

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REDUCED TAX RATES FOR NEW OIL
5 PRODUCTION AND NEW NATURAL GAS PRODUCTION AND DEPOSITING THE PROCEEDS IN THE
6 HIGHWAY REVENUE ACCOUNT; PROVIDING THAT THE REVISED TAX RATES APPLY TO OIL AND
7 NATURAL GAS WELLS DRILLED AFTER DECEMBER 31, 2014; AMENDING SECTIONS 15-36-303,
8 15-36-304, AND 15-36-331, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
9 APPLICABILITY DATE."

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

12
13 **Section 1.** Section 15-36-303, MCA, is amended to read:

14 **"15-36-303. Definitions.** As used in this part, the following definitions apply:

- 15 (1) "Board" means the board of oil and gas conservation provided for in 2-15-3303.
- 16 (2) "Department" means the department of revenue provided for in 2-15-1301.
- 17 (3) "Enhanced recovery project" means the use of any process for the displacement of oil from the earth
18 other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or biological
19 process.
- 20 (4) "Existing enhanced recovery project" means an enhanced recovery project that began development
21 before January 1, 1994.
- 22 (5) "Expanded enhanced recovery project" or "expansion" means the addition of injection wells or
23 production wells, the recompletion of existing wells as horizontally completed wells, the change of an injection
24 pattern, or other operating changes to an existing enhanced recovery project that will result in the recovery of oil
25 that would not otherwise be recovered. The project must be developed after December 31, 1993.
- 26 (6) "Gross taxable value", for the purpose of computing the oil and natural gas production tax, means
27 the gross value of the product as determined in 15-36-305.
- 28 (7) "Horizontal drain hole" means that portion of a well bore with 70 degrees to 110 degrees deviation
29 from the vertical and a horizontal projection within the common source of supply, as that term is defined by the
30 board, that exceeds 100 feet.



1 (8) "Horizontally completed well" means:

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

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

4 (9) "Incremental production" means:

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

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

9 (ii) expansion of the existing enhanced recovery project; or

10 (iii) commencing a new enhanced recovery project; or

11 (b) in the case of any project that had no taxable production prior to commencing the enhanced recovery
12 project, all production of oil from the enhanced recovery project.

13 (10) "Natural gas" or "gas" means natural gas and other fluid hydrocarbons, other than oil, produced at
14 the wellhead.

15 (11) "New enhanced recovery project" means an enhanced recovery project that began development
16 after December 31, 1993.

17 (12) "Nonworking interest owner" means any interest owner who does not share in the exploration,
18 development, and operation costs of the lease or unit, except for production taxes.

19 (13) "Oil" means crude petroleum or mineral oil and other hydrocarbons, regardless of gravity, that are
20 produced at the wellhead in liquid form and that are not the result of condensation of gas after it leaves the
21 wellhead.

22 (14) "Operator" or "producer" means a person who produces oil or natural gas within this state or who
23 owns, controls, manages, leases, or operates within this state any well or wells from which any marketable oil
24 or natural gas is extracted or produced.

25 (15) "Post-1999 well" means an oil or natural gas well drilled on or after January 1, 1999, and before
26 January 1, 2015, that produces oil or natural gas or a well that has not produced oil or natural gas during the 5
27 years immediately preceding the first month of qualifying as a post-1999 well.

28 (16) "Post-2014 well" means an oil or natural gas well or horizontally completed well drilled on or after
29 January 1, 2015, that produces oil or natural gas.

30 ~~(16)~~(17) "Pre-1999 well" means an oil or natural gas well that was drilled before January 1, 1999.

1 ~~(18)~~ "Pre-2015 well" means an oil or natural gas well or horizontally completed well drilled on or before
2 December 31, 2014, that produces oil or natural gas.

3 ~~(17)~~(19) "Primary recovery" means the displacement of oil from the earth into the well bore by means of
4 the natural pressure of the oil reservoir and includes artificial lift.

5 ~~(18)~~(20) "Production decline rate" means the projected rate of future oil production, extrapolated by a
6 method approved by the board, that must be determined for a project area prior to commencing a new or
7 expanded enhanced recovery project or the recompletion of a well as a horizontally completed well. The approved
8 production decline rate must be certified in writing to the department by the board. In that certification, the board
9 shall identify the project area and shall specify the projected rate of future oil production by calendar year and
10 by calendar quarter within each year. The certified rate of future oil production must be used to determine the
11 volume of incremental production that qualifies for the tax rate imposed under 15-36-304(5)(e).

