

HOUSE BILL NO. 67

INTRODUCED BY B. SMITH

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE WALL STREET JOURNAL AS THE SOURCE FOR DETERMINING THE AVERAGE PRICE FOR A BARREL OF WEST TEXAS INTERMEDIATE CRUDE OIL; AND AMENDING SECTIONS 15-36-303, 15-36-304, AND 20-9-518, MCA."

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

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

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

(5) "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) "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) "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) "Horizontally completed well" means:

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



- 1 (b) any other well classified by the board as a horizontally completed well.
- 2 (9) "Incremental production" means:
- 3 (a) the volume of oil produced by a new enhanced recovery project, by a well in primary recovery
- 4 recompleted as a horizontally completed well, or by an expanded enhanced recovery project, which volume of
- 5 production is in excess of the production decline rate established under the conditions existing before:
- 6 (i) ~~the commencement of~~ commencing the recompletion of a well as a horizontally completed well;
- 7 (ii) ~~expansion of~~ expanding the existing enhanced recovery project; or
- 8 (iii) commencing a new enhanced recovery project; or
- 9 (b) in the case of any project that had no taxable production prior to commencing the enhanced recovery
- 10 project, all production of oil from the enhanced recovery project.
- 11 (10) "Natural gas" or "gas" means natural gas and other fluid hydrocarbons, other than oil, produced at
- 12 the wellhead.
- 13 (11) "New enhanced recovery project" means an enhanced recovery project that began development
- 14 after December 31, 1993.
- 15 (12) "Nonworking interest owner" means any interest owner who does not share in the exploration,
- 16 development, and operation costs of the lease or unit, except for production taxes.
- 17 (13) "Oil" means crude petroleum or mineral oil and other hydrocarbons, regardless of gravity, that are
- 18 produced at the wellhead in liquid form and that are not the result of condensation of gas after it leaves the
- 19 wellhead.
- 20 (14) "Operator" or "producer" means a person who produces oil or natural gas within this state or who
- 21 owns, controls, manages, leases, or operates within this state any well or wells from which any marketable oil
- 22 or natural gas is extracted or produced.
- 23 (15) "Post-1999 well" means an oil or natural gas well drilled on or after January 1, 1999, that produces
- 24 oil or natural gas or a well that has not produced oil or natural gas during the 5 years immediately preceding the
- 25 first month of qualifying as a post-1999 well.
- 26 (16) "Pre-1999 well" means an oil or natural gas well that was drilled before January 1, 1999.
- 27 (17) "Primary recovery" means the displacement of oil from the earth into the well bore by means of the
- 28 natural pressure of the oil reservoir and includes artificial lift.
- 29 (18) "Production decline rate" means the projected rate of future oil production, extrapolated by a method
- 30 approved by the board, that must be determined for a project area prior to commencing a new or expanded

1 enhanced recovery project or the recompletion of a well as a horizontally completed well. The approved
2 production decline rate must be certified in writing to the department by the board. In that certification, the board
3 shall identify the project area and shall specify the projected rate of future oil production by calendar year and
4 by calendar quarter within each year. The certified rate of future oil production must be used to determine the
5 volume of incremental production that qualifies for the tax rate imposed under 15-36-304(5)(e).

6 (19) (a) "Qualifying production" means the first 12 months of production of oil or natural gas from a well
7 drilled after December 31, 1998, or the first 18 months of production of oil or natural gas from a horizontally
8 completed well drilled after December 31, 1998, or from a well that has not produced oil or natural gas during the
9 5 years immediately preceding the first month of qualifying production.

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

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

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

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

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

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

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

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

1 (22) (a) "Stripper oil" means the oil produced from any well that produces more than 3 barrels but ~~less~~
2 fewer than 15 barrels a day for the calendar year immediately preceding the current year if the average price for
3 a barrel of oil ~~as reported in the Wall Street Journal~~ for west Texas intermediate crude oil during a calendar
4 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,
5 there is no stripper tax rate in that quarter.

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

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

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

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

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

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

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

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

- 1 (vii) alkaline or caustic flooding;
- 2 (viii) carbon dioxide water flooding;
- 3 (ix) immiscible carbon dioxide displacement; ~~or~~ and
- 4 (x) any other method approved by the board as a tertiary recovery method.
- 5 (25) "Well" or "wells" means a single well or a group of wells in one field or production unit and under the
- 6 control of one operator or producer.
- 7 (26) "Working interest owner" means the owner of an interest in an oil or natural gas well or wells who
- 8 bears any portion of the exploration, development, and operating costs of the well or wells."

9
10 **Section 2.** Section 15-36-304, MCA, is amended to read:

11 **"15-36-304. Production tax rates imposed on oil and natural gas -- exemption.** (1) The production
12 of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-331 and
13 15-36-332.

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

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

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

30 (4) The reduced tax ~~rate~~ rates under subsection (2)(c)(i) on production from a horizontally completed

1 well for the first 18 months of production ~~begins~~ begin following the last day of the calendar month immediately
 2 preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification
 3 has been given to the department.

