxes were distributed in the preceding fiscal year.

16 (g) The allocation to the county in subsection (12)(f) must be distributed by the county treasurer in the  
17 relative proportions required by the levies for county taxing units and in the same manner as property taxes were  
18 distributed in the preceding fiscal year.

19 (h) The money distributed in subsection (12)(f) that is required for the county mill levies for school  
20 district retirement obligations and transportation schedules must be deposited to the funds established for these  
21 purposes.

22 (i) The oil and natural gas production taxes distributed under subsection (12)(c) that are required for  
23 the 6-mill university levy imposed under 20-25-423 and for the county equalization levies imposed under  
24 20-9-331 and 20-9-333, as those sections read on July 1, 1989, must be remitted by the county treasurer to the  
25 department.

26 (j) The oil and natural gas production taxes distributed under subsection (12)(f) that are required for the  
27 6-mill university levy imposed under 20-25-423, for the county equalization levies imposed under 20-9-331 and  
28 20-9-333, and for the state equalization aid levy imposed under 20-9-360 must be remitted by the county  
29 treasurer to the department.

30 (k) The amount of oil and natural gas production taxes remaining after the treasurer has remitted the

1 amounts determined in subsections (12)(i) and (12)(j) is for the exclusive use and benefit of the county and  
2 school taxing units.

3 (13) The department shall remit the amounts to be distributed in subsection (12) to the county treasurer  
4 by the following dates:

5 (a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural  
6 gas production tax payments received for the calendar quarter ending March 31 of the current year.

7 (b) On or before November 1 of each year, the department shall remit to the county treasurer oil and  
8 natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

9 (c) On or before February 1 of each year, the department shall remit to the county treasurer oil and  
10 natural gas production tax payments received for the calendar quarter ending September 30 of the previous  
11 year.

12 (d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural  
13 gas production tax payments received for the calendar quarter ending December 31 of the previous calendar  
14 year.

15 (14) The department shall provide to each county by May 31 of each year the amount of gross taxable  
16 value represented by all types of production taxed under 15-36-304 for the previous calendar year multiplied by  
17 60%. The resulting value must be treated as taxable value for county classification purposes.

18 (15) (a) In the event that the board revises the privilege and license tax pursuant to 82-11-131, the  
19 department shall, by rule, change the formula under this section for distribution of taxes collected under  
20 15-36-304. The revised formula must provide for the distribution of taxes in an amount equal to the rate adopted  
21 by the board for its expenses.

22 (b) Before the department adopts a rule pursuant to subsection (15)(a), it shall present the proposed  
23 rule to the appropriate administrative rule review committee.

24 (16) The distribution to taxing units under this section is statutorily appropriated as provided in 17-7-502.  
25 (Terminates June 30, 2011--sec. 10, Ch. 531, L. 2001; sec. 8(2), Ch. 12, Sp. L. August 2002.)

26 **15-36-324. (Effective July 1, 2011) Distribution of taxes -- rules.** (1) For each calendar quarter, the  
27 department shall determine the amount of tax, late payment interest, and penalty collected under this part. For  
28 purposes of distribution of the taxes to county and school taxing units, the department shall determine the  
29 amount of oil and natural gas production taxes paid on production in the taxing unit.

30 (2) Except as provided in subsections (3) through (5), oil production taxes must be distributed as

1 follows:

2 (a) The amount equal to 39.3% of the oil production taxes, including late payment interest and penalty,  
3 collected under this part must be distributed as provided in subsection (9).

4 (b) The remaining 60.7% of the oil production taxes, plus accumulated interest earned on the amount  
5 allocated under this subsection (2)(b), must be deposited in the state special revenue fund in the state treasury  
6 and transferred to the county and school taxing units for distribution as provided in subsection (12).

7 (3) The amount equal to 100% of the oil production taxes, including late payment interest and penalty,  
8 collected from working interest owners on qualifying production occurring during the first 12 months of production  
9 must be distributed as provided in subsection (10).

10 (4) (a) The amount equal to 100% of the oil production taxes, including late payment interest and  
11 penalty, collected from working interest owners on production from horizontally completed wells occurring during  
12 the first 18 months of production must be distributed as provided in subsection (10).

13 (b) The amount equal to 100% of the oil production taxes, including late payment interest and penalty,  
14 collected from working interest owners on the incremental production from horizontally recompleted wells  
15 occurring during the first 18 months of production must be distributed as provided in subsection (9).

16 (5) (a) The amount equal to 13.8% of the oil production taxes, including late payment interest and  
17 penalty, collected from working interest owners on the first 10 barrels of stripper oil production wells must be  
18 distributed as provided in subsection (10).

