SENATE BILL NO. 567

INTRODUCED BY K. GILLAN

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE LARGE-SCALE ENERGY DEVELOPMENT INFRASTRUCTURE IMPACT ACT OF 2007; CREATING THE ENERGY DEVELOPMENT IMPACT BOARD AND ATTACHING THE BOARD FOR ADMINISTRATIVE PURPOSES TO THE DEPARTMENT OF COMMERCE; ESTABLISHING THE BOARD'S MEMBERSHIP AND POWERS; REQUIRING THE SUBMISSION OF IMPACT PLANS TO THE BOARD; AUTHORIZING THE BOARD TO ASSESS AND COLLECT IMPACT PLAN APPLICATION FEES; CREATING THE ENERGY DEVELOPMENT IMPACT ACCOUNT WITHIN THE AGENCY FUND TYPE AND THE ENERGY DEVELOPMENT IMPACT TRUST ACCOUNT WITHIN THE STATE SPECIAL REVENUE FUND; CREATING A RESERVE AMOUNT WITHIN THE ENERGY DEVELOPMENT IMPACT TRUST ACCOUNT; AUTHORIZING THE USE OF THE RESERVE AMOUNT BY THE BOARD FOR CERTAIN PURPOSES; ALLOCATING AND TRANSFERRING FUNDS FROM THE OIL AND NATURAL GAS PRODUCTION TAX TO THE ENERGY DEVELOPMENT IMPACT TRUST ACCOUNT; AUTHORIZING THE ISSUANCE OF FACILITY IMPACT BONDS BY LOCAL GOVERNMENTS; AMENDING SECTIONS 15-16-201 AND 15-36-331, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 12] may be known and may be cited as the "Large-Scale Energy Development Infrastructure Impact Act of 2007".

NEW SECTION. **Section 2. Declaration of necessity and purpose.** The large-scale development of energy in the state may cause an influx of people to the area directly related to and surrounding the area of the development. This influx of people, during both construction and operations, and the corresponding increase in demand for local government services and facilities may create a burden on the local taxpayer. There is a significant lag time between the time when additional services and facilities must be provided and when additional tax revenue is available through an increased tax base. Therefore, there is a need to provide a system to assist local governments in meeting the initial financial impacts of large-scale energy developments creating a demand for increased services and facilities.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 12], unless the context requires otherwise, the following definitions apply:

(1) "Affected local government unit" means a local government unit that will experience a need to increase services or facilities as a result of the commencement of large-scale energy development or within which a large-scale energy development is located in accordance with an impact plan adopted pursuant to [section 7].

(2) "Board" means the energy development impact board established in [section 13].

(3) "Bonds" include bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates, and all instruments or obligations evidencing or representing indebtedness or evidencing or representing the borrowing of money or evidencing or representing a charge, lien, or encumbrance on specific revenue, special assessments, income, or property of a political subdivision, including all instruments or obligations payable from a special fund.

(4) "Facility" means a facility that is owned, operated, or maintained by a local government unit and that, under the impact plan submitted under the provisions of [section 7], can be expected to have increased capital and operating costs as a result of the large-scale energy development.

(5) (a) "Large-scale energy development" means, subject to subsection (5)(b), the construction or operation of:

(i) coal-mining facilities;

(ii) oil-using or gas-using energy complexes;

(iii) coal gasification production facilities;

(iv) hydrocarbon electrical generation facilities, including those using coal, natural gas, and synthetic natural gas; and

(v) liquid hydrocarbon production facilities, including coal-to-liquid and gas-to-liquid facilities.

(b) A large-scale energy development is one for which the average number of persons on the payroll of the developer and of contractors at the development exceeds or is projected to exceed 150 for any consecutive 6-month period.

(6) "Local government unit" means a county, incorporated city or town, school district, consolidated city-county government, or any of the following independent special districts:

(a) rural fire district;

(b) public hospital district;

(c) solid waste management district;

(d) county water and sewer district;

(e) county water district;

(f) county sewer district; or

(g) park district.

(7) (a) "Property tax prepayment" means a potentially reimbursable impact payment made by the developer of a large-scale energy development to the impact fund of an affected local government unit, pursuant to an approved impact plan, to be expended for the purpose or purposes identified in the impact plan.

(b) The term does not mean a payment or prepayment of property taxes for general distribution among funds or accounts.

NEW SECTION. **Section 4. Meetings -- facilities -- funds.** (1) The board shall meet quarterly and as called by the presiding officer or a majority of the members.

