

## 1 HOUSE BILL NO. 675

2 INTRODUCED BY B. WISEMAN

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN ENERGY EDUCATION TRUST FUND TO  
5 SUPPLANT STATEWIDE SCHOOL PROPERTY TAX MILL LEVIES; PROVIDING THAT THE TRUST FUND  
6 RECEIVES REVENUE FROM ABOLISHING OIL AND GAS PRODUCTION TAX HOLIDAYS AND A PORTION  
7 OF THE COAL SEVERANCE TAX; PROVIDING FOR A DISTRIBUTION TO COUNTIES OF OIL AND GAS  
8 PRODUCTION TAX REVENUE; AMENDING SECTIONS 15-10-420, 15-36-303, 15-35-108, 15-36-304,  
9 15-36-331, 15-36-332, 20-9-308, 20-9-331, 20-9-333, AND 20-9-360, MCA; AND PROVIDING AN  
10 APPLICABILITY DATE."

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

13  
14 NEW SECTION. **Section 1. Energy education trust fund account -- supplant property taxes for**  
15 **equalization aid.** (1) There is an energy education trust fund account in the state special revenue fund in the  
16 state treasury. The money in the account is allocated for funding state school equalization aid by supplanting  
17 funds that would otherwise be collected by property taxes under 20-9-331, 20-9-333, and 20-9-360.

18 (2) The interest and income earned on the energy education trust fund account must be redeposited in  
19 the account.

20 (3) On April 1 of each year, 5% of the principal of the energy education trust fund account must be  
21 deposited in the general fund to supplant money that would have been collected by property taxes for school  
22 equalization aid under 20-9-331, 20-9-333, and 20-9-360, by reducing the number of mills authorized to be levied.  
23 The department of revenue shall, when calculating the number of statewide mills to be levied under 15-10-420(8),  
24 reduce the number of mills levied by the number of mills that would have been required to have been levied by  
25 the amount of money deposited in the general fund from the energy education trust fund account. The department  
26 shall reduce the levy under 20-9-360 until it reaches zero mills, then reduce the levy under 20-9-331 until it  
27 reaches zero mills, and then reduce the levy under 20-9-333.

28  
29 **Section 2.** Section 15-10-420, MCA, is amended to read:

30 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a

1 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount  
2 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3  
3 years. The maximum number of mills that a governmental entity may impose is established by calculating the  
4 number of mills required to generate the amount of property tax actually assessed in the governmental unit in the  
5 prior year based on the current year taxable value, less the current year's value of newly taxable property, plus  
6 one-half of the average rate of inflation for the prior 3 years.

7 (b) A governmental entity that does not impose the maximum number of mills authorized under  
8 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between  
9 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority  
10 carried forward may be imposed in a subsequent tax year.

11 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of  
12 inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using  
13 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

14 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional  
15 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly  
16 taxable property.

17 (3) (a) For purposes of this section, newly taxable property includes:

18 (i) annexation of real property and improvements into a taxing unit;

19 (ii) construction, expansion, or remodeling of improvements;

20 (iii) transfer of property into a taxing unit;

21 (iv) subdivision of real property; and

22 (v) transfer of property from tax-exempt to taxable status.

23 (b) Newly taxable property does not include an increase in value that arises because of an increase in  
24 the incremental value within a tax increment financing district.

25 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the  
26 release of taxable value from the incremental taxable value of a tax increment financing district because of:

27 (i) a change in the boundary of a tax increment financing district;

28 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

29 (iii) the termination of a tax increment financing district.

30 (b) If a tax increment financing district terminates prior to the certification of taxable values as required

1 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment  
2 financing district terminates. If a tax increment financing district terminates after the certification of taxable values  
3 as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

4 (c) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real  
5 property that results in the property being taxable as class four property or as nonqualified agricultural land as  
6 described in 15-6-133(1)(c).

7 (5) Subject to subsection (8), subsection (1)(a) does not apply to:

8 (a) school district levies established in Title 20; or

9 (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits  
10 excluded under 2-9-212 or 2-18-703.

11 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received  
12 under 15-6-131 and 15-6-132.

13 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may  
14 increase the number of mills to account for a decrease in reimbursements.

15 (8) ~~The Subject to the provisions of [section 1], the~~ department shall calculate, on a statewide basis, the  
16 number of mills to be imposed for purposes of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and  
17 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits  
18 established in those sections. The mill calculation must be established in whole mills. If the mill levy calculation  
19 does not result in a whole number of mills, then the calculation must be rounded up to the nearest whole mill.

20 (9) (a) The provisions of subsection (1) do not prevent or restrict:

21 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

22 (ii) a levy to repay taxes paid under protest as provided in 15-1-402;

23 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326; or

24 (iv) a levy for the support of a study commission under 7-3-184.

25 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes  
26 actually assessed in a subsequent year.

27 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402,  
28 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport  
29 authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating  
30 funds by a county or municipality during that time.

