

1 HOUSE BILL NO. 661

2 INTRODUCED BY J. KASSMIER, D. BARTEL, W. GALT, C. KNUDSEN, B. LER

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING STRIPPER OIL ~~AND NATURAL GAS TAX LAWS;~~
 5 REVISING THE TAX RATES FOR STRIPPER OIL ~~AND NATURAL GAS PRODUCTION;~~ PROVIDING
 6 DEFINITIONS; AMENDING SECTIONS 15-36-303, AND 15-36-304, ~~AND 15-36-334,~~ MCA; AND PROVIDING
 7 AN EFFECTIVE DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:10
11 (Refer to Blue Bill – HB 661.2)

12 Strike everything after the enacting clause and insert:

13
14 **Section 1.** Section 15-36-303, MCA, is amended to read:15 **"15-36-303. Definitions.** As used in this part, the following definitions apply:

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

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

18 (3) "Enhanced recovery project" means the use of any process for the displacement of oil from the
19 earth other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or
20 biological process.21 (4) "Existing enhanced recovery project" means an enhanced recovery project that began
22 development before January 1, 1994.23 (5) "Expanded enhanced recovery project" or "expansion" means the addition of injection wells or
24 production wells, the recompletion of existing wells as horizontally completed wells, the change of an injection
25 pattern, or other operating changes to an existing enhanced recovery project that will result in the recovery of
26 oil that would not otherwise be recovered. The project must be developed after December 31, 1993.27 (6) "Gross taxable value", for the purpose of computing the oil and natural gas production tax, means
28 the gross value of the product as determined in 15-36-305.

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

4 (8) "Horizontally completed well" means:

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

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

7 (9) "Incremental production" means:

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

11 (i) commencing the recompletion of a well as a horizontally completed well;

12 (ii) expanding the existing enhanced recovery project; or

13 (iii) commencing a new enhanced recovery project; or

14 (b) in the case of any project that had no taxable production prior to commencing the enhanced
15 recovery project, all production of oil from the enhanced recovery project.

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

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

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

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

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

28 (15) "Post-1999 stripper well" means AN oil well drilled on or after January 1, 1999, that produces more

1 than 3 barrels but fewer than 15 barrels a day for the calendar year immediately preceding the current year if
2 the average price for a barrel of west Texas intermediate crude oil during a calendar quarter is less than \$30. If
3 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
4 quarter.

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

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

11 ~~(15)~~(16) "Post-1999 well" means an oil or natural gas well drilled on or after January 1, 1999, that
12 produces oil or natural gas or a well that has not produced oil or natural gas during the 5 years immediately
13 preceding the first month of qualifying as a post-1999 well.

14 (17) "Pre-1999 stripper well" means an oil well that was drilled before January 1, 1999, that produces
15 10 barrels a day or less. Production must be determined by dividing the amount of production from a lease or
16 unitized area for the year immediately preceding the current calendar year by the number of producing wells in
17 the lease or unitized area and then dividing the resulting quotient by 365.

18 ~~(16)~~(18) "Pre-1999 well" means an oil or natural gas well that was drilled before January 1, 1999.

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

21 ~~(18)~~(20) "Production decline rate" means the projected rate of future oil production, extrapolated by a
22 method approved by the board, that must be determined for a project area prior to commencing a new or
23 expanded enhanced recovery project or the recompletion of a well as a horizontally completed well. The
24 approved production decline rate must be certified in writing to the department by the board. In that certification,
25 the board shall identify the project area and shall specify the projected rate of future oil production by calendar
26 year and by calendar quarter within each year. The certified rate of future oil production must be used to
27 determine the volume of incremental production that qualifies for the tax rate imposed under 15-36-304(5)(e).

28 ~~(19)~~(21) (a) "Qualifying production" means the first 12 months of production of oil or natural gas from a

1 well drilled after December 31, 1998, or the first 18 months of production of oil or natural gas from a horizontally
 2 completed well drilled after December 31, 1998, or from a well that has not produced oil or natural gas during
 3 the 5 years immediately preceding the first month of qualifying production.

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

5 ~~(20)~~(22) "Secondary recovery project" means an enhanced recovery project, other than a tertiary
 6 recovery project, that commenced or was expanded after December 31, 1993, and meets each of the following
 7 requirements:

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

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

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

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

18 or

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

20 ~~(24)~~(23) "Stripper natural gas" means the natural gas produced from any well that produces less than
 21 60,000 cubic feet of natural gas a day during the calendar year immediately preceding the current year.
 22 Production must be determined by dividing the amount of production from a lease or unitized area for the year
 23 immediately preceding the current calendar year by the number of producing wells in the lease or unitized area
 24 and by dividing the resulting quotient by 365.

