

## HOUSE BILL NO. 630

INTRODUCED BY A. KNUDSEN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SCHOOL FUNDING; PROVIDING SCHOOL  
5 DISTRICTS GUIDANCE FOR ESTIMATING ANTICIPATED OIL AND NATURAL GAS PRODUCTION TAX  
6 REVENUE AND DIRECTING THAT THE REVENUE MAY NOT BE CAPPED BY THE STATE; ALLOWING NEW  
7 USES FOR THE SCHOOL FLEXIBILITY FUND; REQUIRING THAT AFTER RECEIVING CERTAIN LEVELS OF  
8 OIL AND GAS PRODUCTION TAX REVENUE, DISTRICTS MUST STOP RECEIVING DIRECT STATE AID AND  
9 RETURN PORTIONS OF SCHOOL FUNDING AID TO THE STATE; REQUIRING THAT OIL AND NATURAL  
10 GAS PRODUCTION TAX COLLECTIONS IN EXCESS OF THE AMOUNT ESTIMATED BY THE LEGISLATURE  
11 BE ALLOCATED TO CERTAIN FUNDS; CREATING AN OIL AND NATURAL GAS TRUST FUND TO RECEIVE  
12 A PORTION OF EXCESS OIL AND NATURAL GAS PRODUCTION TAX COLLECTIONS AND DISTRIBUTE  
13 THE REVENUE TO ELIGIBLE SCHOOL DISTRICTS; AMENDING SECTIONS 15-36-302, 15-36-332, 20-1-101,  
14 AND 20-9-543, MCA; AND PROVIDING AN EFFECTIVE DATE."

15

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

17

18 **Section 1.** Section 15-36-302, MCA, is amended to read:

19 **"15-36-302. Legislative findings and declaration of purpose.** (1) (a) The legislature finds that the  
20 extraction taxes imposed on the production of oil and natural gas have been exceedingly complex and confusing.  
21 Oil and natural gas producers have been required to file several tax forms and to pay taxes at different times on  
22 the same production.

23 (b) The legislature further finds that it is in the best interest of the state and in the best interest of oil and  
24 gas producers to simplify the taxation of oil and natural gas production.

25 (2) The legislature declares that the amount of oil and natural gas production taxes allocated to the  
26 counties and distributed to the school districts in this part is revenue that belongs to and must remain with those  
27 counties and school districts.

28 ~~(2)~~(3) The legislature further declares that the purposes of this part are:

29 (a) to replace all net proceeds taxes, severance taxes, privilege and license taxes, and other extraction  
30 taxes on oil and natural gas production with a single production tax based on the type of well and type of

1 production;

2 (b) to ensure that the distribution of tax revenue to the state, counties, and school districts from the new  
3 production taxes is consistent with the distribution of tax revenue from the former extraction taxes;

4 (c) to simplify the procedures for compliance with and the administration of the taxation of oil and natural  
5 gas production;

6 (d) to provide an incentive for oil and natural gas producers to pay 1995 local government severance  
7 taxes on an accelerated basis; and

8 (e) to provide discretionary authority to counties and school districts for the use of the accelerated  
9 payments of the local government severance tax."

10

11 **Section 2.** Section 15-36-332, MCA, is amended to read:

12 **"15-36-332. Distribution of taxes to taxing units -- appropriation.** (1) (a) By the dates referred to in  
13 subsection (6), the department shall distribute oil and natural gas production taxes allocated under 15-36-331(3)  
14 to each eligible county.

15 (b) By the dates referred to in subsection (6), the department shall distribute the amount deposited in  
16 the oil and gas natural resource distribution account under 15-36-331(2)(b) as provided in subsection (8) of this  
17 section.

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

	Elementary Retirement	High School Retirement	Countywide Transportation	School Districts
24 Big Horn	14.81%	10.36%	2.99%	26.99%
25 Blaine	5.86%	2.31%	2.71%	24.73%
26 Carbon	3.6%	6.62%	1.31%	49.18%
27 Chouteau	8.1%	4.32%	3.11%	23.79%
28 Custer	6.9%	3.4%	1.19%	31.25%
29 Daniels	0	7.77%	3.92%	48.48%
30 Dawson	5.53%	2.5%	1.11%	35.6%

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

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

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

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

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

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

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

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

19 (ii) The amount distributed to the high school district is equal to the amount determined in subsection  
20 (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  
21 elementary school district referred to in subsection (4)(c) and the total mills of the high school district.

