

## HOUSE BILL NO. 591

INTRODUCED BY C. POPE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF OIL AND NATURAL GAS  
5 PRODUCTION BY CHANGING THE TIMING OF REDUCED TAX RATES; CHANGING THE TIME PERIOD  
6 DURING WHICH REDUCED TAX RATES FOR OIL AND NATURAL GAS PRODUCTION APPLY; PROVIDING  
7 THAT THE REVISED TAX RATES APPLY TO OIL AND NATURAL GAS WELLS DRILLED AFTER DECEMBER  
8 31, 2015; AMENDING SECTIONS 15-36-303 AND 15-36-304, MCA; AND PROVIDING AN APPLICABILITY  
9 DATE."

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

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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, 2016, 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-2015 well" means an oil or natural gas well or horizontally completed well drilled on or after
- 29 January 1, 2016, 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-2016 well" means an oil or natural gas well or horizontally completed well drilled on or before  
 2 December 31, 2015, 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, 2016, 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, 2016, 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, 2015;

19 (ii) a horizontally recompleted well; or

20 (iii) a horizontally completed well drilled after December 31, 2015.

21 (22) "Reduced tax period" means:

22 (a) for a post-2015 natural gas well or for primary recovery production, the time period beginning the first  
 23 day of the 13th month after the start of production and ending the last day of the 24th month after the start of  
 24 production; and

25 (b) for a post-2015 horizontally completed well or horizontally recompleted well, the time period beginning  
 26 the first day of the 19th month after the start of production and ending the last day of the 36th month after the start  
 27 of production.

28 ~~(20)~~(23) "Secondary recovery project" means an enhanced recovery project, other than a tertiary recovery  
 29 project, that commenced or was expanded after December 31, 1993, and meets each of the following  
 30 requirements:

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

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

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

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

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

13 ~~(24)~~(24) "Stripper natural gas" means the natural gas produced from any well that produces less than  
14 60,000 cubic feet of natural gas a day during the calendar year immediately preceding the current year.  
15 Production must be determined by dividing the amount of production from a lease or unitized area for the year  
16 immediately preceding the current calendar year by the number of producing wells in the lease or unitized area  
17 and by dividing the resulting quotient by 365.

18 ~~(25)~~(25) (a) "Stripper oil" means the oil produced from any well that produces more than 3 barrels but less  
19 than 15 barrels a day for the calendar year immediately preceding the current year if the average price for a barrel  
20 of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less  
21 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  
22 stripper tax rate in that quarter.

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

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

29 ~~(26)~~(26) "Stripper well exemption" or "stripper well bonus" means petroleum and other mineral or crude  
30 oil produced by a stripper well that produces 3 barrels a day or less. Production from this type of well must be

1 determined as provided in subsection ~~(22)(c)~~ (25)(c).

2 ~~(24)~~(27) "Tertiary recovery project" means an enhanced recovery project, other than a secondary  
3 recovery project, using a tertiary recovery method that meets the following requirements:

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

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

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

12 (i) miscible fluid displacement;

13 (ii) steam drive injection;

14 (iii) micellar/emulsion flooding;

15 (iv) in situ combustion;

16 (v) polymer augmented water flooding;

17 (vi) cyclic steam injection;

18 (vii) alkaline or caustic flooding;

19 (viii) carbon dioxide water flooding;

20 (ix) immiscible carbon dioxide displacement; or

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

22 ~~(25)~~(28) "Well" or "wells" means a single well or a group of wells in one field or production unit and under  
23 the control of one operator or producer.

24 ~~(26)~~(29) "Working interest owner" means the owner of an interest in an oil or natural gas well or wells who  
25 bears any portion of the exploration, development, and operating costs of the well or wells."

26

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

28 **"15-36-304. Production tax rates imposed on oil and natural gas -- exemption.** (1) The production  
29 of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-331 and  
30 15-36-332.

