

Amendment - 1st Reading/2nd House-blue - Requested by: Larry Brewster - (S) Local Government

- 2023

68th Legislature 2023

Drafter: Megan Moore, 406-444-4496

HB0469.001.003

1 HOUSE BILL NO. 469
2 INTRODUCED BY L. BREWSTER, D. LENZ, S. VINTON, B. PHALEN, K. ZOLNIKOV, M. MALONE, T. SMITH,
3 L. DEMING, G. KMETZ
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF HORIZONTALLY RECOMPLETED
6 WELLS; AMENDING SECTIONS 15-36-303 AND 15-36-304, MCA; AMENDING SECTIONS 12 AND 13,
7 CHAPTER 559, LAWS OF 2021; REPEALING SECTIONS 3, 4, 5, 8, 9, 10, AND 14, CHAPTER 559, LAWS OF
8 2021; AND PROVIDING EFFECTIVE DATES."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11

12 **Section 1.** Section 15-36-303, MCA, is amended to read:

13 "~~15-36-303.~~ **(Temporary) Definitions.** As used in this part, the following definitions apply:

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

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

16 (3) ~~"Enhanced recovery project" means the use of any process for the displacement of oil from the
17 earth other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or
18 biological process.~~

19 (4) ~~"Existing enhanced recovery project" means an enhanced recovery project that began
20 development before January 1, 1994.~~

21 (5) ~~"Expanded enhanced recovery project" or "expansion" means the addition of injection wells or
22 production wells, the recompletion of existing wells as horizontally completed wells, the change of an injection
23 pattern, or other operating changes to an existing enhanced recovery project that will result in the recovery of
24 oil that would not otherwise be recovered. The project must be developed after December 31, 1993.~~

25 (6) ~~"Gross taxable value", for the purpose of computing the oil and natural gas production tax, means
26 the gross value of the product as determined in 15-36-305.~~

27 (7) ~~"Horizontal drain hole" means that portion of a wellbore with 70 degrees to 110 degrees deviation~~

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1

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

3 ~~" 15-36-304. (Temporary) Production tax rates imposed on oil and natural gas -- exemption. (1)~~

4 ~~The production of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in~~
5 ~~15-36-331 and 15-36-332.~~

6 ~~(2) Natural gas is taxed on the gross taxable value of production based on the type of well and type of~~
7 ~~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%

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

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

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

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	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 wells	9.2%	14.8%
(ii) (A) pre-1999 stripper well exemption production	0.5%	14.8%
(B) pre-1999 stripper well bonus production	5%	14.8%
(c) (i) post-1999 stripper wells:		
(A) first 1 through 10 barrels a day production	5.5%	14.8%
(B) more than 10 barrels a day production	9.0%	14.8%
(ii) (A) post-1999 stripper well exemption production	0.5%	14.8%
(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%

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~~(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 reported and received by the producer for Montana oil marketed during a calendar quarter is~~
14 ~~less than \$54. If the price of oil is equal to or greater than \$54 a barrel, then new or expanded secondary~~
15 ~~recovery production from pre-1999 wells and from post-1999 wells is taxed at the rate imposed on primary~~
16 ~~recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B), respectively, for production occurring in that~~
17 ~~quarter, other than exempt stripper well production.~~

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

23 ~~(e) (i) Post-1999 stripper well exemption production is taxed as provided in subsection (5)(c)(ii)(A)~~
24 ~~only if the average price reported and received by the producer for Montana oil marketed during a calendar~~
25 ~~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~~
26 ~~stripper well exemption tax rate and oil produced from a well that produces 3 barrels a day or less is taxed as~~

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1 ~~stripper well bonus production.~~

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

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

10 ~~(8) Any interest in production owned by the state or a local government is exempt from taxation under~~
11 ~~this section. (Terminates December 31, 2021, 2022, 2023, and 2024, on occurrence of contingency until~~
12 ~~December 31, 2025—secs. 13, 14, Ch. 559, L. 2021.)~~

13 ~~**15-36-304. (Temporary -- effective on occurrence of contingency) Production tax rates**~~
14 ~~**imposed on oil and natural gas -- exemption.**~~ (1) The production of oil and natural gas is taxed as provided
15 in this section. The tax is distributed as provided in 15-36-331 and 15-36-332.

