

SENATE BILL NO. 399

INTRODUCED BY K. VAN DYK

1  
2  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE RATE OF TAX FOR QUALIFYING OIL AND  
5 NATURAL GAS PRODUCTION AND USING THE PROCEEDS FOR OIL AND NATURAL GAS IMPACT  
6 PROJECTS; PROVIDING THAT QUALIFYING PRIMARY OIL PRODUCTION AND QUALIFYING OIL  
7 PRODUCTION FROM HORIZONTALLY COMPLETED WELLS ARE TAXED AT A HIGHER RATE DURING A  
8 CALENDAR QUARTER IF THE AVERAGE PRICE OF A BARREL OF OIL EXCEEDS A CERTAIN AMOUNT;  
9 PROVIDING THAT QUALIFYING NATURAL GAS PRODUCTION AND QUALIFYING NATURAL GAS  
10 PRODUCTION FROM HORIZONTALLY COMPLETED WELLS ARE TAXED AT A HIGHER RATE DURING A  
11 CALENDAR QUARTER IF THE AVERAGE PRICE PER MILLION BRITISH THERMAL UNITS EXCEEDS A  
12 CERTAIN AMOUNT; DEFINING OIL AND GAS IMPACT PROJECTS; ESTABLISHING PRIORITIES FOR OIL  
13 AND GAS IMPACT PROJECT PROPOSALS FROM LOCAL GOVERNMENTS; PROVIDING FOR REVIEW OF  
14 OIL AND GAS IMPACT PROJECT PROPOSALS BY THE DEPARTMENT OF COMMERCE; CREATING A  
15 COMMUNITY OIL AND NATURAL GAS IMPACT RELIEF ACCOUNT TO PROVIDE FINANCIAL ASSISTANCE  
16 TO LOCAL GOVERNMENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-36-304  
17 AND 15-36-331, MCA; AND PROVIDING AN APPLICABILITY DATE."

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20  
21 NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 4], the following definitions  
22 apply:

- 23 (1) "Department" means the department of commerce provided for in 2-15-1801.
- 24 (2) "Local government" means an incorporated city or town, a county, a consolidated local government,  
25 a tribal government, a county or multicounty water, sewer, or solid waste district, or an authority as defined in  
26 75-6-304.
- 27 (3) "Oil and gas impact projects" means:
  - 28 (a) drinking water systems;
  - 29 (b) wastewater treatment;
  - 30 (c) sanitary sewer or storm sewer systems;

- 1 (d) solid waste disposal and separation systems, including site acquisition, preparation, or monitoring;  
 2 (e) roads;  
 3 (f) bridges;  
 4 (g) facilities for government administration, fire protection, law enforcement, and emergency services;  
 5 and  
 6 (h) other projects that address the increased social needs of a community as a consequence of oil and  
 7 gas development, including but not limited to the need for education, human services, medical care, recreation,  
 8 social safety net programs, and the development of community programs that enhance the quality of living in a  
 9 community.

10 (4) "Tribal government" means the government of a federally recognized Indian tribe within the state of  
 11 Montana.

12  
 13 **NEW SECTION. Section 2. Priorities for oil and gas impact projects -- community infrastructure**

14 **-- procedure -- rulemaking.** (1) The department:

15 (a) must receive proposals for oil and gas impact projects from local governments that have been  
 16 required to maintain and expand local government infrastructure as a consequence of oil and gas development  
 17 on a continual basis;

18 (b) must receive proposals for oil and gas impact projects that address the increased social needs of  
 19 a community or that enable a local government to meet the social needs of existing populations;

20 (c) shall work with a local government in preparing cost estimates for oil and gas impact projects; and

21 (d) shall prepare and submit a list containing the recommended oil and gas impact projects and the  
 22 recommended form and amount of financial assistance for each oil and gas impact project to the governor,  
 23 prioritized pursuant to subsection (3), after taking into consideration the amount of money projected to be  
 24 available in the community oil and natural gas impact relief account provided for in [section 3].