1 (11) The department may adopt rules to implement this section. The rules may include a method for  
2 calculating the percentage of change in valuation for purposes of determining the elimination of property, new  
3 improvements, or newly taxable property in a governmental unit."

4

5 **Section 3.** Section 15-36-303, MCA, is amended to read:

6 **"15-36-303. Definitions.** As used in this part, the following definitions apply:

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

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

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

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

14 (5) "Expanded enhanced recovery project" or "expansion" means the addition of injection wells or  
15 production wells, the recompletion of existing wells as horizontally completed wells, the change of an injection  
16 pattern, or other operating changes to an existing enhanced recovery project that will result in the recovery of oil  
17 that would not otherwise be recovered. The project must be developed after December 31, 1993.

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

20 (7) "Horizontal drain hole" means that portion of a well bore with 70 degrees to 110 degrees deviation  
21 from the vertical and a horizontal projection within the common source of supply, as that term is defined by the  
22 board, that exceeds 100 feet.

23 (8) "Horizontally completed well" means:

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

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

26 (9) "Incremental production" means:

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

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

- 1 (ii) expansion of the existing enhanced recovery project; or  
2 (iii) commencing a new enhanced recovery project; or  
3 (b) in the case of any project that had no taxable production prior to commencing the enhanced recovery  
4 project, all production of oil from the enhanced recovery project.
- 5 (10) "Natural gas" or "gas" means natural gas and other fluid hydrocarbons, other than oil, produced at  
6 the wellhead.
- 7 (11) "New enhanced recovery project" means an enhanced recovery project that began development  
8 after December 31, 1993.
- 9 (12) "Nonworking interest owner" means any interest owner who does not share in the exploration,  
10 development, and operation costs of the lease or unit, except for production taxes.
- 11 (13) "Oil" means crude petroleum or mineral oil and other hydrocarbons, regardless of gravity, that are  
12 produced at the wellhead in liquid form and that are not the result of condensation of gas after it leaves the  
13 wellhead.
- 14 (14) "Operator" or "producer" means a person who produces oil or natural gas within this state or who  
15 owns, controls, manages, leases, or operates within this state any well or wells from which any marketable oil  
16 or natural gas is extracted or produced.
- 17 (15) "Post-1999 well" means an oil or natural gas well drilled on or after January 1, 1999, that produces  
18 oil or natural gas or a well that has not produced oil or natural gas during the 5 years immediately preceding the  
19 first month of qualifying as a post-1999 well.
- 20 (16) "Pre-1999 well" means an oil or natural gas well that was drilled before January 1, 1999.
- 21 (17) "Primary recovery" means the displacement of oil from the earth into the well bore by means of the  
22 natural pressure of the oil reservoir and includes artificial lift.
- 23 (18) "Production decline rate" means the projected rate of future oil production, extrapolated by a method  
24 approved by the board, that must be determined for a project area prior to commencing a new or expanded  
25 enhanced recovery project or the recompletion of a well as a horizontally completed well. The approved  
26 production decline rate must be certified in writing to the department by the board. In that certification, the board  
27 shall identify the project area and shall specify the projected rate of future oil production by calendar year and  
28 by calendar quarter within each year. The certified rate of future oil production must be used to determine the  
29 volume of incremental production that qualifies for the tax rate imposed under ~~15-36-304(5)(e)~~(3)(e).
- 30 (19) (a) "Qualifying production" means the first 12 months of production of oil or natural gas from a well

1 drilled after December 31, 1998, or the first 18 months of production of oil or natural gas from a horizontally  
2 completed well drilled after December 31, 1998, or from a well that has not produced oil or natural gas during the  
3 5 years immediately preceding the first month of qualifying production.

4 (b) Qualifying production does not include oil production from a horizontally recompleted well.

5 (20) "Secondary recovery project" means an enhanced recovery project, other than a tertiary recovery  
6 project, that commenced or was expanded after December 31, 1993, and meets each of the following  
7 requirements:

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

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

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

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

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

20 (21) "Stripper natural gas" means the natural gas produced from any well that produces less than 60,000  
21 cubic feet of natural gas a day during the calendar year immediately preceding the current year. Production must  
22 be determined by dividing the amount of production from a lease or unitized area for the year immediately  
23 preceding the current calendar year by the number of producing wells in the lease or unitized area and by dividing  
24 the resulting quotient by 365.

25 (22) (a) "Stripper oil" means the oil produced from any well that produces more than 3 barrels but less  
26 than 15 barrels a day for the calendar year immediately preceding the current year if the average price for a barrel  
27 of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less  
28 than \$30 a barrel. If the price of oil is equal to or greater than \$30 a barrel in a calendar quarter, there is no  
29 stripper tax rate in that quarter.

30 (b) The average price for a barrel is computed by dividing the sum of the daily price for west Texas

1 intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days on  
2 which the price was reported in the quarter.

