SENATE BILL NO. 408

INTRODUCED BY C. KAUFMANN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF QUALIFYING OIL AND NATURAL GAS PRODUCTION; PROVIDING THAT QUALIFYING PRIMARY OIL PRODUCTION AND QUALIFYING OIL PRODUCTION FROM HORIZONTALLY COMPLETED WELLS ARE TAXED AT A HIGHER RATE DURING A CALENDAR QUARTER IF THE AVERAGE PRICE OF A BARREL OF OIL EXCEEDS A CERTAIN AMOUNT; PROVIDING THAT QUALIFYING NATURAL GAS PRODUCTION AND QUALIFYING NATURAL GAS PRODUCTION FROM HORIZONTALLY COMPLETED WELLS ARE TAXED AT A HIGHER RATE DURING A CALENDAR QUARTER IF THE AVERAGE PRICE PER MILLION BRITISH THERMAL UNITS EXCEEDS A CERTAIN AMOUNT; PROVIDING THAT THE INCREASED TAXES ARE DEPOSITED IN THE GENERAL FUND; AMENDING SECTIONS 15-36-304 AND 15-36-331, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 15-36-304, MCA, is amended to read:

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

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

	Working Interest	Nonworking Interest
(a) (i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	14.8%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper natural gas pre-1999 wells	11%	14.8%
(c) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%

(ii) after 18 months	9%	14.8%

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

(b) For natural gas wells drilled after December 31, 2011, qualifying production is taxed as provided in subsection (2)(a)(i) only if the average Henry hub spot price of natural gas as reported in the Wall Street Journal in a calendar quarter is less than $5 per million Btu's. If the average Henry hub spot price of natural gas is equal to or greater than $5 per million Btu's in the calendar quarter as determined in subsection (3)(c), then qualifying natural gas production is taxed at the rate imposed in subsection (2)(a)(ii)(B) for that quarter.

(c) For the purposes of subsections (3)(b) and (4)(b), the average price of natural gas must be computed by dividing the sum of the daily Henry hub spot price of a million Btu's of natural gas as reported in the Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the quarter.

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

(b) For horizontally completed wells drilled after December 31, 2011, qualifying production is taxed as provided in subsection (2)(c)(i) only if the average Henry hub spot price of natural gas as reported in the Wall Street Journal in a calendar quarter is less than $5 per million Btu's. If the average Henry hub spot price of natural gas is equal to or greater than $5 per million Btu's in the calendar quarter as determined in subsection (3)(c), then qualifying production from horizontally completed wells is taxed at the rate imposed in subsection (2)(c)(ii) for that quarter.

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

	Working Interest	Nonworking Interest
(a) primary recovery production:		
(i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		

(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper oil production:		
(i) first 1 through 10 barrels a day production	5.5%	14.8%
(ii) more than 10 barrels a day production	9.0%	14.8%
(c) (i) stripper well exemption production	0.5%	14.8%
(ii) stripper well bonus production	6.0%	14.8%
(d) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(e) incremental production:		
(i) new or expanded secondary recovery production	8.5%	14.8%
(ii) new or expanded tertiary production	5.8%	14.8%
(f) horizontally recompleted well:		
(i) first 18 months	5.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%

(6) (a) <u>(i)</u> ~~The~~ <u>Except as provided in subsection (6)(a)(ii), the</u> reduced tax ~~rates~~ <u>rate</u> under subsection (5)(a)(i) <u>on qualifying primary recovery production</u> for the first 12 months of oil production from a well begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows, provided that notification has been given to the department.

<u>(ii) For primary recovery wells drilled after December 31, 2011, qualifying primary recovery production is taxed as provided in subsection (5)(a)(i) only if the average price of a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil in a calendar quarter is less than $50 a barrel. If the average price of a barrel of oil is equal to or greater than $50 a barrel in the calendar quarter as determined in subsection (6)(e), then qualifying production from primary recovery wells is taxed at the rate imposed in subsection (5)(a)(ii)(B) for that quarter.</u>

(b) (i) (A) ~~The~~ Except as provided in subsection (6)(b)(i)(B), the reduced tax ~~rates~~ rate under subsection (5)(d)(i) on qualifying oil production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally completed well to the department by the board.