12 ~~(19)~~(21) (a) "Qualifying production" means, except as provided in subsection (21)(b), the first 12 months
13 of production of oil or natural gas from a well drilled after December 31, 1998, and before January 1, 2015, or the
14 first 18 months of production of oil or natural gas from a horizontally completed well drilled after December 31,
15 1998, and before January 1, 2015, or from a well that has not produced oil or natural gas during the 5 years
16 immediately preceding the first month of qualifying production.

17 (b) Qualifying production does not include oil or natural gas production from:

18 (i) an oil or natural gas well drilled after December 31, 2014;

19 (ii) a horizontally recompleted well; or

20 (iii) a horizontally completed well drilled after December 31, 2014.

21 ~~(20)~~(22) "Secondary recovery project" means an enhanced recovery project, other than a tertiary recovery
22 project, that commenced or was expanded after December 31, 1993, and meets each of the following
23 requirements:

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

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

28 (c) The project must involve the application of secondary recovery methods that can reasonably be
29 expected to result in an increase, determined by the board to be significant in light of all the facts and
30 circumstances, in the amount of oil that may potentially be recovered. For purposes of this part, secondary

1 recovery methods include but are not limited to:

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

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

6 ~~(24)~~(23) "Stripper natural gas" means the natural gas produced from any well that produces less than
7 60,000 cubic feet of natural gas a day during the calendar year immediately preceding the current year.
8 Production must be determined by dividing the amount of production from a lease or unitized area for the year
9 immediately preceding the current calendar year by the number of producing wells in the lease or unitized area
10 and by dividing the resulting quotient by 365.

11 ~~(22)~~(24) (a) "Stripper oil" means the oil produced from any well that produces more than 3 barrels but less
12 than 15 barrels a day for the calendar year immediately preceding the current year if the average price for a barrel
13 of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less
14 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
15 stripper tax rate in that quarter.

16 (b) The average price for a barrel is computed by dividing the sum of the daily price for west Texas
17 intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days on
18 which the price was reported in the quarter.

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

22 ~~(23)~~(25) "Stripper well exemption" or "stripper well bonus" means petroleum and other mineral or crude
23 oil produced by a stripper well that produces 3 barrels a day or less. Production from this type of well must be
24 determined as provided in subsection ~~(22)~~(e) (24)(c).

25 ~~(24)~~(26) "Tertiary recovery project" means an enhanced recovery project, other than a secondary
26 recovery project, using a tertiary recovery method that meets the following requirements:

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

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

- 1 (c) The project must involve the application of one or more tertiary recovery methods that can reasonably
- 2 be expected to result in an increase, determined by the board to be significant in light of all the facts and
- 3 circumstances, in the amount of crude oil that may potentially be recovered. For purposes of this part, tertiary
- 4 recovery methods include but are not limited to:
- 5 (i) miscible fluid displacement;
- 6 (ii) steam drive injection;
- 7 (iii) micellar/emulsion flooding;
- 8 (iv) in situ combustion;
- 9 (v) polymer augmented water flooding;
- 10 (vi) cyclic steam injection;
- 11 (vii) alkaline or caustic flooding;
- 12 (viii) carbon dioxide water flooding;
- 13 (ix) immiscible carbon dioxide displacement; or
- 14 (x) any other method approved by the board as a tertiary recovery method.

15 ~~(25)~~(27) "Well" or "wells" means a single well or a group of wells in one field or production unit and under
 16 the control of one operator or producer.

17 ~~(26)~~(28) "Working interest owner" means the owner of an interest in an oil or natural gas well or wells who
 18 bears any portion of the exploration, development, and operating costs of the well or wells."

19
 20 **Section 2.** Section 15-36-304, MCA, is amended to read:

21 **"15-36-304. Production tax rates imposed on oil and natural gas -- exemption.** (1) The production
 22 of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-331 and
 23 15-36-332.