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

	Working	Nonworking
	Interest	Interest
6 (a) primary recovery production:		
7 (i) first 12 months of qualifying production	0.5%	14.8%
8 (ii) after 12 months:		
9 (A) pre-1999 wells	12.5%	14.8%
10 (B) post-1999 wells	9%	14.8%
11 (b) stripper oil production:		
12 (i) first 1 through 10 barrels a day production	5.5%	14.8%
13 (ii) more than 10 barrels a day production	9.0%	14.8%
14 (c) (i) stripper well exemption production	0.5%	14.8%
15 (ii) stripper well bonus production	6.0%	14.8%
16 (d) horizontally completed well production:		
17 (i) first 18 months of qualifying production	0.5%	14.8%
18 (ii) after 18 months:		
19 (A) pre-1999 wells	12.5%	14.8%
20 (B) post-1999 wells	9%	14.8%
21 (e) incremental production:		
22 (i) new or expanded secondary recovery production	8.5%	14.8%
23 (ii) new or expanded tertiary production	5.8%	14.8%
24 (f) horizontally recompleted well:		
25 (i) first 18 months	5.5%	14.8%
26 (ii) after 18 months:		
27 (A) pre-1999 wells	12.5%	14.8%
28 (B) post-1999 wells	9%	14.8%

1 (6) (a) The reduced tax rates under subsection (5)(a)(i) for the first 12 months of oil production from a
2 well ~~begins~~ begin following the last day of the calendar month immediately preceding the month in which oil is
3 pumped or flows, provided that notification has been given to the department.

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

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

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

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

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

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

30 (7) (a) The tax rates imposed under subsections (2) and (5) on working interest owners and nonworking

1 interest owners must be adjusted to include the total of the privilege and license tax adopted by the board of oil
 2 and gas conservation pursuant to 82-11-131 and the derived rate for the oil and gas natural resource distribution
 3 account as determined under subsection (7)(b).

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

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

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

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

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

17

18 **Section 3.** Section 20-9-518, MCA, is amended to read:

19 **"20-9-518. County school oil and natural gas impact fund.** (1) The governing body of a county
 20 receiving an allocation under 20-9-310(4)(b) shall establish a county school oil and natural gas impact fund.

21 (2) Money received by a county pursuant to 20-9-310(4)(b) must remain in the fund and may not be
 22 appropriated by the governing body until:

23 (a) the amount of oil and natural gas production taxes received by a school district for the fiscal year is
 24 50% or less of the amount of the average received by the district in the previous 4 fiscal years; or

25 (b) the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate
 26 crude oil during a calendar quarter is less than \$65 a barrel. The average price for each barrel must be computed
 27 by dividing the sum of the daily price for a barrel of west Texas intermediate crude oil ~~as reported in the Wall~~
 28 ~~Street Journal~~ for the calendar quarter by the number of days on which the price was reported in the quarter.

29 (3) (a) Within 120 days following the end of the fiscal year, the superintendent of public instruction shall
 30 determine if the criteria in subsection (2)(a) have been met and the department of revenue shall determine if the

1 criteria in subsection (2)(b) have been met.

2 (b) If it is determined under subsection (3)(a) that the criteria in subsection (2)(a) or (2)(b) have been
3 met, the superintendent of public instruction or the department of revenue shall notify the county treasurer.

4 (4) Upon notification under subsection (3)(b), the county treasurer shall allocate 80% of the money
5 proportionally to affected high school districts and elementary school districts in the county, which must be
6 calculated by dividing the total funds available for distribution by the total number of quality educators, as defined
7 in 20-4-502, employed by the qualifying school districts in the county in the immediately preceding school fiscal
8 year. The number of quality educators used for the calculation under this subsection in a district with territory in
9 more than one county must be prorated based on the average number belonging of the district residing in school
10 district territory located in each respective county. A school district receiving this money may deposit the funds
11 in any budgeted fund of the district at the discretion of the trustees.

12 (5) The governing body of the county may use 20% of the money in the fund to:

13 (a) pay for outstanding capital project bonds or other expenses incurred prior to the reduction in the price
14 of oil or the reduction in the receipt of oil and natural gas production taxes described in subsection (2);

15 (b) offset property tax levy increases that are directly caused by the cessation or reduction of oil and
16 natural gas activity;

17 (c) promote diversification and development of the economic base within the jurisdiction;

18 (d) attract new industry to the area impacted by changes in oil and natural gas activity leading to the
19 reduction in the price of oil or the reduction in the receipt of oil and natural gas production taxes described in
20 subsection (2); or

21 (e) provide cash incentives for expanding the employment base of the area impacted by the changes
22 in oil and natural gas activity leading to the reduction in the price of oil or the reduction in the receipt of oil and
23 natural gas production taxes described in subsection (2).

24 (6) Except as provided in subsection (5)(b), money held in the fund may not be considered as fund
25 balance for the purpose of reducing mill levies.

26 (7) Money in the fund must be invested as provided by law. Interest and income from the investment of
27 money in the fund must be credited to the fund."

28 - END -