SENATE BILL NO. 374

INTRODUCED BY C. KAUFMANN

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE RATE OF TAX FOR QUALIFYING OIL AND NATURAL GAS PRODUCTION AND USING A PORTION OF THE PROCEEDS FOR OIL AND NATURAL GAS IMPACT PROJECTS; PROVIDING THAT QUALIFYING PRIMARY OIL PRODUCTION AND QUALIFYING OIL PRODUCTION FROM HORIZONTALLY COMPLETED WELLS ARE TAXED AT A HIGHER RATE DURING A CALENDAR QUARTER IF THE AVERAGE PRICE OF A BARREL OF OIL EXCEEDS A CERTAIN AMOUNT; PROVIDING THAT QUALIFYING NATURAL GAS PRODUCTION AND QUALIFYING NATURAL GAS PRODUCTION FROM HORIZONTALLY COMPLETED WELLS ARE TAXED AT A HIGHER RATE DURING A CALENDAR QUARTER IF THE AVERAGE PRICE PER MILLION BRITISH THERMAL UNITS EXCEEDS A CERTAIN AMOUNT; REMOVING THE WALL STREET JOURNAL AS THE SOURCE FOR DETERMINING THE AVERAGE PRICE FOR A BARREL OF WEST TEXAS INTERMEDIATE CRUDE OIL; DEFINING OIL AND GAS IMPACT PROJECTS; ESTABLISHING PRIORITIES FOR OIL AND GAS IMPACT PROJECT PROPOSALS FROM LOCAL GOVERNMENTS; PROVIDING FOR REVIEW OF OIL AND GAS IMPACT PROJECT PROPOSALS BY THE DEPARTMENT OF COMMERCE; CREATING A COMMUNITY OIL AND NATURAL GAS IMPACT RELIEF ACCOUNT TO PROVIDE FINANCIAL ASSISTANCE TO LOCAL GOVERNMENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-36-303, 15-36-304, 15-36-331, AND 20-9-518, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

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

(1) "Department" means the department of commerce provided for in 2-15-1801.

(2) "Local government" means an incorporated city or town, a county, a consolidated local government, a tribal government, a county or multicounty water, sewer, or solid waste district, or an authority as defined in 75-6-304.

(3) "Oil and gas impact projects" means:

(a) drinking water systems;

(b) wastewater treatment;

(c) sanitary sewer or storm sewer systems;

(d) solid waste disposal and separation systems, including site acquisition, preparation, or monitoring;

(e) roads;

(f) bridges;

(g) facilities for government administration, fire protection, law enforcement, and emergency services; and

(h) other projects that address the increased social needs of a community as a consequence of oil and gas development, including but not limited to the need for education, human services, medical care, recreation, social safety net programs, and the development of community programs that enhance the quality of living in a community.

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

<u>NEW SECTION.</u> **Section 2. Priorities for oil and gas impact projects -- community infrastructure -- procedure -- rulemaking.** (1) The department:

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

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

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

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

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

for approval.

(3) In preparing recommendations under subsection (1), preference must be given to oil and gas impact projects based on the following order of priority:

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

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

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

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

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

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

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

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

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

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

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

(b) application procedures;

(c) disbursement of grants; and

(d) reporting procedures for grant recipients.

Section 5. 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) "Consumer price index" means the consumer price index, United States city average, for all items, for all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor.

~~(2)~~(3) "Department" means the department of revenue provided for in 2-15-1301.

~~(3)~~(4) "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)~~(5) "Existing enhanced recovery project" means an enhanced recovery project that began development before January 1, 1994.

~~(5)~~(6) "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)~~(7) "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)~~(8) "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)~~(9) "Horizontally completed well" means:

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

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

~~(9)~~(10) "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) ~~the commencement of~~ commencing the recompletion of a well as a horizontally completed well;

(ii) ~~expansion of~~ 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.

(11) "Inflation factor" means a number determined for each tax year by dividing the consumer price index for June of the previous tax year by the consumer price index for June 2015.

~~(10)~~(12) "Natural gas" or "gas" means natural gas and other fluid hydrocarbons, other than oil, produced at the wellhead.

~~(11)~~(13) "New enhanced recovery project" means an enhanced recovery project that began development after December 31, 1993.

~~(12)~~(14) "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)~~(15) "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)~~(16) "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)~~(17) "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)~~(18) "Pre-1999 well" means an oil or natural gas well that was drilled before January 1, 1999.

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

~~(18)~~(20) "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).

~~(19)~~(21) (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)~~(22) "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 well bore; or

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

~~(21)~~(23) "Stripper natural gas" means the natural gas produced from any well that produces less than 60,000 cubic feet 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)~~(24) (a) "Stripper oil" means the oil produced from any well that produces more than 3 barrels but ~~less~~ fewer than 15 barrels a day for the calendar year immediately preceding the current year if the average price for a barrel of ~~oil as reported in the Wall Street Journal for~~ west Texas intermediate crude oil during a calendar 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, 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 ~~as reported in the Wall Street Journal~~ for the calendar quarter by the number of days on which the price was reported in the quarter.

(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 ~~by~~ then dividing the resulting quotient by 365.

~~(23)~~(25) "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)~~ (24)(c).

~~(24)~~(26) "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; ~~or~~ and

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

~~(25)~~(27) "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)~~(28) "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 6. 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%	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%

(3) <u>(a)</u> ~~The~~ <u>Except as provided in subsection (3)(b), the</u> reduced tax ~~rates~~ <u>rate</u> under subsection (2)(a)(i) on production for the first 12 months of <u>qualifying</u> natural gas production from a well begins 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.