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

	Working	Nonworking
	Interest	Interest
3 (a) <u>pre-2016 wells:</u>		
4 (i) first 12 months of qualifying production	0.5%	14.8%
5 (ii) after 12 months:		
6 (A) pre-1999 wells	14.8%	14.8%
7 (B) post-1999 wells	9%	14.8%
8 (b) stripper natural gas pre-1999 wells	11%	14.8%
9 (c) horizontally completed well production <u>from pre-2016 wells:</u>		
10 (i) first 18 months of qualifying production	0.5%	14.8%
11 (ii) after 18 months	9%	14.8%
12 (d) <u>post-2015 wells:</u>		
13 (i) <u>production during the reduced tax period</u>	<u>0.5%</u>	<u>14.8%</u>
14 (ii) <u>production not during the reduced tax period</u>	<u>9%</u>	<u>14.8%</u>

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

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

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

	Working	Nonworking
	Interest	Interest
25 (a) primary recovery production <u>from pre-2016 wells:</u>		
26 (i) first 12 months of qualifying production	0.5%	14.8%

1	(ii) after 12 months:		
2	(A) pre-1999 wells	12.5%	14.8%
3	(B) post-1999 wells	9%	14.8%
4	(b) stripper oil production:		
5	(i) first 1 through 10 barrels a day production	5.5%	14.8%
6	(ii) more than 10 barrels a day production	9.0%	14.8%
7	(c) (i) stripper well exemption production	0.5%	14.8%
8	(ii) stripper well bonus production	6.0%	14.8%
9	(d) horizontally completed well production <u>from pre-2016 wells:</u>		
10	(i) first 18 months of qualifying production	0.5%	14.8%
11	(ii) after 18 months:		
12	(A) pre-1999 wells	12.5%	14.8%
13	(B) post-1999 wells	9%	14.8%
14	(e) incremental production:		
15	(i) new or expanded secondary recovery production	8.5%	14.8%
16	(ii) new or expanded tertiary production	5.8%	14.8%
17	(f) horizontally recompleted well <u>production from pre-2016 wells:</u>		
18	(i) first 18 months	5.5%	14.8%
19	(ii) after 18 months:		
20	(A) pre-1999 wells	12.5%	14.8%
21	(B) post-1999 wells	9%	14.8%
22	(g) <u>horizontally recompleted well production from post-2015 wells:</u>		
23	(i) <u>production during the reduced tax period</u>	<u>5.5%</u>	<u>14.8%</u>
24	(ii) <u>production not during the reduced tax period</u>	<u>9%</u>	<u>14.8%</u>
25	(h) <u>post-2015 wells:</u>		
26	(i) <u>production during the reduced tax period</u>	<u>0.5%</u>	<u>14.8%</u>
27	(ii) <u>production not during the reduced tax period</u>	<u>9%</u>	<u>14.8%</u>
28	(6) (a) The reduced tax <del>rates</del> <u>rate</u> under subsection (5)(a)(i) <u>on qualifying primary recovery production</u>		
29	for the first 12 months of oil production from a well begins following the last day of the calendar month		
30	immediately preceding the month in which oil is pumped or flows, provided that notification has been given to the		

1 department.

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

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

10 (c) Incremental production is taxed as provided in subsection (5)(e) only if the average price for ~~each~~  
11 a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar  
12 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  
13 as determined in subsection (6)(e), then incremental production from pre-1999 wells and from post-1999 wells  
14 is taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B),  
15 respectively, for production occurring in that quarter, other than exempt stripper well production.

16 (d) (i) Stripper well exemption production is taxed as provided in subsection (5)(c)(i) only if the average  
17 price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a  
18 calendar quarter is less than \$38 a barrel as determined in subsection (6)(e). If the price of oil is equal to or  
19 greater than \$38 a barrel, there is no stripper well exemption tax rate and oil produced from a well that produces  
20 3 barrels a day or less is taxed as stripper well bonus production.

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

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

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

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

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

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

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

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

14  
15 NEW SECTION. **Section 3. Notification to tribal governments.** The secretary of state shall send a  
16 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell  
17 Chippewa tribe.

18  
19 NEW SECTION. **Section 4. Applicability.** [This act] applies to oil and natural gas wells drilled after  
20 December 31, 2015.

21 - END -