3 (c) Production must be determined by dividing the amount of production from a lease or unitized area  
4 for the year immediately preceding the current calendar year by the number of producing wells in the lease or  
5 unitized area and by dividing the resulting quotient by 365.

6 (23) "Stripper well exemption" or "stripper well bonus" means petroleum and other mineral or crude oil  
7 produced by a stripper well that produces 3 barrels a day or less. Production from this type of well must be  
8 determined as provided in subsection (22)(c).

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

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

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

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

19 (i) miscible fluid displacement;

20 (ii) steam drive injection;

21 (iii) micellar/emulsion flooding;

22 (iv) in situ combustion;

23 (v) polymer augmented water flooding;

24 (vi) cyclic steam injection;

25 (vii) alkaline or caustic flooding;

26 (viii) carbon dioxide water flooding;

27 (ix) immiscible carbon dioxide displacement; or

28 (x) any other method approved by the board as a tertiary recovery method.

29 (25) "Well" or "wells" means a single well or a group of wells in one field or production unit and under the  
30 control of one operator or producer.

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

3

4 **Section 4.** Section 15-35-108, MCA, is amended to read:

5 **"15-35-108. (Temporary) Disposal of severance taxes.** Severance taxes collected under this chapter  
6 must, in accordance with the provisions of 17-2-124, be allocated as follows:

7 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,  
8 section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under  
9 17-6-203(6) and invested by the board of investments as provided by law.

10 (2) The amount of 12% of coal severance tax collections is allocated to the long-range building program  
11 account established in 17-7-205.

12 (3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated  
13 by the legislature for provision of basic library services for the residents of all counties through library federations  
14 and for payment of the costs of participating in regional and national networking, conservation districts, and the  
15 Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account.  
16 Money may not be transferred from this account to another account other than the general fund. Any unreserved  
17 fund balance at the end of each fiscal year must be deposited in the general fund.

18 (4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks  
19 acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses,  
20 must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas  
21 described in 23-1-102.

22 (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable  
23 resource loan debt service fund.

24 (6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art  
25 in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding  
26 unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other  
27 cultural and aesthetic projects.

28 (7) The amount of 2.9% must be credited to the oil, gas, and coal natural resource account established  
29 in 90-6-1001.

30 (8) The amount of 0.3% must be credited to the energy education trust fund account established in

1 [section 1].

2 ~~(8)~~(9) After the allocations are made under subsections (2) through ~~(7)~~ (8), \$250,000 for the fiscal year  
3 must be credited to the coal and uranium mine permitting and reclamation program account established in  
4 82-4-244.

5 ~~(9)~~(10) (a) Subject to subsection ~~(9)(b)~~ (10)(b), all other revenue from severance taxes collected under  
6 the provisions of this chapter must be credited to the general fund of the state.

7 (b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited  
8 in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

9 (i) \$65,000 to the cooperative development center;

10 (ii) \$1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;

11 (iii) \$3.65 million to the research and commercialization state special revenue account created in  
12 90-3-1002;

13 (iv) to the department of commerce:

14 (A) \$125,000 for a small business development center;

15 (B) \$50,000 for a small business innovative research program;

16 (C) \$425,000 for certified regional development corporations;

17 (D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman;

18 and

19 (E) \$300,000 for export trade enhancement. (Terminates June 30, 2010--sec. 6, Ch. 481, L. 2003.)

20 **15-35-108. (Effective July 1, 2010) Disposal of severance taxes.** Severance taxes collected under  
21 this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

22 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,  
23 section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under  
24 17-6-203(6) and invested by the board of investments as provided by law.

25 (2) The amount of 12% of coal severance tax collections is allocated to the long-range building program  
26 account established in 17-7-205.

27 (3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated  
28 by the legislature for provision of basic library services for the residents of all counties through library federations  
29 and for payment of the costs of participating in regional and national networking, conservation districts, and the  
30 Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account.

1 Money may not be transferred from this account to another account other than the general fund. Any unreserved  
2 fund balance at the end of each fiscal year must be deposited in the general fund.

3 (4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks  
4 acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses,  
5 must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas  
6 described in 23-1-102.

7 (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable  
8 resource loan debt service fund.

9 (6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art  
10 in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding  
11 unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other  
12 cultural and aesthetic projects.

13 (7) The amount of 2.9% must be credited to the oil, gas, and coal natural resource account established  
14 in 90-6-1001.

15 (8) The amount of 0.3% must be credited to the energy education trust fund account established in  
16 [section 1].

17 ~~(8)~~(9) After the allocations are made under subsections (2) through ~~(7)~~ (8), \$250,000 for the fiscal year  
18 must be credited to the coal and uranium mine permitting and reclamation program account established in  
19 82-4-244.