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

	Working	Nonworking
	Interest	Interest
26 (a) (i) <u>pre-2015 wells:</u>		
27 (i) first 12 months of qualifying production	0.5%	14.8%
28 (ii) after 12 months:		

1	(A) pre-1999 wells	14.8%	14.8%
2	(B) post-1999 wells	9%	14.8%
3	(b) stripper natural gas pre-1999 wells	11%	14.8%
4	(c) horizontally completed well production <u>from pre-2015 wells</u> :		
5	(i) first 18 months of qualifying production	0.5%	14.8%
6	(ii) after 18 months	9%	14.8%
7	<u>(d) post-2014 wells</u>	<u>9%</u>	<u>14.8%</u>

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

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

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

18		Working	Nonworking
19		Interest	Interest
20	(a) primary recovery production <u>from pre-2015 wells</u> :		
21	(i) first 12 months of qualifying production	0.5%	14.8%
22	(ii) after 12 months:		
23	(A) pre-1999 wells	12.5%	14.8%
24	(B) post-1999 wells	9%	14.8%
25	(b) stripper oil production:		
26	(i) first 1 through 10 barrels a day production	5.5%	14.8%
27	(ii) more than 10 barrels a day production	9.0%	14.8%
28	(c) (i) stripper well exemption production	0.5%	14.8%
29	(ii) stripper well bonus production	6.0%	14.8%
30	(d) horizontally completed well production <u>from pre-2015 wells</u> :		

1	(i) first 18 months of qualifying production	0.5%	14.8%
2	(ii) after 18 months:		
3	(A) pre-1999 wells	12.5%	14.8%
4	(B) post-1999 wells	9%	14.8%
5	(e) incremental production:		
6	(i) new or expanded secondary recovery production	8.5%	14.8%
7	(ii) new or expanded tertiary production	5.8%	14.8%
8	(f) horizontally recompleted well <u>production from pre-2015 wells:</u>		
9	(i) first 18 months	5.5%	14.8%
10	(ii) after 18 months:		
11	(A) pre-1999 wells	12.5%	14.8%
12	(B) post-1999 wells	9%	14.8%
13	<u>(g) horizontally recompleted well production from post-2014 wells</u>	<u>9%</u>	<u>14.8%</u>
14	<u>(h) post-2014 wells</u>	<u>9%</u>	<u>14.8%</u>

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

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

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

27 (c) Incremental production is taxed as provided in subsection (5)(e) only if the average price for ~~each~~
 28 a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar
 29 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
 30 as determined in subsection (6)(e), then incremental production from pre-1999 wells and from post-1999 wells

1 is taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B),
2 respectively, for production occurring in that quarter, other than exempt stripper well production.

3 (d) (i) Stripper well exemption production is taxed as provided in subsection (5)(c)(i) only if the average
4 price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a
5 calendar quarter is less than \$38 a barrel as determined in subsection (6)(e). If the price of oil is equal to or
6 greater than \$38 a barrel, there is no stripper well exemption tax rate and oil produced from a well that produces
7 3 barrels a day or less is taxed as stripper well bonus production.

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

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

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

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

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

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

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

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

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Section 3. 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.

(c) After the allocations are made under subsections (2)(a) and (2)(b), the department shall calculate the amount of taxes attributable to the increased tax rates under the provisions of 15-36-304 because of the elimination of reduced tax rates for new oil and natural gas production provided by the amendment of 15-36-303 and 15-36-304 in [sections 1 and 2]. The amount of taxes attributable to the increased tax rates after the allocations are made under subsections (2)(a) and (2)(b) must be deposited for each fiscal year in the restricted highway revenue account in the state special revenue fund to the credit of the department of transportation.

(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.

(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%

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 15-10-108; 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)(a) 2.16% to the natural resources projects state special revenue account established in 15-38-302;
 9 (i)(b) 2.02% to the natural resources operations state special revenue account established in 15-38-301;
 10 (i)(c) 2.95% to the orphan share account established in 75-10-743;
 11 (i)(d) 2.65% to the state special revenue fund to be appropriated to the Montana university system for
 12 the purposes of the state tax levy as provided in 15-10-108; and
 13 (i)(e) all remaining proceeds to the state general fund."

14

15 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.

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17 **NEW SECTION. Section 5. Retroactive applicability.** [This act] applies retroactively, within the
 18 meaning of 1-2-109, to oil and gas wells drilled after December 31, 2014.

19

- END -