(2) Members are entitled to compensation as provided for in 2-15-124(7).

(3) Pursuant to [section 5(3)], the administrative and operating expenses of the board must be paid from revenue deposited to the credit of the energy development impact trust account from the oil and natural gas production tax distributed under 15-36-331.

(4) The department of commerce shall provide suitable office facilities and the necessary staff for the board.

NEW SECTION. **Section 5. Accounts established.** (1) There is within the agency fund type an energy development impact account. Money is payable into this account from payments made by a developer of a large-scale energy development in compliance with the written guarantee from the developer to meet the increased costs of public services and facilities as specified in the impact plan provided for in [section 7]. The state treasurer shall draw warrants from this account upon order of the board.

(2) There is within the state special revenue fund an energy development impact trust account. Within this trust account there is established a reserve amount that includes impact plan application fees provided for in [section 7(1)] and revenue distributed under 15-36-331 from the oil and natural gas production tax less any amounts required for the administrative and operating expenses of the board.

(3) Money within the energy development impact trust account may be used:

(a) for the administrative and operating expenses of the board, as provided by [section 4(3)]; and

(b) to establish a reserve amount.

(4) The board may use the reserve amount to mitigate large-scale energy development impacts through

grants to local government units in accordance with rules adopted by the board, to fund state-level feasibility studies of additional energy development and emergencies related to affected local government unit facilities, and to meet its quasi-judicial responsibilities.

(5) Beginning on July 1, 2007, the money allocated to the energy development impact trust account from 15-36-331 for use by the board is to be used as provided in this section.

(6) Interest earned on money in the energy development impact trust account accrues to that account and must become part of the reserve amount.

NEW SECTION. **Section 6. Energy development impact board -- general powers.** (1) The board may:

(a) retain professional consultants and advisers;

(b) adopt rules governing its proceedings, determinations, and administration of [sections 1 through 12];

(c) make payments to local government units from money paid to the energy development impact account as provided in [section 7];

(d) make grants to local government units from the reserve amount provided in [section 5(2)];

(e) accept property tax prepayments made under [section 10] and, when necessary, compel property tax prepayments from the developers of large-scale energy developments to implement the impact plan authorized in [section 7];

(f) borrow from the board of investments to mitigate impacts to local government unit facilities as provided in [section 7(3)(c)], provided that no part of the loan may be made from retirement funds;

(g) assess and collect application fees from the developers of large-scale energy developments that submit impact plans to the board;

(h) make determinations as provided in [sections 7 and 8]; and

(i) accept gifts, donations, grants, and other funds to be used in carrying out the provisions of [sections 1 through 12].

(2) The provisions of the Montana Administrative Procedure Act apply to the proceedings and determinations of the board.

NEW SECTION. **Section 7. Impact plan -- fee.** (1) After an application for any necessary permit for a large-scale energy development is made to the appropriate governmental agencies under Title 75 or Title 82, the person seeking the permit shall submit to the affected counties and the board an impact plan describing the

economic impact that the large-scale energy development will have on local government units and shall file proof of the submission to the counties with the board. The impact plan submitted to the board must be accompanied by an application fee in the amount of $1,000. The fee must be deposited into the energy development impact trust account established in [section 5(2)]. Whenever an environmental impact statement on the permit applications is prepared under the Montana Environmental Policy Act, the lead agency shall cooperate to the fullest extent practicable with the affected local government units to eliminate duplication of effort in data collection. The governing bodies of the affected counties shall publish notice of the submission of an impact plan at least once in a newspaper of general circulation in the county. The developer of the large-scale energy development and the affected local government units shall ensure that the impact plan includes:

(a) a timetable for the development, including the opening date of the development and the estimated closing date, if any;

(b) the estimated number of persons coming into the impacted area as a result of the development;

(c) the increased capital and operating cost to local government units for providing services that can be expected as a result of the development;

(d) the financial or other assistance that the developer will give to local government units to meet the increased need for services.

(2) In the impact plan, the developer shall commit itself to paying all of the increased capital and net operating cost to local government units that will result from the development, as identified in the impact plan, whether from property tax prepayments, as provided in [section 10], local government facility impact bonds, as provided in [section 11], or other funds obtained from the developer or provided by the board at the board's sole discretion pursuant to [section 6(1)(d) and (1)(f)], and shall provide a time schedule within which the developer will do so. The impact plan may provide for funding from other revenue sources or funding mechanisms if the developer guarantees that the amount to be provided from these sources will be paid. The form of guarantee must be approved in advance by the board.