20 ~~(9)~~(10) All other revenue from severance taxes collected under the provisions of this chapter must be  
21 credited to the general fund of the state."  
22

23 **Section 5.** Section 15-36-304, MCA, is amended to read:

24 **"15-36-304. Production tax rates imposed on oil and natural gas -- exemption.** (1) The production  
25 of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-331 and  
26 15-36-332.

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

29		Working	Nonworking
30		Interest	Interest

1	(a) (i) first 12 months of qualifying production	0.5%	14.8%
2	<del>(ii) after 12 months:</del>		
3	<del>(A)(i) pre-1999 wells</del>	14.8%	14.8%
4	<del>(B)(ii) post-1999 wells</del>	9%	14.8%
5	(b) stripper natural gas pre-1999 wells	11%	14.8%
6	(c) horizontally completed well production:		
7	<del>(i) first 18 months of qualifying production</del>	0.5%	14.8%
8	<del>(ii) after 18 months</del>	9%	14.8%

9 ~~(3) The reduced tax rates under subsection (2)(a)(i) on production for the first 12 months of natural gas~~  
 10 ~~production from a well begins following the last day of the calendar month immediately preceding the month in~~  
 11 ~~which natural gas is placed in a natural gas distribution system, provided that notification has been given to the~~  
 12 ~~department.~~

13 ~~(4) The reduced tax rate under subsection (2)(c)(i) on production from a horizontally completed well for~~  
 14 ~~the first 18 months of production begins following the last day of the calendar month immediately preceding the~~  
 15 ~~month in which natural gas is placed in a natural gas distribution system, provided that notification has been given~~  
 16 ~~to the department.~~

17 ~~(5)(3) Oil is taxed on the gross taxable value of production based on the type of well and type of~~  
 18 ~~production according to the following schedule for working interest and nonworking interest owners:~~

		Working	Nonworking
		Interest	Interest
21	(a) primary recovery production:		
22	<del>(i) first 12 months of qualifying production</del>	0.5%	14.8%
23	<del>(ii) after 12 months:</del>		
24	<del>(A)(i) pre-1999 wells</del>	12.5%	14.8%
25	<del>(B)(ii) post-1999 wells</del>	9%	14.8%
26	(b) stripper oil production:		
27	(i) first 1 through 10 barrels a day production	5.5%	14.8%
28	(ii) more than 10 barrels a day production	9.0%	14.8%
29	(c) (i) stripper well exemption production	0.5%	14.8%
30	(ii) stripper well bonus production	6.0%	14.8%

1	(d) horizontally completed well production:		
2	(i) first 18 months of qualifying production	0.5%	14.8%
3	<del>(ii) after 18 months:</del>		
4	(A)(i) pre-1999 wells	12.5%	14.8%
5	(B)(ii) post-1999 wells	9%	14.8%
6	(e) incremental production:		
7	(i) new or expanded secondary recovery production	8.5%	14.8%
8	(ii) new or expanded tertiary production	5.8%	14.8%
9	(f) horizontally recompleted well:		
10	(i) first 18 months	5.5%	14.8%
11	<del>(ii) after 18 months:</del>		
12	(A)(i) pre-1999 wells	12.5%	14.8%
13	(B)(ii) post-1999 wells	9%	14.8%
14	<del>(6)(4) (a) The reduced tax rates under subsection (5)(a)(i) for the first 12 months of oil production from</del>		
15	<del>a well begins following the last day of the calendar month immediately preceding the month in which oil is pumped</del>		
16	<del>or flows, provided that notification has been given to the department.</del>		
17	<del>(b) (i) The reduced tax rates under subsection (5)(d)(i) on oil production from a horizontally completed</del>		
18	<del>well for the first 18 months of production begins following the last day of the calendar month immediately</del>		
19	<del>preceding the month in which oil is pumped or flows if the well has been certified as a horizontally completed well</del>		
20	<del>to the department by the board.</del>		
21	<del>(ii) The reduced tax rate under subsection (5)(f)(i) on oil production from a horizontally recompleted well</del>		
22	<del>for the first 18 months of production begins following the last day of the calendar month immediately preceding</del>		
23	<del>the month in which oil is pumped or flows if the well has been certified as a horizontally recompleted well to the</del>		
24	<del>department by the board.</del>		
25	<del>(e)(a) Incremental production is taxed as provided in subsection (5)(e) (3)(e) only if the average price</del>		
26	<del>for each barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar</del>		
27	<del>quarter is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 a barrel in a calendar quarter</del>		
28	<del>as determined in subsection (6)(d) (4)(d), then incremental production from pre-1999 wells and from post-1999</del>		
29	<del>wells is taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) (3)(a)(i) and</del>		
30	<del>(5)(a)(ii)(B) (3)(a)(ii), respectively, for production occurring in that quarter, other than exempt stripper well</del>		

1 production.