25 (2) Before making recommendations to the governor, the department may adjust the ranking of oil and  
 26 gas impact projects by giving priority to projects that solve urgent and serious public health or safety problems.  
 27 The governor shall review the oil and gas impact projects recommended by the department and shall submit the  
 28 lists of recommended oil and gas impact projects and the recommended financial assistance to the legislature  
 29 for approval.

30 (3) In preparing recommendations under subsection (1), preference must be given to oil and gas impact

1 projects based on the following order of priority:

2 (a) projects that solve urgent and serious public health or safety problems or that enable local  
3 governments to meet state or federal health or safety standards;

4 (b) projects that reflect greater need for financial assistance than other projects;

5 (c) projects that incorporate appropriate, cost-effective technical design and that provide thorough,  
6 long-term solutions to community public facility needs;

7 (d) projects that enable local governments to obtain funds from sources other than the funds provided  
8 under [sections 1 through 4]; and

9 (e) projects that are high local priorities and have strong community support.

10 (4) The department shall report to each regular session of the legislature on the status of all oil and gas  
11 impact projects that have not been completed in order for the legislature to review each project's status and  
12 determine whether the authorized grant should be withdrawn.

13

14 **NEW SECTION. Section 3. Community oil and natural gas impact relief account.** (1) There is a  
15 community oil and natural gas impact relief account in the state special revenue fund provided for in 17-2-102.  
16 There must be deposited in the account oil and natural gas production taxes, if any, pursuant to 15-36-331(2)(c).  
17 The funds must be administered by the department.

18 (2) The purpose of the account is to assist local governments that have been required to maintain and  
19 expand local government infrastructure and social services as a consequence of oil and gas development as  
20 provided in [section 2].

21

22 **NEW SECTION. Section 4. Rulemaking authority.** (1) The department shall adopt rules necessary  
23 for the administration of [sections 1 through 4].

24 (2) The rules may include but are not limited to:

25 (a) consistent with [section 2], the criteria to use when evaluating grant proposals and prioritizing and  
26 awarding grants;

27 (b) application procedures;

28 (c) disbursement of grants; and

29 (d) reporting procedures for grant recipients.

30

1           **Section 5.** Section 15-36-304, MCA, is amended to read:

2           **"15-36-304. Production tax rates imposed on oil and natural gas -- exemption.** (1) The production  
 3 of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-331 and  
 4 15-36-332.

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

	Working	Nonworking
	Interest	Interest
9           (a) (i) first 12 months of qualifying production	0.5%	14.8%
10          (ii) after 12 months:		
11          (A) pre-1999 wells	14.8%	14.8%
12          (B) post-1999 wells	9%	14.8%
13          (b) stripper natural gas pre-1999 wells	11%	14.8%
14          (c) horizontally completed well production:		
15          (i) first 18 months of qualifying production	0.5%	14.8%
16          (ii) after 18 months	9%	14.8%

17           (3) ~~(a) The~~ Except as provided in subsection (3)(b), the reduced tax rates rate under subsection (2)(a)(i)  
 18 on production for the first 12 months of qualifying natural gas production from a well begins following the last day  
 19 of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution  
 20 system, provided that notification has been given to the department.

21           **(b) For natural gas wells other than stripper natural gas wells drilled after December 31, 2013, qualifying**  
 22 **production is taxed as provided in subsection (2)(a)(i) only if the average Henry hub spot price of natural gas as**  
 23 **reported in the Wall Street Journal in a calendar quarter is less than \$5 per million Btu's. If the average Henry hub**  
 24 **spot price of natural gas is equal to or greater than \$5 per million Btu's in the calendar quarter as determined in**  
 25 **subsection (3)(c), then qualifying natural gas production is taxed at the rate imposed in subsection (2)(a)(ii)(B)**  
 26 **for that quarter.**

27           **(c) For the purposes of subsections (3)(b) and (4)(b), the average price of natural gas must be computed**  
 28 **by dividing the sum of the daily Henry hub spot price of a million Btu's of natural gas as reported in the Wall Street**  
 29 **Journal for the calendar quarter by the number of days on which the price was reported in the quarter.**