(3) During the 90-day review period, the board shall evaluate the increased capital and net operating cost to local government units identified in the impact plan and shall review potential sources of impact mitigation funding in accordance with the following hierarchy:

(a) in the sole discretion of the board, monetary grants to local government units from the reserve amount provided in [section 5(2)];

(b) property tax prepayments under [section 10]; and

(c) loans to the board from the board of investments as authorized in [section 6(1)(f)] that are secured

by the developer of a large-scale energy development as required by the board of investments.

(4) If the board of investments does not approve a loan request made pursuant to subsection (3)(c), the board may compel the developer to make property tax prepayments to fund the costs identified in the impact plan.

(5) Upon request of the governing body of an affected local government unit, the developer, prior to the end of the 90-day review period, shall provide financial or other assistance as necessary to prepare for and evaluate the impact plan. The governing body of the affected county shall contract with the developer to obtain the requested financial assistance for each local government unit within the county. Any disbursements to a local government unit under this subsection must be credited against future tax liabilities, if any.

(6) The governing body of the county where the fiscal impacts on local government units are predicted in the impact plan to be most costly shall, within 90 days after receipt of the impact plan from the developer, conduct a public hearing on the impact plan.

(7) A local government unit that has not been identified in an impact plan submitted to the board as being likely to experience increased capital and operating costs for providing services that can be expected as a result of the large-scale energy development may object to the impact plan under the provisions of this section if the local government unit demonstrates by clear and convincing evidence that it is likely to experience increased capital and operating costs from the large-scale energy development.

(8) Within 90 days after receipt of the impact plan from the developer, an affected local government unit shall notify the board in writing if that local government unit objects to the impact plan, specifying the reasons for the objection. During the 90-day period, an affected local government unit may petition for one 30-day extension by submitting a written request to the board. The board shall grant the extension unless a finding is made that there is no reasonable basis for the request. If the board has no objection to the plan and an objection is not received within the 90-day period or any extension of the period, the impact plan is approved without any further review by the board. An approved plan is binding and may only be altered under the amendment provisions of [section 8].

(9) Within 10 days of receiving objections from a local government unit, the board shall notify the developer and forward a copy of the local government unit's objections to the developer. The local government unit and the developer have 30 days, or a longer period if mutually agreed upon in writing, to resolve the objections. If the objections are not resolved, the board shall conduct a hearing on the validity of the objections. The hearing must be held in any affected county chosen by the board. The provisions of the Montana Administrative Procedure Act apply to the conduct of the hearing.

(10) Within 60 days after the hearing, the board shall make findings as to those portions of the impact

plan that were objected to and, if appropriate, amend the impact plan accordingly. The findings and impact plan, as amended, must be served by the board upon all parties. A local government unit or the developer, if aggrieved by the decision of the board, is entitled to judicial review, as provided by Title 2, chapter 4, part 7, in the district court for the judicial district in which the hearing was held.

(11) Within 30 days of receipt of the approved impact plan, the developer shall provide the board with a written guarantee that the developer will meet the increased costs of public services and facilities as specified in the approved impact plan and according to the time schedule contained in the approved impact plan.

(12) The developer may make payments as specified in the approved impact plan directly to a local government unit or to the board. The governing body of a local government unit receiving payments shall deposit the payments into an impact fund. The developer and the affected governing body shall each issue to the board written verification of each payment and its intended use in compliance with the impact plan. The board shall deposit payments received from a developer into the energy development impact account established by [section 5(1)].

(13) The board shall notify the department of environmental quality of its receipt of the written guarantee of payment and of any failure of the developer to comply with this section.

(14) Upon receipt of evidence that an affected local government unit identified in the approved impact plan is providing or is preparing to provide an additional service or facility provided for in the approved impact plan, the board shall, if the energy development impact account is used to deliver payments to the local government unit, pay to that local government unit, in one sum or in parts, the money from the energy development impact account identified in the plan as the increased cost to the local government unit of providing that public service or facility.

(15) If it is determined that an objection filed by an affected local government unit under [section 8] or subsections (7) and (8) of this section is valid and it results in a remedial order by the board or by a court of competent jurisdiction, the local government unit must be awarded reasonable costs and attorney fees associated with any administrative or judicial appeals filed under this section. Any attorney fees and costs awarded are in addition to any amounts paid by the developer under [sections 1 through 12].