2 ~~(d)~~(b) (i) Stripper well exemption production is taxed as provided in subsection ~~(5)(e)(i)~~ (3)(c)(i) only if  
3 the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil  
4 during a calendar quarter is less than \$38 a barrel. If the price of oil is equal to or greater than \$38 a barrel, there  
5 is no stripper well exemption tax rate and oil produced from a well that produces 3 barrels a day or less is taxed  
6 as stripper well bonus production.

7 (ii) Stripper well bonus production is subject to taxation as provided in subsection ~~(5)(e)(ii)~~ (3)(c)(ii) only  
8 if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil  
9 during a calendar quarter is equal to or greater than \$38 a barrel.

10 ~~(e)~~(c) For the purposes of subsections ~~(6)(e)~~ (4)(a) and ~~(6)(d)~~ (4)(b), the average price for each barrel  
11 must be computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the  
12 Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the quarter.

13 ~~(7)(5)~~ (a) The tax rates imposed under subsections (2) and ~~(5)~~ (3) on working interest owners and  
14 nonworking interest owners must be adjusted to include the total of the privilege and license tax adopted by the  
15 board of oil and gas conservation pursuant to 82-11-131 and the derived rate for the oil, gas, and coal natural  
16 resource account as determined under subsection ~~(7)(b)~~ (5)(b).

17 (b) The total of the privilege and license tax and the tax for the oil, gas, and coal natural resource account  
18 may not exceed 0.3%. The base rate for the tax for oil, gas, and coal natural resource account funding is 0.08%,  
19 but when the rate adopted pursuant to 82-11-131 by the board of oil and gas conservation for the privilege and  
20 license tax:

21 (i) exceeds 0.22%, the rate for the tax to fund the oil, gas, and coal natural resource account is equal  
22 to the difference between the rate adopted by the board of oil and gas conservation and 0.3%; or

23 (ii) is less than 0.18%, the rate for the tax to fund the oil, gas, and coal natural resource account is equal  
24 to the difference between the rate adopted by the board of oil and gas conservation and 0.26%.

25 (c) The board of oil and gas conservation shall give the department at least 90 days' notice of any  
26 change in the rate adopted by the board. Any rate change of the tax to fund the oil, gas, and coal natural resource  
27 account is effective at the same time that the board of oil and gas conservation rate is effective.

28 ~~(8)(6)~~ Any interest in production owned by the state or a local government is exempt from taxation under  
29 this section."

30

1           **Section 6.** Section 15-36-331, MCA, is amended to read:

2           **"15-36-331. Distribution of taxes.** (1) (a) For each calendar quarter, the department shall determine  
 3 the amount of tax, late payment interest, and penalties collected under this part.

4           (b) ~~For~~ After deducting the amount required under subsection (2)(c), for the purposes of distribution of  
 5 oil and natural gas production taxes to county and school district taxing units under 15-36-332 and to the state,  
 6 the department shall determine the amount of oil and natural gas production taxes paid on production in the  
 7 taxing unit.

8           (2) (a) The amount of oil and natural gas production taxes collected for the privilege and license tax  
 9 pursuant to 82-11-131 must be deposited, in accordance with the provisions of 17-2-124, in the state special  
 10 revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

11           (b) The amount of the tax for the oil, gas, and coal natural resource account established in 90-6-1001  
 12 must be deposited in the account.

13           (c) (i) Before making any other distributions under this section, 4% of the collections of the oil and  
 14 natural gas production tax must be deposited by the department in the energy education trust fund account  
 15 established in [section 1] and 2% of the collections of the oil and natural gas production tax must be distributed  
 16 to counties with oil production as provided in subsection (2)(c)(ii).

17           (ii) The 2% allocated for counties must be deposited in the state special revenue fund to be distributed  
 18 as provided in 15-36-332(8)(b).

19           (3) (a) For each tax year, the amount of oil and natural gas production taxes determined under  
 20 subsection (1)(b) is allocated to each county according to the following schedule:

21	Big Horn	45.05%
22	Blaine	58.39%
23	Carbon	48.27%
24	Chouteau	58.14%
25	Custer	69.53%
26	Daniels	50.81%
27	Dawson	47.79%
28	Fallon	41.78%
29	Fergus	69.18%
30	Garfield	45.96%

1	Glacier	58.83%
2	Golden Valley	58.37%
3	Hill	64.51%
4	Liberty	57.94%
5	McCone	49.92%
6	Musselshell	48.64%
7	Petroleum	48.04%
8	Phillips	54.02%
9	Pondera	54.26%
10	Powder River	60.9%
11	Prairie	40.38%
12	Richland	47.47%
13	Roosevelt	45.71%
14	Rosebud	39.33%
15	Sheridan	47.99%
16	Stillwater	53.51%
17	Sweet Grass	61.24%
18	Teton	46.1%
19	Toole	57.61%
20	Valley	51.43%
21	Wibaux	49.16%
22	Yellowstone	46.74%
23	All other counties	50.15%

24 (b) The oil and natural gas production taxes allocated to each county must be deposited in the state  
25 special revenue fund and transferred to each county for distribution, as provided in 15-36-332.