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

	Working	Nonworking
	Interest	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%

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

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

9 ~~(5) Oil is taxed on the gross taxable value of production based on the type of well and type of~~
10 ~~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 barrels a day production	5.5%	14.8%
(ii) more than 10 barrels a day production	9.0%	14.8%
(c) (i) stripper well exemption production	0.5%	14.8%
(ii) 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%

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~~(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 oil during a calendar quarter is less than \$54. If~~
14 ~~the price of oil is equal to or greater than \$54 a barrel in a calendar quarter as determined in subsection (6)(e),~~
15 ~~then new or expanded secondary recovery production from pre-1999 wells and from post-1999 wells is taxed at~~
16 ~~the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B), respectively,~~
17 ~~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~~
19 ~~average price reported and received by the producer for Montana oil marketed during a calendar quarter is less~~

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1 ~~than \$54 a barrel. If the price of oil is equal to or greater than \$54 a barrel, there is no stripper well exemption~~
2 ~~tax rate and oil produced from a well that produces 3 barrels a day or less is taxed as stripper well bonus~~
3 ~~production.~~

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

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

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

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

17 **15-36-304. ~~(Effective January 1, 2026)~~ Production tax rates imposed on oil and natural gas --**
18 **exemption.** (1) The production of oil and natural gas is taxed as provided in this section. The tax is distributed
19 as provided in 15-36-331 and 15-36-332.

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

	Working	Nonworking
	Interest	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%

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(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%
(d) horizontally recompleted well:		
 (i) first 18 months	0.5%	14.8%
 (ii) after 18 months:		
 (A) pre-1999 wells	12.5%	14.8%
 (B) post-1999 wells	9%	14.8%

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

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

9 (5) Oil is taxed on the gross taxable value of production based on the type of well and type of
 10 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 wells	9.2%	14.8%

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(ii) (A) pre-1999 stripper well exemption production	0.5%	14.8%
(B) pre-1999 stripper well bonus production	5%	14.8%
(c) (i) post-1999 stripper wells:		
(A) first 1 through 10 barrels a day production	5.5%	14.8%
(B) more than 10 barrels a day production	9.0%	14.8%
(ii) (A) post-1999 stripper well exemption production	0.5%	14.8%
(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% <u>0.5%</u>	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.

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

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

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

16 (e) (i) Post-1999 stripper well exemption production is taxed as provided in subsection (5)(c)(ii)(A)
17 only if the average price reported and received by the producer for Montana oil marketed during a calendar
18 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
19 stripper well exemption tax rate and oil produced from a well that produces 3 barrels a day or less is taxed as
20 stripper well bonus production.

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

24 (f) The tax rates under subsection (5)(f) apply only to the incremental production of a horizontally
25 recompleted well.

26 (7) The tax rates imposed under subsections (2) and (5) on working interest owners and nonworking
27 interest owners must be adjusted to include the privilege and license tax adopted by the board of oil and gas

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1 conservation pursuant to 82-11-131 and the tax for the oil and gas natural resource distribution account. The
2 total of the privilege and license tax and the tax for the oil and gas natural resource distribution account
3 established in 90-6-1001(1) is 0.3%.

4 (8) Any interest in production owned by the state or a local government is exempt from taxation under
5 this section."
6

7 **Section 3.** Section 12, Chapter 559, Laws of 2021, is amended to read:

8 **"Section 12. Effective dates -- applicability.** (1) Except as provided in subsections (2) through (6),
9 [this act] is effective July 1, 2021.

10 (2) [Sections 1 and 6] are effective January 1, 2022, and apply to the calendar year beginning after
11 December 31, 2021.

12 (3) [Sections 2 and 7] are effective January 1, 2023, and apply to the calendar year years
13 beginning after December 31, 2022.

14 ~~(4) [Sections 3 and 8] are effective January 1, 2024, and apply to the income calendar year~~
15 ~~beginning after December 31, 2023.~~

16 ~~(5) [Sections 4 and 9] are effective January 1, 2025, and apply to the calendar year beginning after~~
17 ~~December 31, 2024.~~

18 ~~(6) [Sections 5 and 10] are effective January 1, 2026, and apply to calendar years beginning after~~
19 ~~December 31, 2025."~~

20
21 **Section 4.** Section 13, Chapter 559, Laws of 2021, is amended to read:

22 **"Section 13. Termination.** ~~(1) [Sections 1 and 6] terminate December 31, 2022.~~

23 ~~(2) [Sections 2 and 7] terminate December 31, 2023.~~

24 ~~(3) [Sections 3 and 8] terminate December 31, 2024.~~

25 ~~(4) [Sections 4 and 9] terminate December 31, 2025.~~

26 ~~(5) [Section 14] terminates January 1, 2025."~~
27