(16) When a person who holds any permit under Title 75 or Title 82 and who has filed an impact plan fails to comply with the review and implementation requirements in [sections 1 through 12], the board shall certify to the board of land commissioners that the failure to comply has occurred and shall certify when that person returns into compliance.

NEW SECTION. **Section 8. Impact plan amendments.** (1) The impact plan may provide for amendment under definite conditions specified in the plan. The governing body of an affected county or the developer of a large-scale energy development may petition the board for an amendment to an approved impact plan if:

(a) employment at the large-scale energy development is predicted to increase or decrease by at least 150 persons over or under the employment levels contemplated by the approved impact plan;

(b) an approved impact plan is materially inaccurate because of errors in assessment and 2 years have not elapsed since the date the large-scale energy development began commercial production; or

(c) the governing body of an affected county and the developer join in a petition to amend the impact plan.

(2) The governing body of a county not listed in the impact plan may petition for amendment of the plan if it proves by clear and convincing evidence that, subsequent to approval of the impact plan by the board, the county became impacted by the large-scale energy development. The board shall review the petition for amendment only if it first determines that the county carried its burden of proof on the issue of impact.

(3) Within 10 days of receipt, the board shall publish notice of the petition at least once in a newspaper of general circulation in the affected county. The petition must include:

(a) an explanation of the need for an amendment;

(b) a statement of the facts and circumstances underlying the need for an amendment; and

(c) a description of the corrective measures proposed by the petitioner.

(4) Within 60 days after notice that the petition has been received, an affected local government unit or the developer shall notify the board in writing if the local government unit or developer objects to the amendments proposed by the petitioner, specifying the reasons why the impact plan should not be amended as proposed. If the board has no objection and if no objection is received within the 60-day period, the impact plan must be amended by the board as proposed by the petitioner.

(5) If an objection is received, the board shall notify the petitioner within 10 days of receipt and shall include a copy of all objections received by the board. If the objecting party and the petitioner do not resolve the objections within 30 days after the expiration of the 60-day notice period, the board shall conduct a hearing on the validity of the objections within 30 days. The hearing must be held in a county affected by an objection filed with the board. The provisions of the Montana Administrative Procedure Act apply to the conduct of the hearing.

(6) Following the hearing, the board shall make findings as to those portions of the amendments that were objected to and, if appropriate, shall amend the impact plan accordingly. The board shall serve the findings

and amended impact plan on all parties. A local government unit or the developer is entitled to judicial review, as provided by Title 2, chapter 4, part 7, in the district court for the judicial district in which the hearing was held.

NEW SECTION. **Section 9. Permit procedure and review of impact plan to run concurrently.** It is intended that the procedure for fulfilling the permit requirements of Title 75 and Title 82 and the review of the impact plan by the board under [section 7] are to run concurrently.

NEW SECTION. **Section 10. Property tax prepayment -- large-scale energy development.** (1) After permission to commence operation is granted by the appropriate governmental agency and upon request of the governing body of a county in which a facility is to be located, a person intending to construct or locate a large-scale energy development in this state shall prepay property taxes as specified in the impact plan. This prepayment must exclude the 6-mill university levy established under 20-25-423 and may exclude the mandatory county levies for the school BASE funding program established in 20-9-331 and 20-9-333.

(2) The person who is to prepay property taxes under this section is not obligated to prepay the entire amount established in subsection (1) at one time. Upon request of the governing body of an affected local government unit, the person shall prepay the amount shown to be needed from time to time as determined by the board.

(3) The person who is to prepay property taxes shall guarantee to the board, through an appropriate financial institution and in the form required by the board, that property tax prepayments will be paid as needed for expenditures created by the impacts of the large-scale energy development.

(4) When the facilities are completed and assessed by the department of revenue, they are subject during the first 3 years and succeeding years to taxation in the same manner as all other property similarly situated, except that in each year after the start of production, the local government unit that received a property tax prepayment shall provide for repayment of property tax prepayments in accordance with subsection (5).

(5) A local government unit that received all or a portion of the property tax prepayment under this section shall provide for tax crediting as specified in the impact plan. However, the tax credit allowed in any year may not exceed the tax obligation of the developer for that year, and the time period for tax crediting is limited to the productive life of the large-scale energy development operation, but not to exceed 25 years.

NEW SECTION. **Section 11. Local government facility impact bonds.** (1) When the need for the construction, renovation, improvement, or acquisition of facilities as a result of the large-scale energy

development is determined under [section 7], the developer of a large-scale energy development may enter into a written agreement with the local government unit having the burden for the increased capital and operating costs expected to be incurred by the facilities. The local government unit may execute a written agreement with the developer of a large-scale energy development for the issuance of any local government facility impact bonds provided for in this section.