26 (4) The department shall, in accordance with the provisions of 17-2-124, distribute the state portion of  
27 oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as  
28 follows:

29 (a) for each fiscal year through the fiscal year ending June 30, 2011, to be distributed as follows:

30 (i) 1.23% to the coal bed methane protection account established in 76-15-904;

- 1 (ii) 1.45% to the natural resources projects state special revenue account established in 15-38-302;
- 2 (iii) 1.45% to the natural resources operations state special revenue account established in 15-38-301;
- 3 (iv) 2.99% to the orphan share account established in 75-10-743;
- 4 (v) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the
- 5 purposes of the state tax levy as provided in 20-25-423; and
- 6 (vi) all remaining proceeds to the state general fund;
- 7 (b) for fiscal years beginning after June 30, 2011, to be distributed as follows:
- 8 (i) 2.16% to the natural resources projects state special revenue account established in 15-38-302;
- 9 (ii) 2.02% to the natural resources operations state special revenue account established in 15-38-301;
- 10 (iii) 2.95% to the orphan share account established in 75-10-743;
- 11 (iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the
- 12 purposes of the state tax levy as provided in 20-25-423; and
- 13 (v) all remaining proceeds to the state general fund."

14  
 15 **Section 7.** Section 15-36-332, MCA, is amended to read:

16 **"15-36-332. Distribution of taxes to taxing units -- appropriation.** (1) (a) By the dates referred to in  
 17 subsection (6), the department shall distribute oil and natural gas production taxes allocated under 15-36-331(3)  
 18 to each eligible county.

19 (b) By the dates referred to in subsection (6), the department shall distribute the amount deposited in  
 20 the oil, gas, and coal natural resource account under 15-36-331(2)(b) and the amount allocated in  
 21 15-36-331(2)(c)(ii) as provided in subsection (8).

22 (2) (a) Each county treasurer shall distribute the amount of oil and natural gas production taxes  
 23 designated under subsection (1)(a), including the amounts referred to in subsection (2)(b), to the countywide  
 24 elementary and high school retirement funds, countywide transportation funds, and eligible school districts  
 25 according to the following schedule:

	Elementary	High School	Countywide	School
	Retirement	Retirement	Transportation	Districts
28 Big Horn	14.81%	10.36%	2.99%	26.99%
29 Blaine	5.86%	2.31%	2.71%	24.73%
30 Carbon	3.6%	6.62%	1.31%	49.18%

1	Chouteau	8.1%	4.32%	3.11%	23.79%
2	Custer	6.9%	3.4%	1.19%	31.25%
3	Daniels	0	7.77%	3.92%	48.48%
4	Dawson	5.53%	2.5%	1.11%	35.6%
5	Fallon	0	7.63%	1.24%	42.58%
6	Fergus	7.88%	4.84%	2.08%	53.25%
7	Garfield	4.04%	3.13%	5.29%	26.19%
8	Glacier	11.2%	4.87%	3.01%	46.11%
9	Golden Valley	0	11.52%	2.77%	54.65%
10	Hill	6.7%	4.07%	1.59%	49.87%
11	Liberty	4.9%	4.56%	1.15%	35.22%
12	McCone	4.18%	3.19%	2.58%	43.21%
13	Musselshell	5.98%	4.07%	3.53%	32.17%
14	Petroleum	0	11.92%	4.59%	55.48%
15	Phillips	0.43%	6.6%	1.08%	41.29%
16	Pondera	6.96%	5.06%	1.94%	45.17%
17	Powder River	3.96%	2.97%	4.57%	22.25%
18	Prairie	0	8.88%	1.63%	36.9%
19	Richland	4.1%	3.92%	2.26%	43.77%
20	Roosevelt	9.93%	7.37%	2.74%	40.94%
21	Rosebud	3.87%	2.24%	1.05%	72.97%
22	Sheridan	0	3.39%	2.22%	47.63%
23	Stillwater	6.87%	4.86%	1.63%	41.16%
24	Sweet Grass	6.12%	6.5%	2.4%	37.22%
25	Teton	6.88%	8.19%	3.8%	29.43%
26	Toole	2.78%	4.78%	1.3%	43.56%
27	Valley	2.26%	12.61%	4.63%	41.11%
28	Wibaux	0	4.1%	0.77%	31.46%
29	Yellowstone	7.98%	4.56%	1.07%	52.77%
30	All other counties	3.81%	7.84%	1.81%	41.04%

1 (b) (i) The county treasurer shall distribute 9.8% of the Custer County share to the countywide community  
2 college district in Custer County.

3 (ii) The county treasurer shall distribute 14.5% of the Dawson County share to the countywide community  
4 college district in Dawson County.

5 (3) The remaining oil and natural gas production taxes for each county must be used for the exclusive  
6 use and benefit of the county, including districts within the county established by the county.