22 (5) (a) Oil and natural gas production taxes calculated for each school district under subsections (4)(b)  
23 through (4)(d) must be distributed to each school district ~~in the relative proportion of the mill levy for each fund~~  
24 to be used for any educational purpose considered necessary by the trustees.

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

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

30 (a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural

1 gas production tax payments received for the calendar quarter ending March 31 of the current year.

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

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

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

8 (7) The department shall provide to each county by May 31 of each year the amount of gross taxable  
9 value represented by all types of production taxed under 15-36-304 for the previous calendar year multiplied by  
10 60%. The resulting value must be treated as taxable value for county classification purposes under 7-1-2111.

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

16 (9) The distributions to taxing units and to counties and incorporated cities and towns under this section  
17 are statutorily appropriated, as provided in 17-7-502, from the state special revenue fund and are considered local  
18 revenue that may not be capped by the state."

19

20 **Section 3.** Section 20-1-101, MCA, is amended to read:

21 **"20-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following  
22 definitions apply:

23 (1) "Accreditation standards" means the body of administrative rules governing standards such as:

24 (a) school leadership;

25 (b) educational opportunity;

26 (c) academic requirements;

27 (d) program area standards;

28 (e) content and performance standards;

29 (f) school facilities and records;

30 (g) student assessment; and

1 (h) general provisions.

2 (2) "Aggregate hours" means the hours of pupil instruction for which a school course or program is  
3 offered or for which a pupil is enrolled.

4 (3) "Agricultural experiment station" means the agricultural experiment station established at Montana  
5 state university-Bozeman.

6 (4) "Anticipated oil and natural gas production taxes" means the average of the preceding 20 years of  
7 actual oil and natural gas production tax revenue received as reported in the school district board of trustees'  
8 financial report provided for in 20-3-209(3) and 20-9-213(6).

9 ~~(4)(5)~~ "At-risk student" means any student who is affected by environmental conditions that negatively  
10 impact the student's educational performance or threaten a student's likelihood of promotion or graduation.

11 ~~(5)(6)~~ "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time  
12 pupils physically attending or receiving educational services at an offsite instructional setting from the public  
13 schools of a district.

14 ~~(6)(7)~~ "Board of public education" means the board created by Article X, section 9, subsection (3), of the  
15 Montana constitution and 2-15-1507.

16 ~~(7)(8)~~ "Board of regents" means the board of regents of higher education created by Article X, section  
17 9, subsection (2), of the Montana constitution and 2-15-1505.

18 ~~(8)(9)~~ "Commissioner" means the commissioner of higher education created by Article X, section 9,  
19 subsection (2), of the Montana constitution and 2-15-1506.

20 ~~(9)(10)~~ "County superintendent" means the county government official who is the school officer of the  
21 county.

22 ~~(10)(11)~~ "District superintendent" means a person who holds a valid class 3 Montana teacher certificate  
23 with a superintendent's endorsement that has been issued by the superintendent of public instruction under the  
24 provisions of this title and the policies adopted by the board of public education and who has been employed by  
25 a district as a district superintendent.

26 ~~(11)(12)~~ (a) "Educational program" means a set of educational offerings designed to meet the program  
27 area standards contained in the accreditation standards.

28 (b) The term does not include an educational program or programs used in 20-4-121 and 20-25-803.

29 ~~(12)(13)~~ "K-12 career and vocational/technical education" means organized educational activities that  
30 have been approved by the office of public instruction and that:

1 (a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and skills  
2 that the pupil needs to prepare for further education and for careers in the current or emerging employment  
3 sectors; and

4 (b) include competency-based applied learning that contributes to the academic knowledge, higher-order  
5 reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and  
6 occupation-specific skills of the pupil.

7 ~~(13)~~(14) (a) "Minimum aggregate hours" means the minimum hours of pupil instruction that must be  
8 conducted during the school fiscal year in accordance with 20-1-301 and includes passing time between classes.

9 (b) The term does not include lunch time and periods of unstructured recess.

10 ~~(14)~~(15) "Offsite instructional setting" means an instructional setting at a location, separate from a main  
11 school site, where a school district provides for the delivery of instruction to a student who is enrolled in the  
12 district.

13 ~~(15)~~(16) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an  
14 applicable principal's endorsement that has been issued by the superintendent of public instruction under the  
15 provisions of this title and the policies adopted by the board of public education and who has been employed by  
16 a district as a principal. For the purposes of this title, any reference to a teacher must be construed as including  
17 a principal.

