HOUSE BILL NO. 661

INTRODUCED BY J. KASSMIER

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING STRIPPER OIL AND NATURAL GAS TAX LAWS; REVISING THE TAX RATES FOR STRIPPER OIL AND NATURAL GAS PRODUCTION; PROVIDING DEFINITIONS; AMENDING SECTIONS 15-36-303, 15-36-304, AND 15-36-331, MCA; AND PROVIDING AN EFFECTIVE DATE.”

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 wellbore 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; or

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

(9) "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) commencing the recompletion of a well as a horizontally completed well;

(ii) 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.

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

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

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

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

(18) "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)~~ <u>15-36-304(6)(e)</u>.

(19) (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) "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 wellbore;

or

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

(21) "Stripper natural gas" means the natural gas produced from any well that produces less than ~~60,000 cubic feet~~ 60 MCF 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) "Stripper natural gas exemption" means stripper natural gas production subject to 15-36-304(4).

~~(22) (a)~~(23) "Stripper oil" means the oil produced from any well that produces ~~more than 3 barrels but fewer than~~ 15 barrels a day ~~for the calendar year immediately preceding the current year if the average price for a barrel of west Texas intermediate crude oil during a calendar quarter is less than $30. 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 for the calendar quarter by the number of days on which the price was reported in the quarter~~ or less.

~~(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 then dividing the resulting quotient by 365.

~~(23)~~(24) "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)~~ stripper oil production subject to 15-36-304(7)(d).

~~(24)~~(25) "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; and

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

~~(25)~~<u>(26)</u> "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)~~<u>(27)</u> "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."

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

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

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

	Working Interest	Nonworking Interest
(a) (i) first 12 months of qualifying production	0.5%	14.8%

(ii) after 12 months:		
(A) pre-1999 wells	14.8%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper natural gas ~~pre-1999~~ wells:	~~11%~~	
(i) less than 18 MCF each day	5%	14.8%
(ii) more than 18 MCF each day	8%	14.8%
(c) stripper natural gas exemption:		
(i) less than 18 MCF each day	0.8%	14.8%
(ii) more than 18 MCF each day	5%	14.8%
~~(c)~~(d) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months	9%	14.8%

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

(4) Stripper natural gas exemption production is taxed as provided in subsection (2)(c) only if the AECO C posting price for natural gas marketed during a calendar quarter is $4.75 or less for each MCF. If the price of natural gas is greater than $4.75 for each MCF, there is no stripper natural gas exemption tax rate, and natural gas produced from a well that produces 60 MCF each day or less is taxed as stripper natural gas production.

~~(4)~~(5) The reduced tax rates under subsection ~~(2)(c)(i)~~ (2)(d)(i) on production from a horizontally completed well for the first 18 months of production begin following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

~~(5)~~(6) Oil is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) primary recovery production:		
(i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper oil production:		
(i) first 1 through ~~10~~ 3 barrels a day production	~~5.5%~~5%	14.8%
(ii) more than ~~10~~ 3 barrels a day production	~~9.0%~~8%	14.8%
(c) ~~(i)~~ stripper well exemption production:		
(i) less than 3 barrels each day production	~~0.5%~~0.8%	14.8%
(ii) ~~stripper well bonus production~~more than 3 barrels each day production	~~6.0%~~5%	14.8%
(d) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(e) incremental production:		
(i) new or expanded secondary recovery production	8.5%	14.8%
(ii) new or expanded tertiary production	5.8%	14.8%
(f) horizontally recompleted well:		
(i) first 18 months	5.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%

~~(6)~~(7) (a) The reduced tax rates under subsection ~~(5)(a)(i)~~ (6)(a)(i) for the first 12 months of oil production from a well begin following the last day of the calendar month immediately preceding the month in which oil is pumped or flows, provided that notification has been given to the department.

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

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

(c) New or expanded secondary recovery production is taxed as provided in subsection ~~(5)(e)(i)~~ (6)(e)(i) only if the average price ~~for a barrel of west Texas intermediate crude~~ reported and received by the producer for Montana oil marketed during a calendar quarter is less than $54. If the price of oil is equal to or greater than $54 a barrel ~~in a calendar quarter as determined in subsection (6)(e)~~, then new or expanded secondary recovery production from pre-1999 wells and from post-1999 wells is taxed at the rate imposed on primary recovery production under subsections ~~(5)(a)(ii)(A) and (5)(a)(ii)(B)~~ (6)(a)(ii)(A) and (6)(a)(ii)(B), respectively, for production occurring in that quarter, other than exempt stripper well production.