(B) For horizontally completed wells drilled after December 31, 2011, qualifying oil production from a horizontally completed well is taxed as provided in subsection (5)(d)(i) only if the average price of a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil in the calendar quarter is less than $50 a barrel. If the average price of a barrel of oil is equal to or greater than $50 a barrel in the calendar quarter as determined in subsection (6)(e), then qualifying production from horizontally completed wells is taxed at the rate imposed in subsection (5)(d)(ii)(B) for that quarter.

(ii) The reduced tax rate under subsection (5)(f)(i) on oil production from a horizontally recompleted well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally recompleted well to the department by the board.

(c) Incremental production is taxed as provided in subsection (5)(e) only if the average price for ~~each~~ a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar 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 as determined in subsection ~~(6)(d)~~ (6)(e), then incremental production from pre-1999 wells and from post-1999 wells is taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B), respectively, for production occurring in that quarter, other than exempt stripper well production.

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

(ii) Stripper well bonus production is subject to taxation as provided in subsection (5)(c)(ii) only if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is equal to or greater than $38 a barrel as determined in subsection (6)(e).

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

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

(b) The total of the privilege and license tax and the tax for the oil and gas natural resource distribution account established in 90-6-1001(1) may not exceed 0.3%. The base rate for the tax for oil and gas natural resource distribution account funding is 0.08%, but when the rate adopted pursuant to 82-11-131 by the board of oil and gas conservation for the privilege and license tax:

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

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

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

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

Section 2. Section 15-36-331, MCA, is amended to read:

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

(b) For the purposes of distribution of oil and natural gas production taxes to county and school district taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas production taxes paid on production in the taxing unit.

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

(b) The amount of the tax allocated in 15-36-304(7)(b) for the oil and gas natural resource distribution account established in 90-6-1001(1) must be deposited in the account.

<u>(c) After the allocations are made under subsections (2)(a) and (2)(b), the amount of taxes attributable to the increased tax rates under the provisions of 15-36-304(3)(b) and (4)(b) and the amount of taxes attributable to increased tax rates under the provisions of 15-36-304(6)(a)(ii) and (6)(b)(i)(B) must be deposited in the state general fund.</u>

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

Big Horn	45.05%
Blaine	58.39%
Carbon	48.27%
Chouteau	58.14%
Custer	69.53%
Daniels	50.81%
Dawson	47.79%
Fallon	41.78%
Fergus	69.18%
Garfield	45.96%
Glacier	58.83%
Golden Valley	58.37%
Hill	64.51%
Liberty	57.94%
McCone	49.92%
Musselshell	48.64%
Petroleum	48.04%
Phillips	54.02%
Pondera	54.26%
Powder River	60.9%
Prairie	40.38%
Richland	47.47%
Roosevelt	45.71%

Rosebud	39.33%
Sheridan	47.99%
Stillwater	53.51%
Sweet Grass	61.24%
Teton	46.1%
Toole	57.61%
Valley	51.43%
Wibaux	49.16%
Yellowstone	46.74%
All other counties	50.15%

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

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

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

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

(ii) 1.45% to the natural resources projects state special revenue account established in 15-38-302;

(iii) 1.45% to the natural resources operations state special revenue account established in 15-38-301;

(iv) 2.99% to the orphan share account established in 75-10-743;

(v) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 15-10-108; and

(vi) all remaining proceeds to the state general fund;

(b) for fiscal years beginning after June 30, 2011, to be distributed as follows:

(i) 2.16% to the natural resources projects state special revenue account established in 15-38-302;

(ii) 2.02% to the natural resources operations state special revenue account established in 15-38-301;

(iii) 2.95% to the orphan share account established in 75-10-743;

(iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 15-10-108; and

(v) all remaining proceeds to the state general fund."

NEW SECTION. **Section 3. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

NEW SECTION. **Section 4. Applicability.** [This act] applies to oil and natural gas wells drilled after December 31, 2011, and to oil and natural gas produced by and sold from those wells after December 31, 2011.

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