(2) The agreement with the developer of a large-scale energy development must provide for a payment guarantee through a third-party financial institution, in addition to the taxes imposed by the local government unit on property owners generally, of the principal and interest on the bonds provided for in this section. Payment will then be made by an annual special tax levy on the property of the large-scale energy development sufficient to retire the principal and interest on the bonds. The bonds may not be an obligation of the local government unit, but must be special obligations limited to the revenue derived from the special tax levy. A local government unit shall establish a levy and, to the extent bonds are issued as provided in this section, shall pledge the special fund and all revenue of the special tax levy to the repayment of the bonds.

(3) The debt limits set forth in 7-7-2203, 7-7-4201, and 20-9-406 do not apply to bonds issued in accordance with this section. The interest on the bonds is not subject to state taxes.

(4) The bonds must be authorized by the governing body of the local government unit by a resolution that states:

(a) the facility for which the bonds are issued;

(b) the amount of the bonds;

(c) the rate of interest the bonds bear;

(d) the date of the bonds and the maturity date or dates of the bonds;

(e) the dates interest is payable on the bonds;

(f) the redemption options, if any, with respect to the bonds; and

(g) the manner of execution of the bonds.

(5) The bonds must be:

(a) in registered form as to principal and interest;

(b) payable in installments and at times not exceeding 30 years from their date of issuance; and

(c) payable at a place or places and be evidenced in a manner the governing body determines is in the best interest of the local government unit.

(6) Any bonds issued under the authority of this section may be sold at public or private sale in a manner, at a time or times, and at a price above or below par as may be determined by the governing body of the local

government unit. All expenses, premiums, and commissions that the local government unit considers necessary or advantageous in connection with the authorization, sale, and issuance of the bonds may be paid by the governing body of the local government unit from the proceeds of the sale of the bonds.

(7) If more than one local government unit adopts a resolution to issue bonds, the local government units may enter into an interlocal agreement under Title 7, chapter 11, part 1, providing for the issuance of bonds of the local government units to be combined in a single offering, if the governing body of each local government unit authorizing the bonds determines that the pooling of bonds:

(a) is in the best interest of the local government units;

(b) will facilitate the sale of the bonds under more advantageous terms;

(c) will lower the interest rates; or

(d) will lower the cost of issuance.

(8) In addition to the specific requirements of 7-11-105, the interlocal agreement must provide:

(a) that the bond titles must denote that bonds of different local government units have been pooled and must refer to each local government unit executing the interlocal agreement;

(b) for a single debt service fund to be held by a qualified trust company and to which each local government unit shall pledge and pay the annual special tax levies levied against the large-scale energy development; and

(c) that the bonds are payable solely from and against the debt service funds under the interlocal agreement.

NEW SECTION. **Section 12. Local government budget authority.** A local government unit may budget and expend payments received from the developer of a large-scale energy development under [sections 1 through 12] or pursuant to a plan approved under [sections 1 through 12]. If a payment is requested or received after the adoption of the budget for the fiscal year in which the payment is to be expended, the governing body of the local government unit may by a majority vote amend its budget to provide for the receipt and expenditure of the payment.

NEW SECTION. **Section 13. Energy development impact board.** (1) There is an energy development impact board.

(2) The board is allocated to the department of commerce for administrative purposes only as provided in 2-15-121.

(3) The board is a seven-member board appointed by the governor.

(4) (a) Subject to subsections (4)(b) and (4)(c), the board must include among its members:

(i) a person who, when appointed to the board, is an elected official of an incorporated city or town;

(ii) a person who, when appointed to the board, is an elected county commissioner or elected official of a consolidated city-county government;

(iii) a person who, when appointed to the board, is an elected school district trustee;

(iv) four members of the public-at-large.

(b) Four persons appointed to the board must reside in an area impacted or expected to be impacted by large-scale energy development or must reside in a county that produces coal, oil, or gas.

(c) At least two persons must be appointed from each district provided for in 5-1-102.

(5) The board is a quasi-judicial board subject to the provisions of 2-15-124 except that one of the members need not be an attorney licensed to practice law in this state. The governor shall appoint a presiding officer from among its members.