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

1 ~~(b) The average price for a barrel is computed by dividing the sum of the daily price for a barrel of~~
2 ~~west Texas intermediate crude oil for the calendar quarter by the number of days on which the price was~~
3 ~~reported in the quarter.~~

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

7 ~~(23)(24)~~ "Stripper well exemption" or "stripper well bonus" means petroleum and other mineral or crude
8 oil produced by a stripper well that produces 3 barrels a day or less. Production from this type of well must be
9 determined as provided in subsection ~~(22)(e)~~ (15)(c).

10 ~~(24)(25)~~ "Tertiary recovery project" means an enhanced recovery project, other than a secondary
11 recovery project, using a tertiary recovery method that meets the following requirements:

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

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

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

- 20 (i) miscible fluid displacement;
- 21 (ii) steam drive injection;
- 22 (iii) micellar/emulsion flooding;
- 23 (iv) in situ combustion;
- 24 (v) polymer augmented water flooding;
- 25 (vi) cyclic steam injection;
- 26 (vii) alkaline or caustic flooding;
- 27 (viii) carbon dioxide water flooding;
- 28 (ix) immiscible carbon dioxide displacement; and

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

2 ~~(25)~~(26) "Well" or "wells" means a single well or a group of wells in one field or production unit and
 3 under the control of one operator or producer.

4 ~~(26)~~(27) "Working interest owner" means the owner of an interest in an oil or natural gas well or wells
 5 who bears any portion of the exploration, development, and operating costs of the well or wells."
 6

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

8 **"15-36-304. Production tax rates imposed on oil and natural gas -- exemption.** (1) The
 9 production of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-
 10 331 and 15-36-332.

11 (2) Natural gas is taxed on the gross taxable value of production based on the type of well and type of
 12 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%	14.8%
(c) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months	9%	14.8%

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

17 (4) The reduced tax rates under subsection (2)(c)(i) on production from a horizontally completed well
 18 for the first 18 months of production begin following the last day of the calendar month immediately preceding

1 the month in which natural gas is placed in a natural gas distribution system, provided that notification has been
 2 given to the department.

3 (5) Oil is taxed on the gross taxable value of production based on the type of well and type of
 4 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) (i) pre-1999 stripper oil production wells	<u>5%</u>	<u>14.8%</u>
(ii) pre-1999 stripper well exemption production	<u>0.5%</u>	<u>14.8%</u>
(c) (i) post-1999 stripper wells:		
(i)(A) first 1 through 10 barrels a day production	5.5%	14.8%
(i)(B) more than 10 barrels a day production	9.0%	14.8%
(ii)(i)(A) post-1999 stripper well exemption	0.5%	14.8%
production		
(ii)(B) post-1999 stripper well bonus production	6.0%	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%

1 (6) (a) The reduced tax rates under subsection (5)(a)(i) for the first 12 months of oil production from a
 2 well begin following the last day of the calendar month immediately preceding the month in which oil is pumped
 3 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
 5 completed well for the first 18 months of production begin following the last day of the calendar month
 6 immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally
 7 completed well to the department by the board.

8 (ii) The reduced tax rates under subsection (5)(f)(i) on oil production from a horizontally recompleted
 9 well for the first 18 months of production 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) New or expanded secondary recovery production is taxed as provided in subsection (5)(e)(i) only if
 13 the average price for a barrel of west Texas intermediate crude reported and received by the producer for
 14 Montana oil marketed during a calendar quarter is less than \$54. If the price of oil is equal to or greater than
 15 \$54 a barrel in a calendar quarter as determined in subsection (6)(e), then new or expanded secondary
 16 recovery production from pre-1999 wells and from post-1999 wells is taxed at the rate imposed on primary
 17 recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B), respectively, for production occurring in that
 18 quarter, other than exempt stripper well production.

19 (d) ~~(i) Stripper~~ Pre-1999 stripper well exemption production is taxed as provided in subsection
 20 ~~(5)(e)(i)-(5)(b)(ii)~~ only if the average price reported and received by the producer for Montana oil marketed
 21 during a calendar quarter is less than \$54 a barrel. If the price of oil is equal to or greater than \$54 a barrel,
 22 there is no pre-1999 stripper well exemption tax rate and oil produced from a well that produces 3 barrels a day
 23 or less is taxed as pre-1999 stripper well ~~bonus~~ production.

1 (e) (i) Post-1999 stripper well exemption production is taxed as provided in subsection (5)(c)(ii)(A)
2 only if the average price reported and received by the producer for Montana oil marketed during a calendar
3 quarter is less than \$54 a barrel. If the price of oil is equal to or greater than \$54 a barrel, there is no post-1999
4 stripper well exemption tax rate and oil produced from a well that produces 3 barrels a day or less is taxed as
5 stripper well bonus production.

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

9 ~~(e) For the purposes of subsection (6)(c), the average price for each barrel must be computed by~~
10 ~~dividing the sum of the daily price for a barrel of west Texas intermediate crude oil for the calendar quarter by~~
11 ~~the number of days on which the price was reported in the quarter.~~

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

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

19

20 NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2021.

21

- END -