

HOUSE BILL NO. 388

INTRODUCED BY K. VAN DYK

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3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A QUALITY EDUCATOR ENERGY FOR EDUCATION
5 PAYMENT; IMPOSING A SURTAX ON OIL AND NATURAL GAS PRODUCTION TO FUND THE PAYMENT;
6 PROVIDING FOR THE ALLOCATION AND DISTRIBUTION OF THE PAYMENT; REQUIRING SCHOOL
7 DISTRICTS TO ANNUALLY REPORT TO THE OFFICE OF PUBLIC INSTRUCTION ON THE USE OF THE
8 PAYMENTS; PROVIDING FOR THE COLLECTION AND ADMINISTRATION OF THE SURTAX; PROVIDING
9 A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING EFFECTIVE
10 DATES AND AN APPLICABILITY DATE."

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

13
14 **NEW SECTION. Section 1. Surtax on oil and natural gas production for quality educator energy**
15 **for education payment.** (1) In addition to the taxes imposed under 15-36-304, there is a surtax imposed on oil
16 and natural gas production.

17 (2) The surtax on oil production and natural gas production is as follows:

18 (a) \$1 for each barrel of oil produced and sold in the calendar quarter; and

19 (b) \$0.08 per thousand cubic feet of natural gas produced and sold in the calendar quarter.

20 (3) The provisions of 15-36-310 through 15-36-315, 15-36-319, 15-36-321, and 15-36-322 apply to the
21 collection and administration of the surtax.

22 (4) Oil and natural gas surtax collections are not subject to the distribution of taxes provided for in
23 15-36-331.

24 (5) The department shall deposit the surtax collected under this section in an account in the state special
25 revenue fund to be used for the quality educator energy for education payment under [section 2]. Interest and
26 income earned on the account must be deposited in the account.

27 (6) On or before November 1 of each year, the department shall report the amount of surtaxes, late
28 payment interest, and penalties collected under this section for the prior fiscal year ending June 30 to the office
29 of budget and program planning.

30 (7) On or before November 15 of each year, 4.2% of the total revenue reported under subsection (6)

1 must be transferred from the account to the state general fund.

2 (8) The money remaining in the account after the transfer provided for in subsection (7) is statutorily
3 appropriated, as provided in 17-7-502, to the agencies and institutions listed in [section 2(3)] for distribution to
4 the appropriate entities.

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6 **NEW SECTION. Section 2. Quality educator energy for education payment -- distribution.** (1) On
7 or before December 1 of each year, the state shall provide a quality educator energy for education payment to
8 the entities that receive a quality educator payment under 20-9-327.

9 (2) The office of budget and program planning shall determine the amount of the quality educator energy
10 for education payment for each entity by:

11 (a) determining the amount of surtaxes, late payment interest, and penalties collected for the prior fiscal
12 year and interest earned on the account provided for in [section 1], as reported by the department of revenue,
13 less the amount of money transferred to the general fund under [section 1(7)] and dividing that sum by the total
14 number of full-time equivalent educators as determined under 20-9-327(3) in the prior school year; and

15 (b) multiplying the amount determined under subsection (2)(a) by the number of full-time equivalent
16 educators reported for each entity under 20-9-327(3).

17 (3) The quality educator energy for education payment must be distributed to the office of public
18 instruction, the Montana school for the deaf and blind, the department of corrections, and to the department of
19 military affairs for payment to entities entitled to receive a quality educator payment under 20-9-327.

20 (4) The quality educator energy for education payment made to a school district may not be considered
21 part of the district's BASE budget as that term is defined in 20-9-306.

22 (5) Each public school district shall deposit the quality educator energy for education payment in the
23 district's miscellaneous programs fund for the purposes of recruiting and retaining quality educators.

24 (6) Each public school district shall file an annual report with the office of public instruction, on a form
25 prescribed by the superintendent of public instruction, that specifies how the quality educator energy for education
26 payment funds were expended.

27
28 **Section 3.** Section 17-7-502, MCA, is amended to read:

29 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
30 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the

1 need for a biennial legislative appropriation or budget amendment.

2 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
3 of the following provisions:

4 (a) The law containing the statutory authority must be listed in subsection (3).

5 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
6 appropriation is made as provided in this section.

7 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
8 5-11-407; 5-13-403; 7-4-2502; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314;
9 10-4-301; 15-1-121; 15-1-218; 15-23-706; 15-31-906; 15-35-108; 15-36-332; section 1; 15-37-117; 15-39-110;
10 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101;
11 17-7-304; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305;
12 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105;
13 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204;
14 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703;
15 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150;
16 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-1-115; 90-1-205;
17 90-3-1003; and 90-9-306.

18 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
19 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
20 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
21 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
22 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
23 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
24 of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is
25 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014;
26 pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108
27 terminates June 30, 2010; pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January
28 1, 2010; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last
29 recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; and pursuant to sec. 6,
30 Ch. 2, Sp. L. September 2007, the inclusion of 76-13-150 terminates June 30, 2009.)"