7 (4) (a) The county treasurer shall distribute oil and natural gas production taxes to school districts in each  
8 county referred to in subsection (2) as provided in subsections (4)(b) through (4)(d).

9 (b) The amount distributed to each K-12 district within the county is equal to oil and natural gas  
10 production taxes in the county multiplied by the ratio that oil and natural gas production taxes attributable to oil  
11 and natural gas production in the K-12 school district bear to total oil and natural gas production taxes attributable  
12 to total oil and natural gas production in the county and multiply that amount by the school district percentage  
13 figure for the county referred to in subsection (2)(a).

14 (c) For the amount to be distributed to each elementary school district and to each high school district  
15 under subsection (4)(d), the department shall first determine the amount of oil and natural gas taxes in the high  
16 school district that is attributable to oil and natural gas production in each elementary school district that is located  
17 in whole or in part within the exterior boundaries of a high school district and multiply that amount by the school  
18 district percentage figure for the county referred to in subsection (2)(a).

19 (d) (i) The amount distributed to each elementary school district that is located in whole or in part within  
20 the exterior boundaries of a high school district is equal to the amount determined in subsection (4)(c) multiplied  
21 by the ratio that the total mills of the elementary school district bear to the sum of the total mills of the elementary  
22 school district and the total mills of the high school district.

23 (ii) The amount distributed to the high school district is equal to the amount determined in subsection  
24 (4)(c) multiplied by the ratio that the total mills of the high school district bear to the sum of the total mills of each  
25 elementary school district referred to in subsection (4)(c) and the total mills of the high school district.

26 (5) (a) Oil and natural gas production taxes calculated for each school district under subsections (4)(b)  
27 through (4)(d) must be distributed to each school district in the relative proportion of the mill levy for each fund.

28 (b) If a distribution under subsection (5)(a) exceeds the total budget for a school district fund, the board  
29 of trustees of an elementary or high school district may reallocate the excess to any budgeted fund of the school  
30 district.

1 (6) The department shall remit the amounts to be distributed in this section to the county treasurer by  
2 the following dates:

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

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

7 (c) On or before February 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 September 30 of the previous year.

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

11 (7) The department shall provide to each county by May 31 of each year the amount of gross taxable  
12 value represented by all types of production taxed under 15-36-304 for the previous calendar year multiplied by  
13 60%. The resulting value must be treated as taxable value for county classification purposes under 7-1-2111.

14 (8) (a) The department shall distribute the funds received under 15-36-331(2)(b) to counties based on  
15 county oil and gas production. Of the distribution to a county, one-third must be distributed to the county  
16 government and two-thirds must be distributed to incorporated cities and towns within the county. If there is more  
17 than one incorporated city or town within the county, the city and town allocation must be distributed to the cities  
18 and towns based on their relative populations.

19 (b) The department shall distribute the funds received under 15-36-331(2)(c)(ii) to counties based on  
20 county oil and gas production for use by the counties for any authorized county function.

21 (9) The distributions to taxing units and to counties and incorporated cities and towns under this section  
22 are statutorily appropriated, as provided in 17-7-502, from the state special revenue fund."

23

24 **Section 8.** Section 20-9-308, MCA, is amended to read:

25 **"20-9-308. BASE budgets and maximum general fund budgets.** (1) (a) The trustees of a district shall  
26 adopt a general fund budget that is at least equal to the BASE budget established for the district. The trustees  
27 of a district may adopt a general fund budget up to the maximum general fund budget or the previous year's  
28 general fund budget, whichever is greater.

29 (b) For purposes of the budget limitation in subsection (1)(a), the trustees may add any increase in state  
30 funding for the general fund payments in 20-9-327 through 20-9-330 to the district's previous year's general fund

1 budget.

2 (2) Whenever the trustees of a district propose to adopt a general fund budget that exceeds the BASE  
3 budget for the district and to increase the over-BASE budget levy to support the general fund budget, the trustees  
4 shall submit a proposition to the electors of the district, as provided in 20-9-353.

5 (3) The BASE budget for the district must be financed by the following sources of revenue:

6 (a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the  
7 district may be eligible, as provided in 20-9-366 through 20-9-369;

8 (b) subject to the provisions of [section 1], county equalization aid, as provided in 20-9-331 and 20-9-333;

9 (c) a district levy for support of a school not approved as an isolated school under the provisions of  
10 20-9-302;

11 (d) payments in support of special education programs under the provisions of 20-9-321;

12 (e) nonlevy revenue, as provided in 20-9-141; and

13 (f) a BASE budget levy on the taxable value of all property within the district.

14 (4) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all  
15 property within the district or other revenue available to the district, as provided in 20-9-141."