<u>(b) For natural gas wells other than stripper natural gas wells drilled after December 31, 2015, qualifying production is taxed as provided in subsection (2)(a)(i) only if the average Henry hub spot price of natural gas in a calendar quarter is less than $5 per million Btu's. If the average Henry hub spot price of natural gas is equal to or greater than $5 per million Btu's in the calendar quarter as determined in subsection (3)(c), then qualifying</u>

natural gas production is taxed at the rate imposed in subsection (2)(a)(ii)(B) for that quarter.

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

(4) (a) ~~The~~ Except as provided in subsection (4)(b), the reduced tax rate under subsection (2)(c)(i) on qualifying production from a horizontally completed well for the first 18 months of production begins 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.

(b) For horizontally completed wells other than stripper natural gas wells drilled after December 31, 2015, qualifying production is taxed as provided in subsection (2)(c)(i) only if the average Henry hub spot price of natural gas in a calendar quarter is less than $5 per million Btu's. If the average Henry hub spot price of natural gas is equal to or greater than $5 per million Btu's in the calendar quarter as determined in subsection (3)(c), then qualifying production from horizontally completed wells is taxed at the rate imposed in subsection (2)(c)(ii) for that quarter.

(5) 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 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%
(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) (a) (i) ~~The~~ Except as provided in subsection (6)(a)(ii), the reduced tax ~~rates~~ rate under subsection (5)(a)(i) on qualifying primary recovery production for the first 12 months of oil production from a well begins 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.

(ii) For primary recovery wells other than stripper wells drilled after December 31, 2015, qualifying primary recovery production is taxed as provided in subsection (5)(a)(i) only if the average price of a barrel of west Texas intermediate crude oil during a calendar quarter is less than $52.59 a barrel. If the average price of oil is equal to or greater than $52.59 a barrel in a calendar quarter as determined in subsection (6)(e), then qualifying production from primary recovery wells is taxed at the rate imposed in subsection (5)(a)(ii)(B) for that quarter.

(b) (i) (A) ~~The~~ Except as provided in subsection (6)(b)(i)(B), the reduced tax ~~rates~~ rate under subsection (5)(d)(i) on qualifying oil production from a horizontally completed well for the first 18 months of production begins 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.

(B) For horizontally completed wells other than stripper wells drilled after December 31, 2015, qualifying oil production from a horizontally completed well is taxed as provided in subsection (5)(d)(i) only if the average price of a barrel of west Texas intermediate crude oil during a calendar quarter is less than $52.59 a barrel. If the average price of oil is equal to or greater than $52.59 a barrel in a calendar quarter as determined in subsection (6)(e), then qualifying production from horizontally completed wells is taxed at the rate imposed in subsection (5)(d)(ii)(B) for that quarter.

(ii) The reduced tax rate under subsection (5)(f)(i) on oil production from a horizontally recompleted well for the first 18 months of production begins 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) Incremental production is taxed as provided in subsection (5)(e) only if the average price for ~~each~~ a barrel of ~~oil as reported in the Wall Street Journal for~~ west Texas intermediate crude oil during a calendar 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 as determined in subsection (6)(e), then incremental 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), 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) only if the average price for a barrel of ~~oil as reported in the Wall Street Journal for~~ west Texas intermediate crude oil during a calendar quarter is less than $38 a barrel as determined in subsection (6)(e). If the price of oil is equal to or greater than $38 a barrel, there is no stripper well exemption tax rate and oil produced from a well that produces 3 barrels a day or less is taxed as stripper well bonus production.

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

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

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

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

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

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

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

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

(9) By November 1 of each year, the department shall multiply the average Henry hub spot price contained in subsections (3)(b) and (4)(b) and the average price of a barrel of west Texas intermediate crude oil contained in subsections (6)(a)(ii) and (6)(b)(i)(B) by the inflation factor for the following tax year. The resulting amount is effective for the following tax year and must be used as the basis for determining the rate of tax that is applied during each quarter of the following tax year."

Section 7. 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 privilege and license tax pursuant to 82-11-131 must be deposited, in accordance with the provisions of 17-2-124, in the state special revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

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

(c) After the allocations are made under subsections (2)(a) and (2)(b), the amount of taxes attributable to the increased tax rates under the provisions of 15-36-304(3)(b) and (4)(b) and the amount of taxes attributable to increased tax rates under the provisions of 15-36-304(6)(a)(ii) and (6)(b)(i)(B) must be distributed as follows:

(i) 50% to the community oil and natural gas impact relief account established in [section 3]; and

(ii) 50% to the state general fund.

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

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

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

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

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

~~(v) 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 15-10-108; and~~

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

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

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

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

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

~~(iv)~~(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 15-10-108; and

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

Section 8. Section 20-9-518, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Section 9. Transition.** The average Henry hub spot price in 15-36-304(3)(b) and (4)(b) and the average price of a barrel of west Texas intermediate crude oil in 15-36-304(6)(a)(ii) and (6)(b)(i)(B) are not subject to an inflation factor increase for the tax year ending December 31, 2016.

NEW SECTION. **Section 10. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

NEW SECTION. **Section 11. Codification instruction.** [Sections 1 through 4] are intended to be codified as an integral part of Title 90, chapter 6, and the provisions of Title 90, chapter 6, apply to [sections 1 through 4].

NEW SECTION. **Section 12. Applicability.** [This act] applies to oil and natural gas wells drilled after December 31, 2015, and to oil and natural gas produced by and sold from those wells after December 31, 2015.

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