30           (4) ~~(a) The~~ Except as provided in subsection (4)(b), the reduced tax rate under subsection (2)(c)(i) on

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

4 (b) For horizontally completed wells other than stripper natural gas wells drilled after December 31, 2013,  
 5 qualifying production is taxed as provided in subsection (2)(c)(i) only if the average Henry hub spot price of  
 6 natural gas as reported in the Wall Street Journal in a calendar quarter is less than \$5 per million Btu's. If the  
 7 average Henry hub spot price of natural gas is equal to or greater than \$5 per million Btu's in the calendar quarter  
 8 as determined in subsection (3)(c), then qualifying production from horizontally completed wells is taxed at the  
 9 rate imposed in subsection (2)(c)(ii) for that quarter.

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

	Working Interest	Nonworking Interest
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
29		
30		

1	(ii) new or expanded tertiary production	5.8%	14.8%
2	(f) horizontally recompleted well:		
3	(i) first 18 months	5.5%	14.8%
4	(ii) after 18 months:		
5	(A) pre-1999 wells	12.5%	14.8%
6	(B) post-1999 wells	9%	14.8%

7 (6) (a) (i) ~~The~~ Except as provided in subsection (6)(a)(ii), the reduced tax ~~rates~~ rate under subsection

8 (5)(a)(i) on qualifying primary recovery production for the first 12 months of oil production from a well begins

9 following the last day of the calendar month immediately preceding the month in which oil is pumped or flows,

10 provided that notification has been given to the department.

11 (ii) For primary recovery wells other than stripper wells drilled after December 31, 2013, qualifying primary

12 recovery production is taxed as provided in subsection (5)(a)(i) only if the average price of a barrel of oil as

13 reported in the Wall Street Journal for west Texas intermediate crude oil in a calendar quarter is less than \$50.07

14 a barrel. If the average price of a barrel of oil is equal to or greater than \$50.07 a barrel in the calendar quarter

15 as determined in subsection (6)(e), then qualifying production from primary recovery wells is taxed at the rate

16 imposed in subsection (5)(a)(ii)(B) for that quarter.

17 (b) (i) (A) ~~The~~ Except as provided in subsection (6)(b)(i)(B), the reduced tax ~~rates~~ rate under subsection

18 (5)(d)(i) on qualifying oil production from a horizontally completed well for the first 18 months of production begins

19 following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if

20 the well has been certified as a horizontally completed well to the department by the board.

21 (B) For horizontally completed wells other than stripper wells drilled after December 31, 2013, qualifying

22 oil production from a horizontally completed well is taxed as provided in subsection (5)(d)(i) only if the average

23 price of a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil in the calendar

24 quarter is less than \$50.07 a barrel. If the average price of a barrel of oil is equal to or greater than \$50.07 a

25 barrel in the calendar quarter as determined in subsection (6)(e), then qualifying production from horizontally

26 completed wells is taxed at the rate imposed in subsection (5)(d)(ii)(B) for that quarter.

27 (ii) The reduced tax rate under subsection (5)(f)(i) on oil production from a horizontally recompleted well

28 for the first 18 months of production begins following the last day of the calendar month immediately preceding

29 the month in which oil is pumped or flows if the well has been certified as a horizontally recompleted well to the

30 department by the board.

1 (c) Incremental production is taxed as provided in subsection (5)(e) only if the average price for ~~each~~  
2 a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar  
3 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  
4 as determined in subsection (6)(e), then incremental production from pre-1999 wells and from post-1999 wells  
5 is taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B),  
6 respectively, for production occurring in that quarter, other than exempt stripper well production.

7 (d) (i) Stripper well exemption production is taxed as provided in subsection (5)(c)(i) only if the average  
8 price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a  
9 calendar quarter is less than \$38 a barrel. If the price of oil is equal to or greater than \$38 a barrel as determined  
10 in subsection (6)(e), there is no stripper well exemption tax rate and oil produced from a well that produces 3  
11 barrels a day or less is taxed as stripper well bonus production.