19 (b) The remaining 86.2% of the oil production taxes, plus accumulated interest earned on the amount  
20 allocated under this subsection (5)(b), must be deposited in the state special revenue fund in the state treasury  
21 and transferred to the county and school taxing units for distribution as provided in subsection (12).

22 (c) The amount equal to 100% of the oil production taxes, including late payment interest and penalty,  
23 collected from working interest owners on stripper well exemption production from pre-1999 wells and post-1999  
24 wells must be distributed as provided in subsection (10).

25 (6) Except as provided in subsections (7) and (8), natural gas production taxes must be allocated as  
26 follows:

27 (a) The amount equal to 14% of the natural gas production taxes, including late payment interest and  
28 penalty, collected under this part must be distributed as provided in subsection (11).

29 (b) The remaining 86% of the natural gas production taxes, plus accumulated interest earned on the  
30 amount allocated under this subsection (6)(b), must be deposited in the state special revenue fund in the state

1 treasury and transferred to the county and school taxing units for distribution as provided in subsection (12).

2 (7) The amount equal to 100% of the natural gas production taxes, including late payment interest and  
3 penalty, collected from working interest owners under this part on production from wells occurring during the first  
4 12 months of production must be distributed as provided in subsection (10).

5 (8) The amount equal to 100% of natural gas production taxes, including late payment interest and  
6 penalty, collected from working interest owners on production from horizontally completed wells occurring during  
7 the first 18 months of production must be distributed as provided in subsection (10).

8 (9) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of  
9 oil production taxes specified in subsections (2)(a) and (4)(b), including late payment interest and penalty  
10 collected, as follows:

11 (a) 86.21% to the state general fund;

12 (b) 5.17% to the state special revenue fund for the purpose of paying expenses of the board as provided  
13 in 82-11-135; and

14 (c) 8.62% to be distributed as follows:

15 (i) 50% to the resource indemnity trust fund of the nonexpendable trust fund type;

16 (ii) 25% to the reclamation and development grants special revenue account established in 90-2-1104;  
17 and

18 (iii) 25% to the orphan share account established in 75-10-743.

19 (10) The department shall distribute the state portion of oil and natural gas production taxes specified  
20 in subsections (3), (4)(a), (5)(a), (5)(c), (7), and (8), including late payment interest and penalty collected, as  
21 follows:

22 (a) 37.5% to the state special revenue fund for the purpose of paying expenses of the board as provided  
23 in 82-11-135; and

24 (b) 62.5% to be distributed as follows:

25 (i) 50% to the resource indemnity trust fund of the nonexpendable trust fund type;

26 (ii) 25% to the reclamation and development grants special revenue account established by 90-2-1104;  
27 and

28 (iii) 25% to the orphan share account established in 75-10-743.

29 (11) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of  
30 natural gas production taxes specified in subsection (6)(a), including late payment interest and penalty collected,



as follows:

(a) 76.8% to ~~be distributed as follows~~ IN THE FOLLOWING ORDER:

(i) \$2.915 million to the state general fund; and

(ii) all of the remaining proceeds \$3.085 MILLION to the school flexibility account created in 20-9-542 FOR DISTRIBUTION IN THE ENSUING FISCAL YEAR; AND

(III) ALL OF THE REMAINING PROCEEDS TO THE STATE GENERAL FUND;

(b) 8.7% to the state special revenue fund for the purpose of paying expenses of the board as provided in 82-11-135; and

(c) 14.5% to be distributed as follows:

(i) 50% to the resource indemnity trust fund of the nonexpendable trust fund type;

(ii) 25% to the reclamation and development grants special revenue account established in 90-2-1104;

and

(iii) 25% to the orphan share account established in 75-10-743.

(12) (a) By the dates referred to in subsection (13), the department shall, except as provided in subsection (12)(b), calculate and distribute oil and natural gas production taxes received under subsections (2)(b), (5)(b), and (6)(b) to each eligible county in proportion to the oil and natural gas production taxes received under subsections (2)(b), (5)(b), and (6)(b) that are attributable to production in that county.

(b) The department shall distribute 5% of the oil and natural gas production taxes received under subsections (2)(b), (5)(b), and (6)(b) from pre-1999 wells to eligible counties in proportion to the underfunding that would have occurred from the tax liability distribution of pre-1985 oil and natural gas production taxes for production in calendar year 1997.

(c) Except as provided in subsection (12)(d), the county treasurer shall distribute the money received under subsection (12)(b) to the taxing units that levied mills in fiscal year 1990 against calendar year 1988 production in the same manner that all other property tax proceeds were distributed during fiscal year 1990 in the taxing unit, except that a distribution may not be made to a municipal taxing unit.

(d) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of oil and natural gas production tax money that would have gone to a taxing unit, as provided in subsection (12)(c), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(i) The county treasurer shall first allocate the oil and natural gas production taxes to the taxing units

1 within the county in the same proportion that all other property tax proceeds were distributed in the county in  
2 fiscal year 1990.