Section 14. Section 15-16-201, MCA, is amended to read:

"15-16-201. ~~Tax~~ Property tax prepayment -- new industrial facilities. (1) A person intending to construct or locate a major new industrial facility, as defined in subsection (2) ~~of this section~~, shall upon request of the board of county commissioners of the county in which the facility is to be located, prepay, when permission is granted to construct or locate by the appropriate governmental agency, an amount equal to three times the estimated property tax due for the year the facility is completed. The person who is to prepay property taxes under this section ~~shall~~ is not ~~be~~ obligated to prepay the entire amount at one time but, upon request of the board of county commissioners of the county, shall prepay only that amount shown to be needed from time to time. To ~~assure~~ ensure this payment or payments, the person who is to prepay property taxes shall guarantee to the board of county commissioners and also have a bank or banks guarantee that these amounts will be paid as needed for expenditures created by the impact. When the facility is completed and assessed by the department of revenue, it ~~shall be~~ is subject during the first 3 years and thereafter to taxation in the same manner as all other property similarly situated, except that one-fifth of the amount prepaid ~~shall~~ must be allowed as a credit against property taxes in each of the first 5 years after the start of productive operation of the facility.

(2) A major new industrial facility is a manufacturing or mining facility, other than a large-scale mineral development as defined in 90-6-302 or a large-scale energy development as defined in [section 3], ~~which~~ that will employ on an average annual basis at least 100 people in construction or operation of the facility and ~~which~~

that will create a substantial adverse impact on existing state, county, or municipal services."

Section 15. 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 15-1-501, 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 for the oil, gas, and coal natural resource account established in 90-6-1001 must be deposited in the account.

(c) The amount of the tax for the energy development impact trust account established in [section 5(2)] must be deposited in that account.

(3) (a) ~~For~~ Subject to subsection (3)(b), 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:

	~~2005~~	~~2006 and succeeding tax years~~
Big Horn	~~45.04%~~	45.05%
Blaine	~~58.11%~~	58.39%
Carbon	~~48.93%~~	48.27%
Chouteau	~~57.65%~~	58.14%
Custer	~~80.9%~~	69.53%
Daniels	~~49.98%~~	50.81%
Dawson	~~50.64%~~	47.79%
Fallon	~~41.15%~~	41.78%
Fergus	~~83.52%~~	69.18%
Garfield	~~48.81%~~	45.96%
Glacier	~~64.74%~~	58.83%
Golden Valley	~~57.41%~~	58.37%

Hill	~~65.33%~~	64.51%
Liberty	~~59.73%~~	57.94%
McCone	~~52.86%~~	49.92%
Musselshell	~~51.44%~~	48.64%
Petroleum	~~54.62%~~	48.04%
Phillips	~~53.78%~~	54.02%
Pondera	~~70.89%~~	54.26%
Powder River	~~62.17%~~	60.9%
Prairie	~~39.73%~~	40.38%
Richland	~~46.72%~~	47.47%
Roosevelt	~~46.06%~~	45.71%
Rosebud	~~38.69%~~	39.33%
Sheridan	~~47.54%~~	47.99%
Stillwater	~~54.35%~~	53.51%
Sweet Grass	~~60.24%~~	61.24%
Teton	~~48.4%~~	46.1%
Toole	~~57.14%~~	57.61%
Valley	~~54.22%~~	51.43%
Wibaux	~~48.68%~~	49.16%
Yellowstone	~~48.06%~~	46.74%
All other counties	~~50.15%~~	50.15%

(b) If a county's allocation under subsection (3)(a) exceeds $2.5 million in a calendar quarter, then 90% of the county's allocation must be distributed to the county as required in subsection (3)(c) and 10% of the allocation must be deposited in the energy development impact trust account to be used by the energy development impact board created in [section 13].

~~(b)~~(c) 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 15-1-501, 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) 2.95% to the reclamation and development grants special revenue account established in 90-2-1104;

(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 20-25-423; and

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

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

(i) 4.18% to the reclamation and development grants special revenue account established in 90-2-1104;

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

(iii) 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 20-25-423; and

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

NEW SECTION. **Section 16. Codification instructions.** (1) [Sections 1 through 12] are intended to be codified as an integral part of Title 90, chapter 6, and the provisions of Title 90, chapter 6, apply to [sections 1 through 12].

(2) [Section 13] is intended to be codified as an integral part of Title 2, chapter 15, part 18, and the provisions of Title 2, chapter 15, part 18, apply to [section 13].

NEW SECTION. **Section 17. Effective date.** [This act] is effective July 1, 2007.

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