18 ~~(16)~~(17) "Pupil" means a child who is 6 years of age or older on or before September 10 of the year in  
19 which the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3)  
20 but who has not yet reached 19 years of age and who is enrolled in a school established and maintained under  
21 the laws of the state at public expense. For purposes of calculating the average number belonging pursuant to  
22 20-9-311, the definition of pupil includes a person who has not yet reached 19 years of age by September 10 of  
23 the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state  
24 at public expense.

25 ~~(17)~~(18) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools  
26 while under the supervision of a teacher.

27 ~~(18)~~(19) "Qualified and effective teacher or administrator" means an educator who is licensed and  
28 endorsed in the areas in which the educator teaches, specializes, or serves in an administrative capacity as  
29 established by the board of public education.

30 ~~(19)~~(20) "Regents" means the board of regents of higher education.

1           ~~(20)~~(21) "School food services" means a service of providing food for the pupils of a district on a nonprofit  
2 basis and includes any food service financially assisted through funds or commodities provided by the United  
3 States government.

4           ~~(24)~~(22) "State board of education" means the board composed of the board of public education and the  
5 board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

6           ~~(22)~~(23) "State university" means Montana state university-Bozeman.

7           ~~(23)~~(24) "Student with limited English proficiency" means any student:

8           (a) (i) who was not born in the United States or whose native language is a language other than English;

9           (ii) who is an American Indian and who comes from an environment in which a language other than  
10 English has had a significant impact on the individual's level of English proficiency; or

11           (iii) who is migratory, whose native language is a language other than English, and who comes from an  
12 environment in which a language other than English is dominant; and

13           (b) whose difficulties in speaking, reading, writing, or understanding the English language may be  
14 sufficient to deny the student:

15           (i) the ability to meet the state's proficiency assessments;

16           (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

17           (iii) the opportunity to participate fully in society.

18           ~~(24)~~(25) "Superintendent of public instruction" means that state government official designated as a  
19 member of the executive branch by the Montana constitution.

20           ~~(25)~~(26) "System" means the Montana university system.

21           ~~(26)~~(27) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher  
22 certificate that has been issued by the superintendent of public instruction under the provisions of this title and  
23 the policies adopted by the board of public education and who is employed by a district as a member of its  
24 instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an  
25 emergency authorization of employment has been issued under the provisions of 20-4-111.

26           ~~(27)~~(28) "Textbook" means a book or manual used as a principal source of study material for a given  
27 class or group of students.

28           ~~(28)~~(29) "Textbook dealer" means a party, company, corporation, or other organization selling, offering  
29 to sell, or offering for adoption textbooks to districts in the state.

30           ~~(29)~~(30) "Trustees" means the governing board of a district.

1 ~~(30)~~(31) "University" means the university of Montana-Missoula.

2 ~~(34)~~(32) "Vocational-technical education" means vocational-technical education of vocational-technical  
3 students that is conducted by a unit of the Montana university system, a community college, or a tribally controlled  
4 community college, as designated by the board of regents."

5

6 **Section 4.** Section 20-9-543, MCA, is amended to read:

7 **"20-9-543. School flexibility fund -- uses.** (1) (a) The trustees of a district shall establish a school  
8 flexibility fund and may use the fund, in their discretion, for school district expenditures incurred for:

9 (i) major deferred maintenance;

10 (ii) critical infrastructure in schools;

11 ~~(i)~~(iii) technological equipment enhancements and expansions considered by the trustees to support  
12 enhanced educational programs in the classroom;

13 ~~(ii)~~(iv) facility expansion and remodeling considered by the trustees to support the delivery of educational  
14 programs or the removal and replacement of obsolete facilities;

15 ~~(iii)~~(v) supplies and materials considered by the trustees to support the delivery of enhanced educational  
16 programs;

17 ~~(iv)~~(vi) student assessment and evaluation;

18 ~~(v)~~(vii) the development of curriculum materials;

19 ~~(vi)~~(viii) training for classroom staff considered by the trustees to support the delivery of enhanced  
20 educational programs;

21 ~~(vii)~~(ix) purchase, lease, or rental of real property that must be used to provide free or reduced price  
22 housing for classroom teachers;

23 ~~(viii)~~(x) salaries, benefits, bonuses, and other incentives for the recruitment and retention of classroom  
24 teachers and other certified staff, subject to collective bargaining when applicable; ~~or~~

25 ~~(ix)~~(xi) increases in energy costs caused by an increase in energy rates from the rates paid by the district  
26 in fiscal year 2001 or from increased use of energy as a result of the expansion of facilities, equipment, or other  
27 resources of the district; or

28 (xii) improving energy efficiency in schools.