3 (ii) If the allocation in subsection (12)(d)(i) exceeds the total budget for a taxing unit, the commissioners  
4 may direct the county treasurer to allocate the excess to any taxing unit within the county.

5 (e) The board of trustees of an elementary or high school district may reallocate the oil and natural gas  
6 production taxes distributed to the district by the county treasurer under the following conditions:

7 (i) The district shall first allocate the oil and natural gas production taxes to the budgeted funds of the  
8 district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year  
9 1990.

10 (ii) If the allocation under subsection (12)(e)(i) exceeds the total budget for a fund, the trustees may  
11 allocate the excess to any budgeted fund of the school district.

12 (f) The county treasurer shall distribute oil and natural gas production taxes received under subsection  
13 (12)(a) between county and school taxing units in the relative proportions required by the levies for state, county,  
14 and school district purposes in the same manner as property taxes were distributed in the preceding fiscal year.

15 (g) The allocation to the county in subsection (12)(f) must be distributed by the county treasurer in the  
16 relative proportions required by the levies for county taxing units and in the same manner as property taxes were  
17 distributed in the preceding fiscal year.

18 (h) The money distributed in subsection (12)(f) that is required for the county mill levies for school  
19 district retirement obligations and transportation schedules must be deposited to the funds established for these  
20 purposes.

21 (i) The oil and natural gas production taxes distributed under subsection (12)(c) that are required for  
22 the 6-mill university levy imposed under 20-25-423 and for the county equalization levies imposed under  
23 20-9-331 and 20-9-333, as those sections read on July 1, 1989, must be remitted by the county treasurer to the  
24 department.

25 (j) The oil and natural gas production taxes distributed under subsection (12)(f) that are required for the  
26 6-mill university levy imposed under 20-25-423, for the county equalization levies imposed under 20-9-331 and  
27 20-9-333, and for the state equalization aid levy imposed under 20-9-360 must be remitted by the county  
28 treasurer to the department.

29 (k) The amount of oil and natural gas production taxes remaining after the treasurer has remitted the  
30 amounts determined in subsections (12)(i) and (12)(j) is for the exclusive use and benefit of the county and

1 school taxing units.

2 (13) The department shall remit the amounts to be distributed in subsection (12) to the county treasurer  
3 by the following dates:

4 (a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural  
5 gas production tax payments received for the calendar quarter ending March 31 of the current year.

6 (b) On or before November 1 of each year, the department shall remit to the county treasurer oil and  
7 natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

8 (c) On or before February 1 of each year, the department shall remit to the county treasurer oil and  
9 natural gas production tax payments received for the calendar quarter ending September 30 of the previous  
10 year.

11 (d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural  
12 gas production tax payments received for the calendar quarter ending December 31 of the previous calendar  
13 year.

14 (14) The department shall provide to each county by May 31 of each year the amount of gross taxable  
15 value represented by all types of production taxed under 15-36-304 for the previous calendar year multiplied by  
16 60%. The resulting value must be treated as taxable value for county classification purposes.

17 (15) (a) In the event that the board revises the privilege and license tax pursuant to 82-11-131, the  
18 department shall, by rule, change the formula under this section for distribution of taxes collected under  
19 15-36-304. The revised formula must provide for the distribution of taxes in an amount equal to the rate adopted  
20 by the board for its expenses.

21 (b) Before the department adopts a rule pursuant to subsection (15)(a), it shall present the proposed  
22 rule to the appropriate administrative rule review committee.

23 (16) The distribution to taxing units under this section is statutorily appropriated as provided in 17-7-502."  
24

25 **SECTION 2. SECTION 20-9-544, MCA, IS AMENDED TO READ:**

26 **"20-9-544. District school flexibility fund levy.** (1) In addition to the money allocated in 20-9-542 for  
27 a district's school flexibility fund, the trustees of a school district may submit a proposition to the qualified electors  
28 of the district to approve a levy for the ensuing school year in an amount not to exceed 25% of the district's  
29 current year allocation in 20-9-542 to fund the school flexibility fund authorized under 20-9-543. An election  
30 called pursuant to this section must be called and conducted in the manner prescribed by this title for school

1 elections. The ballot for a proposition must provide "FOR" and "AGAINST" provisions, stating whether the district  
2 is authorized to impose a levy of (state the dollars) dollars and (state the approximate number of mills) mills to  
3 fund the school flexibility fund in the school district. The school flexibility fund proposition is approved if a majority  
4 of those electors voting at the election approve the levy.

5 (2) Money collected from the levy must be deposited in the district's school flexibility fund and spent in  
6 accordance with 20-9-543."

7  
8 NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2003.

9 - END -