

Amendments to House Bill No. 411
3rd Reading Copy

Requested by Senator Christine Kaufmann

For the Senate Taxation Committee

Prepared by Jaret Coles
March 25, 2015 (8:13am)

1. Title, page 1, line 5.

Following: "RATES;"

Insert: "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;"

Strike: "SECTION"

Insert: "SECTIONS 15-36-303 AND"

2. Page 1, line 10.

Following: line 9

Insert: "Section 1. Section 15-36-303, MCA, is amended to read:

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

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

(2) "Consumer price index" means the consumer price index, United States city average, for all items, for all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

~~(2)~~(3) "Department" means the department of revenue provided for in 2-15-1301.

~~(3)~~(4) "Enhanced recovery project" means the use of any process for the displacement of oil from the earth other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or biological process.

~~(4)~~(5) "Existing enhanced recovery project" means an enhanced recovery project that began development before January 1, 1994.

~~(5)~~(6) "Expanded enhanced recovery project" or "expansion" means the addition of injection wells or production wells, the recompletion of existing wells as horizontally completed wells, the change of an injection pattern, or other operating changes to an existing enhanced recovery project that will result in the recovery of oil that would not otherwise be recovered. The project must be developed after December 31, 1993.

~~(6)~~(7) "Gross taxable value", for the purpose of computing

the oil and natural gas production tax, means the gross value of the product as determined in 15-36-305.

~~(7)~~(8) "Horizontal drain hole" means that portion of a well bore with 70 degrees to 110 degrees deviation from the vertical and a horizontal projection within the common source of supply, as that term is defined by the board, that exceeds 100 feet.

~~(8)~~(9) "Horizontally completed well" means:
(a) a well with one or more horizontal drain holes; ~~and~~ or
(b) any other well classified by the board as a horizontally completed well.

~~(9)~~(10) "Incremental production" means:
(a) the volume of oil produced by a new enhanced recovery project, by a well in primary recovery recompleted as a horizontally completed well, or by an expanded enhanced recovery project, which volume of production is in excess of the production decline rate established under the conditions existing before:

- (i) ~~the commencement of~~ commencing the recompletion of a well as a horizontally completed well;
 - (ii) ~~expansion of~~ expanding the existing enhanced recovery project; or
 - (iii) commencing a new enhanced recovery project; or
- (b) in the case of any project that had no taxable production prior to commencing the enhanced recovery project, all production of oil from the enhanced recovery project.

(11) "Inflation factor" means a number determined for each tax year by dividing the consumer price index for June of the previous tax year by the consumer price index for June 2015.

~~(10)~~(12) "Natural gas" or "gas" means natural gas and other fluid hydrocarbons, other than oil, produced at the wellhead.

~~(11)~~(13) "New enhanced recovery project" means an enhanced recovery project that began development after December 31, 1993.

~~(12)~~(14) "Nonworking interest owner" means any interest owner who does not share in the exploration, development, and operation costs of the lease or unit, except for production taxes.

~~(13)~~(15) "Oil" means crude petroleum or mineral oil and other hydrocarbons, regardless of gravity, that are produced at the wellhead in liquid form and that are not the result of condensation of gas after it leaves the wellhead.

~~(14)~~(16) "Operator" or "producer" means a person who produces oil or natural gas within this state or who owns, controls, manages, leases, or operates within this state any well or wells from which any marketable oil or natural gas is extracted or produced.

~~(15)~~(17) "Post-1999 well" means an oil or natural gas well drilled on or after January 1, 1999, that produces oil or natural gas or a well that has not produced oil or natural gas during the 5 years immediately preceding the first month of qualifying as a post-1999 well.

~~(16)~~(18) "Pre-1999 well" means an oil or natural gas well

that was drilled before January 1, 1999.

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

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

~~(19)~~(21) (a) "Qualifying production" means the first 12 months of production of oil or natural gas from a well drilled after December 31, 1998, or the first 18 months of production of oil or natural gas from a horizontally completed well drilled after December 31, 1998, or from a well that has not produced oil or natural gas during the 5 years immediately preceding the first month of qualifying production.