16

17 **Section 9.** Section 20-9-331, MCA, is amended to read:

18 **"20-9-331. Basic county tax for elementary equalization and other revenue for county equalization**

19 **of elementary BASE funding program.** (1) (a) Subject to 15-10-420 and [section 1], the county commissioners  
20 of each county shall levy an annual basic county tax of 33 mills on the dollar of the taxable value of all taxable  
21 property within the county, except for property subject to a tax or fee under 61-3-321(2) or (3), 61-3-529,  
22 61-3-537, 61-3-562, 61-3-570, and 67-3-204, for the purposes of elementary equalization and state BASE funding  
23 program support. The revenue collected from this levy must be apportioned to the support of the elementary  
24 BASE funding programs of the school districts in the county and to the state general fund in the following manner:

25 (b) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum  
26 of the estimated revenue identified in subsection (2) must be subtracted from the total of the BASE funding  
27 programs of all elementary districts of the county.

28 (c) If the basic levy and other revenue prescribed by this section produce more revenue than is required  
29 to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the  
30 department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon

1 occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June  
2 20 of the fiscal year for which the levy has been set.

3 (2) The revenue realized from the county's portion of the levy prescribed by this section and the revenue  
4 from the following sources must be used for the equalization of the elementary BASE funding program of the  
5 county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer  
6 in accordance with 20-9-212(1):

7 (a) the portion of the federal Taylor Grazing Act funds designated for the elementary county equalization  
8 fund under the provisions of 17-3-222;

9 (b) the portion of the federal flood control act funds distributed to a county and designated for expenditure  
10 for the benefit of the county common schools under the provisions of 17-3-232;

11 (c) all money paid into the county treasury as a result of fines for violations of law, except money paid  
12 to a justice's court, and the use of which is not otherwise specified by law;

13 (d) any money remaining at the end of the immediately preceding school fiscal year in the county  
14 treasurer's accounts for the various sources of revenue established or referred to in this section;

15 (e) any federal or state money distributed to the county as payment in lieu of property taxation, including  
16 federal forest reserve funds allocated under the provisions of 17-3-213;

17 (f) gross proceeds taxes from coal under 15-23-703; and

18 (g) oil and natural gas production taxes."

19

20 **Section 10.** Section 20-9-333, MCA, is amended to read:

21 **"20-9-333. Basic county tax for high school equalization and other revenue for county**  
22 **equalization of high school BASE funding program.** (1) (a) Subject to 15-10-420 and [section 1], the county  
23 commissioners of each county shall levy an annual basic county tax of 22 mills on the dollar of the taxable value  
24 of all taxable property within the county, except for property subject to a tax or fee under 61-3-321(2) or (3),  
25 61-3-529, 61-3-537, 61-3-562, 61-3-570, and 67-3-204, for the purposes of high school equalization and state  
26 BASE funding program support. The revenue collected from this levy must be apportioned to the support of the  
27 BASE funding programs of high school districts in the county and to the state general fund in the following  
28 manner:

29 (b) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum  
30 of the estimated revenue identified in subsection (2) must be subtracted from the sum of the county's high school

1 tuition obligation and the total of the BASE funding programs of all high school districts of the county.

2 (c) If the basic levy and other revenue prescribed by this section produce more revenue than is required  
3 to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the  
4 department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon  
5 occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June  
6 20 of the fiscal year for which the levy has been set.

7 (2) The revenue realized from the county's portion of the levy prescribed in this section and the revenue  
8 from the following sources must be used for the equalization of the high school BASE funding program of the  
9 county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer  
10 in accordance with 20-9-212(1):

11 (a) any money remaining at the end of the immediately preceding school fiscal year in the county  
12 treasurer's accounts for the various sources of revenue established in this section;

13 (b) any federal or state money distributed to the county as payment in lieu of property taxation, including  
14 federal forest reserve funds allocated under the provisions of 17-3-213;

15 (c) gross proceeds taxes from coal under 15-23-703; and

16 (d) oil and natural gas production taxes."  
17

18 **Section 11.** Section 20-9-360, MCA, is amended to read:

19 **"20-9-360. State equalization aid levy.** Subject to 15-10-420 and [section 1], there is a levy of 40 mills  
20 imposed by the county commissioners of each county on all taxable property within the state, except property for  
21 which a tax or fee is required under 61-3-321(2) or (3), 61-3-529, 61-3-537, 61-3-562, 61-3-570, and 67-3-204.  
22 Proceeds of the levy must be remitted to the department of revenue, as provided in 15-1-504, and must be  
23 deposited to the credit of the state general fund for state equalization aid to the public schools of Montana."  
24

25 **NEW SECTION. Section 12. Codification instruction.** [Section 1] is intended to be codified as an  
26 integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [section 1].  
27

28 **NEW SECTION. Section 13. Applicability.** (1) [Section 4] applies to coal proceeds distributed after  
29 June 31, 2009.

30 (2) [Section 5] applies to oil and natural produced by and sold after December 31, 2009.

1 (3) [Section 6] applies to oil and natural gas production taxes received after April 1, 2010.

2 - END -