29 (b) If the district's ANB calculated for the current fiscal year is less than the ANB for the current fiscal  
30 year when averaged with the 4 previous fiscal years, the district may use money from the school flexibility fund

1 to phase in over a 5-year period the spending reductions necessary because of the reduction in ANB.

2 (2) The trustees of a district shall fund the school flexibility fund with the money allocated under 20-9-542  
3 and with the money raised by the levy under 20-9-544.

4 (3) The financial administration of the school flexibility fund must be in accordance with the financial  
5 administration provisions of this title for a budgeted fund."

6

7 **NEW SECTION. Section 5. Receipt of oil and gas production tax revenue -- eligibility for direct**  
8 **state aid.** A school district board of trustees shall include in the financial report that it prepares after the school  
9 fiscal year in accordance with 20-3-209(3) and 20-9-213(6) a calculation to implement the following:

10 (1) After a school district receives an amount of oil and natural gas production tax revenue equal to the  
11 higher of either 100% of the maximum of its over-BASE budget or 100% of its adopted general fund budget, the  
12 school district is no longer eligible to receive direct state aid. The school district shall return to the state general  
13 fund any direct state aid that it received during the school fiscal year after the amount specified in this subsection  
14 was reached.

15 (2) A school district shall refund to the state general fund \$1 for every \$5 of oil and natural gas production  
16 tax revenue that the district received after ceasing to be eligible for direct state aid under subsection (1). The  
17 district shall refund in the following order the money it received from the following sources:

18 (a) guaranteed tax base aid until repaid in full;

19 (b) direct state aid until repaid in full;

20 (c) block grant funds until repaid in full.

21 (3) After a school district has repaid in full the amounts provided for in subsection (2), any further oil and  
22 natural gas production tax revenue received by the school district must remain with the school district.

23

24 **NEW SECTION. Section 6. Distribution of oil and gas production tax revenue received in excess**  
25 **of revenue estimate.** (1) If at the end of a fiscal year the state's oil and natural gas production tax revenue  
26 collections exceed the amount estimated by the legislature pursuant to 5-5-227, then the excess must be  
27 allocated as follows:

28 (a) 25% to the state general fund;

29 (b) 37.5% to the guarantee account provided for in 20-9-622; and

30 (c) 37.5% to the oil and natural gas trust fund established in [section 7].

1 (2) The excess oil and natural gas production tax revenue does not include late tax, penalties, or interest  
2 from the prior year.

3 (3) The revenue estimate must include adjustments to the revenue, if any, resulting from laws enacted  
4 in the current year.

5 (4) The department of administration shall certify the excess revenue to the secretary of state and  
6 provide copies of the certification to the department of revenue and the code commissioner.

7  
8 **NEW SECTION. Section 7. Oil and natural gas trust fund -- purposes -- eligibility for**  
9 **disbursements.** (1) There is an oil and natural gas trust fund in the state special revenue fund provided for in  
10 17-2-102. A percentage of certified excess oil and natural gas production taxes must be deposited into the trust  
11 fund as provided in [section 6].

12 (2) The purpose of the trust fund is to provide money to the school flexibility fund of an eligible school  
13 district. A school district is eligible for disbursements from the oil and natural gas trust fund if it:

14 (a) is in an oil and natural gas producing county; and

15 (b) has not received an amount of oil and natural gas production taxes equal to 100% of the maximum  
16 of its over-BASE budget or of its adopted general fund budget.

17 (3) Money in the oil and natural gas trust fund must be distributed on an equitable basis to the school  
18 flexibility fund of each school district that is eligible under subsection (2).

19 (4) Distributions from the oil and natural gas trust fund may not be offset by reductions in other state  
20 school funding.

21  
22 **NEW SECTION. Section 8. Codification instruction.** [Sections 5 through 7] are intended to be codified  
23 as an integral part of Title 15, chapter 36, part 3, and the provisions of Title 15, chapter 36, part 3, apply to  
24 [sections 5 through 7].

25  
26 **NEW SECTION. Section 9. Effective date.** [This act] is effective July 1, 2011.

27 - END -