(d) ~~(i)~~ Stripper well exemption production is taxed as provided in subsection ~~(5)(c)(i)~~ (6)(c) only if the average price reported and received by the producer for Montana oil marketed during a calendar quarter is less than ~~$54~~ $59 a barrel. If the price of oil is equal to or greater than ~~$54~~ $59 a barrel, there is no stripper well exemption tax rate and oil produced from a well that produces ~~3~~ 15 barrels a day or less is taxed as stripper ~~well bonus~~ oil production.

~~(ii) Stripper well bonus production is subject to taxation as provided in subsection (5)(c)(ii) only if the average price reported and received by the producer for Montana oil marketed during a calendar quarter is equal to or greater than $54 a barrel.~~

~~(e) For the purposes of subsection (6)(c), the average price for each barrel must be computed by dividing the sum of the daily price for a barrel of west Texas intermediate crude oil for the calendar quarter by~~

~~the number of days on which the price was reported in the quarter.~~

~~(7)~~(8) The tax rates imposed under subsections (2) and ~~(5)~~ (6) on working interest owners and nonworking interest owners must be adjusted to include the privilege and license tax adopted by the board of oil and gas conservation pursuant to 82-11-131 and the tax for the oil and gas natural resource distribution account. The total of the privilege and license tax and the tax for the oil and gas natural resource distribution account established in 90-6-1001(1) is 0.3%.

~~(8)~~(9) Any interest in production owned by the state or a local government is exempt from taxation under this section."

Section 3. Section 15-36-331, MCA, is amended to read:

"**15-36-331. Distribution of taxes.** (1) (a) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalties collected under this part.

(b) For the purposes of distribution of oil and natural gas production taxes to county and school district taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas production taxes paid on production in the taxing unit.

(2) (a) The amount of oil and natural gas production taxes collected for the percentage of privilege and license tax established by the board pursuant to 82-11-131 must be deposited, in accordance with the provisions of 17-2-124, in the account in the state special revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

(b) After the allocation provided for in subsection (2)(a), up to 0.08% of the tax collected pursuant to ~~15-36-304(7)~~ 15-36-304(8) must be deposited in the oil and gas natural resource distribution account established in 90-6-1001(1) for distribution pursuant to 15-36-332(7).

(c) Any funds remaining after the allocations provided for in subsections (2)(a) and (2)(b) must remain in the account provided for in 82-11-135 as reserves for the board or for legislative transfer for purposes related to the impacts of oil and gas production.

(3) (a) For each tax year, the amount of oil and natural gas production taxes determined under subsection (1)(b) is allocated to each county according to the following schedule:

Big Horn	45.05%
Blaine	58.39%
Carbon	48.27%
Chouteau	58.14%
Custer	69.53%
Daniels	50.81%
Dawson	47.79%
Fallon	41.78%
Fergus	69.18%
Garfield	45.96%
Glacier	58.83%
Golden Valley	58.37%
Hill	64.51%
Liberty	57.94%
McCone	49.92%
Musselshell	48.64%
Petroleum	48.04%
Phillips	54.02%
Pondera	54.26%
Powder River	60.9%
Prairie	40.38%
Richland	47.47%
Roosevelt	45.71%
Rosebud	39.33%
Sheridan	47.99%
Stillwater	53.51%
Sweet Grass	61.24%

Teton	46.1%
Toole	57.61%
Valley	51.43%
Wibaux	49.16%
Yellowstone	46.74%
All other counties	50.15%

(b) 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 17-2-124, distribute the state portion of oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as follows:

(a) 2.16% to the natural resources projects state special revenue account established in 15-38-302;

(b) 2.02% to the natural resources operations state special revenue account established in 15-38-301;

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

(d) 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 15-10-109; and

(e) all remaining proceeds to the state general fund.

(5) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(a) file a financial report required by 15-1-504;

(b) remit any amounts collected on behalf of the state as required by 15-1-504; or

(c) remit any other amounts owed to the state or another taxing jurisdiction."

<u>NEW SECTION.</u> **Section 4. Effective date.** [This act] is effective July 1, 2021.

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