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

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

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

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

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

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

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

~~(21)~~(23) "Stripper natural gas" means the natural gas produced from any well that produces less than 60,000 cubic feet

of natural gas a day during the calendar year immediately preceding the current year. Production must be determined by dividing the amount of production from a lease or unitized area for the year immediately preceding the current calendar year by the number of producing wells in the lease or unitized area and by dividing the resulting quotient by 365.

~~(22)~~(24) (a) "Stripper oil" means the oil produced from any well that produces more than 3 barrels but ~~less~~ fewer than 15 barrels a day for the calendar year immediately preceding the current year 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 \$30 ~~a barrel~~. If the price of oil is equal to or greater than \$30 a barrel in a calendar quarter, there is no stripper tax rate in that quarter.

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

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

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

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

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

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

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

- (i) miscible fluid displacement;
- (ii) steam drive injection;
- (iii) micellar/emulsion flooding;
- (iv) in situ combustion;
- (v) polymer augmented water flooding;
- (vi) cyclic steam injection;

(vii) alkaline or caustic flooding;
(viii) carbon dioxide water flooding;
(ix) immiscible carbon dioxide displacement; ~~or~~ and
(x) any other method approved by the board as a tertiary recovery method.

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

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

{Internal References to 15-36-303:

20-9-310 x 82-11-118 x 82-11-118 x}"

3. Page 3, line 1.

Following: "(a)"

Insert: "(i)"

Strike: "The"

Insert: "Except as provided in subsection (6)(a)(ii), the"

Strike: "rates"

Insert: "rate"

Following: "(5)(a)(i)"

Insert: "on qualifying primary recovery production"

4. Page 3, line 4.

Following: line 3

Insert: "(ii) For primary recovery wells other than stripper wells drilled after December 31, 2015, qualifying primary recovery production is taxed as provided in subsection (5)(a)(i) only if the average price of a barrel of west Texas intermediate crude oil during a calendar quarter is less than \$54 a barrel. If the average price of oil is equal to or greater than \$54 a barrel in a calendar quarter as determined in subsection (6)(e), qualifying production from primary recovery wells is taxed at the rate imposed in subsection (5)(a)(ii)(B) for that quarter."

5. Page 3, line 4.

Following: "(i)"

Insert: "(A)"

Strike: "The"

Insert: "Except as provided in subsection (6)(b)(i)(B), the"

Strike: "rates"

Insert: "rate"

Following: "(5)(d)(i) on"

Insert: "qualifying"

6. Page 3, line 8.

Following: line 7

Insert: "(B) For horizontally completed wells other than stripper wells drilled after December 31, 2015, 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 west Texas intermediate crude oil during a calendar quarter is less than \$54 a barrel. If the average price of oil is equal to or greater than \$54 a barrel in a calendar quarter as determined in subsection (6)(e), qualifying production from horizontally completed wells is taxed at the rate imposed in subsection (5)(d)(ii)(B) for that quarter."

7. Page 3, line 12.

Strike: "each"

Insert: "a"

8. Page 3, line 20.

Following: the first "a barrel"

Insert: "as determined in subsection (6)(e)"

9. Page 3, line 25.

Following: "a barrel"

Insert: "as determined in subsection (6)(e)"

10. Page 3, line 26.

Strike: "(6)(c) and"

Insert: "(6)(a) through "

Strike: "each"

Insert: "a"

Following: "barrel"

Insert: "of oil"

11. Page 3, line 27.

Following: "for"

Insert: "a barrel of"

12. Page 4, line 16.

Following: line 15

Insert: "(9) By November 1 of each year, the department shall multiply the average price of a barrel of west Texas intermediate crude oil contained in subsections (6)(a)(ii) and (6)(b)(i)(B) by the inflation factor for the following tax year. The resulting amount is effective for the following tax year and must be used as the basis for determining the rate of tax that is applied during each quarter of the following tax year."

Insert: "NEW SECTION. Section 3. Transition. The average prices for a barrel of west Texas intermediate crude oil in 15-36-304(6)(a)(ii) and (6)(b)(i)(B) are not subject to an inflation factor increase for the tax year ending December 31, 2016."

Renumber: subsequent sections

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