12 (ii) Stripper well bonus production is subject to taxation as provided in subsection (5)(c)(ii) only if the  
13 average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during  
14 a calendar quarter is equal to or greater than \$38 a barrel as determined in subsection (6)(e).

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

19 (7) (a) The tax rates imposed under subsections (2) and (5) on working interest owners and nonworking  
20 interest owners must be adjusted to include the total of the privilege and license tax adopted by the board of oil  
21 and gas conservation pursuant to 82-11-131 and the derived rate for the oil and gas natural resource distribution  
22 account as determined under subsection (7)(b).

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

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

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

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

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

8 **"15-36-331. Distribution of taxes.** (1) (a) For each calendar quarter, the department shall determine  
9 the amount of tax, late payment interest, and penalties collected under this part.

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

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

16 (b) The amount of the tax allocated in 15-36-304(7)(b) for the oil and gas natural resource distribution  
17 account established in 90-6-1001(1) must be deposited in the account.

18 (c) After the allocations are made under subsections (2)(a) and (2)(b), the amount of taxes attributable  
19 to the increased tax rates under the provisions of 15-36-304(3)(b) and (4)(b) and the amount of taxes attributable  
20 to increased tax rates under the provisions of 15-36-304(6)(a)(ii) and (6)(b)(i)(B) must be deposited in the  
21 community oil and natural gas impact relief account established in [section 3].

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

24	Big Horn	45.05%
25	Blaine	58.39%
26	Carbon	48.27%
27	Chouteau	58.14%
28	Custer	69.53%
29	Daniels	50.81%
30	Dawson	47.79%



1	Fallon	41.78%
2	Fergus	69.18%
3	Garfield	45.96%
4	Glacier	58.83%
5	Golden Valley	58.37%
6	Hill	64.51%
7	Liberty	57.94%
8	McCone	49.92%
9	Musselshell	48.64%
10	Petroleum	48.04%
11	Phillips	54.02%
12	Pondera	54.26%
13	Powder River	60.9%
14	Prairie	40.38%
15	Richland	47.47%
16	Roosevelt	45.71%
17	Rosebud	39.33%
18	Sheridan	47.99%
19	Stillwater	53.51%
20	Sweet Grass	61.24%
21	Teton	46.1%
22	Toole	57.61%
23	Valley	51.43%
24	Wibaux	49.16%
25	Yellowstone	46.74%
26	All other counties	50.15%

27 (b) The oil and natural gas production taxes allocated to each county must be deposited in the state  
 28 special revenue fund and transferred to each county for distribution, as provided in 15-36-332.

29 (4) The department shall, in accordance with the provisions of 17-2-124, distribute the state portion of  
 30 oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as

1 follows:

2 (a) for each fiscal year through the fiscal year ending June 30, 2011, to be distributed as follows:

3 (i) 1.23% to the coal bed methane protection account established in 76-15-904;

4 (ii) 1.45% to the natural resources projects state special revenue account established in 15-38-302;

5 (iii) 1.45% to the natural resources operations state special revenue account established in 15-38-301;

6 (iv) 2.99% to the orphan share account established in 75-10-743;

7 (v) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the  
8 purposes of the state tax levy as provided in 15-10-108; and

9 (vi) all remaining proceeds to the state general fund;

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

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

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

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

14 (iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the  
15 purposes of the state tax levy as provided in 15-10-108; and

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

17

18 **NEW SECTION. Section 7. Notification to tribal governments.** The secretary of state shall send a  
19 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell  
20 Chippewa tribe.

21

22 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 4] are intended to be codified  
23 as an integral part of Title 90, chapter 6, and the provisions of Title 90, chapter 6, apply to [sections 1 through 4].

24

25 **NEW SECTION. Section 9. Applicability.** [This act] applies to oil and natural gas wells drilled after  
26 December 31, 2013, and to oil and natural gas produced by and sold from those wells after December 31, 2013.

27

- END -