

HOUSE BILL NO. 790

INTRODUCED BY PETERSON, ROUSH, LARSON, MATTHEWS, WANZENRIED, TESTER, GEBHARDT,
BRUEGGEMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE ENVIRONMENTAL QUALITY COUNCIL TO
CONDUCT A STUDY ON SPLIT ESTATES OF PROPERTY BETWEEN MINERAL OWNERS AND SURFACE
OWNERS RELATED TO OIL AND GAS DEVELOPMENT AND COAL BED METHANE RECLAMATION AND
BONDING; PROVIDING FOR A SUBCOMMITTEE OF THE ENVIRONMENTAL QUALITY COUNCIL;
PROVIDING THAT THE SUBCOMMITTEE ~~MAY~~ SHALL, IF APPROPRIATE, SEPARATE THE STUDY INTO
TWO STUDIES ~~IF IT DETERMINES THAT IT IS NECESSARY;~~ PROVIDING FOR AT-LARGE MEMBERS ON
THE SUBCOMMITTEE; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 5-5-211 AND 15-36-331,
MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

**NEW SECTION. Section 1. Interim study on split estates of mineral owners and surface owners
related to oil and gas development and coal bed methane reclamation and bonding.** (1) The environmental
quality council provided for in Title 5, chapter 16, shall conduct an interim study on:

- (a) split estates with regard to the ownership of minerals and the ownership of surface property related to oil and gas development;
- (b) reclamation of surface property affected by coal bed methane development; and
- (c) bonding requirements for coal bed methane production.

(2) (a) The environmental quality council shall establish a subcommittee to conduct the study and report back to the full council. The subcommittee members must be appointed by the chair of the environmental quality council with concurrence of the vice chair. The subcommittee must include:

- ~~(i) two members from the house of representatives who are members of the environmental quality council and are from different political parties;~~
- ~~—— (ii) a public member who is a member of the environmental quality council and was appointed by the speaker of the house;~~
- ~~—— (iii) two members from the senate who are members of the environmental quality council and are from~~

- 1 ~~different political parties;~~
- 2 ~~—— (iv) a public member who is a member of the environmental quality council and was appointed by the~~
- 3 ~~president of the senate~~ FOUR MEMBERS, TWO FROM EACH POLITICAL PARTY, WHO ARE LEGISLATORS APPOINTED TO THE
- 4 ENVIRONMENTAL QUALITY COUNCIL;
- 5 (II) TWO MEMBERS WHO ARE PUBLIC MEMBERS OF THE ENVIRONMENTAL QUALITY COUNCIL; and
- 6 ~~(v) four~~ (III) SIX at-large members who may be members of the legislature or the public and who are not
- 7 currently serving on the environmental quality council.
- 8 (b) All of the members of the subcommittee have voting privileges on issues taken up by the
- 9 subcommittee. The ~~four~~ SIX at-large members provided for in subsection ~~(2)(a)(v)~~ (2)(A)(III) do not have voting
- 10 privileges on the full environmental quality council. Any final recommendations and other work products that will
- 11 be represented as being produced or endorsed by the environmental quality council must be finally approved
- 12 by the environmental quality council.
- 13 (c) The at-large members provided for in subsection ~~(2)(a)(v)~~ (2)(A)(III) are entitled to the same
- 14 compensation allowed for other members of the environmental quality council.
- 15 (3) The portion of the study addressing split estates must include but is not limited to:
- 16 (a) procedures and timelines for giving notice to surface owners;
- 17 (b) minimum provisions for surface use agreements;
- 18 (c) elements that ~~must~~ SHOULD be considered in surface use agreements, INCLUDING BUT NOT LIMITED
- 19 TO ROAD DEVELOPMENT AND DUST MITIGATION, ONSITE WATER IMPOUNDMENTS, AND THE QUALITY AND DISPOSAL OF
- 20 PRODUCED WATER, AND ONSITE WATER IMPOUNDMENTS;
- 21 (d) provisions for addressing disagreement on estimated damages between the surface owner and the
- 22 mineral owner; and
- 23 (e) bonding requirements, if any, based on the type of activity.
- 24 (4) The portion of the study specifically addressing reclamation and bonding for coal bed methane
- 25 operations must include but is not limited to:
- 26 (a) assessing current requirements for reclamation and bonding for coal bed methane operations and
- 27 determining if they are adequate;
- 28 (b) evaluating laws related to surface damage, coal bed methane exploration, coal bed methane
- 29 operations, and coal bed methane reclamation in other states;
- 30 (c) exploring alternatives and approaches for balancing mineral rights with surface rights;

1 (d) identifying the relationship between federal law and state law with regard to split estates and
2 jurisdiction; and

3 (e) evaluating the necessity and feasibility of postoperation reclamation requirements or alternatives,
4 including water pits and impoundments ~~AND EFFECTS ON DOWNSTREAM WATER USERS.~~

5 (5) The subcommittee ~~may~~ SHALL, IF APPROPRIATE, divide the issues into two separate studies ~~if it~~
6 ~~determines that the issues involved in this section would be better addressed in that format.~~

7 (6) The environmental quality council shall complete the study by September 15, 2006, and report to
8 the 60th legislature on its findings and recommendations, including any recommendations for legislation.

9

10 **Section 2.** Section 5-5-211, MCA, is amended to read:

11 **"5-5-211. Appointment and composition of interim committees.** (1) Senate interim committee
12 members must be appointed by the committee on committees.

13 (2) House interim committee members must be appointed by the speaker of the house.

14 (3) Appointments to interim committees must be made by the time of adjournment of the legislative
15 session.

16 (4) A legislator may not serve on more than two interim committees unless no other legislator is
17 available or is willing to serve.

18 (5) (a) Subject to subsection (5)(b), the composition of each interim committee must be as follows:

19 (i) four members of the house, no more than two of whom may be of one political party; and

20 (ii) four members of the senate, no more than two of whom may be of one political party.

21 (b) If the committee workload requires, the legislative council may request the appointing authority to
22 appoint one or two additional interim committee members from each political party.

23 (6) The membership of the interim committees must be provided for by legislative rules. The rules must
24 identify the committees from which members are selected, and the appointing authority shall attempt to select
25 not less than 50% of the members from the standing committees that consider issues within the jurisdiction of
26 the interim committee. In making the appointments, the appointing authority shall take into account term limits
27 of members so that committee members will be available to follow through on committee activities and
28 recommendations in the next legislative session.

29 (7) An interim committee or the environmental quality council may create subcommittees. Nonlegislative
30 members may serve on a subcommittee. Unless the person is a full-time salaried officer or employee of the state

1 or a political subdivision of the state, a nonlegislative member appointed to a subcommittee is entitled to salary
 2 and expenses to the same extent as a legislative member. If the appointee is a full-time salaried officer or
 3 employee of the state or of a political subdivision of the state, the appointee is entitled to reimbursement for
 4 travel expenses as provided for in 2-18-501 through 2-18-503."

5
 6 **Section 3.** Section 15-36-331, MCA, is amended to read:

7 **"15-36-331. Distribution of taxes.** (1) (a) For each calendar quarter, the department shall determine
 8 the amount of tax, late payment interest, and penalties collected under this part.

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

12 (2) ~~The (A) EXCEPT AS PROVIDED IN SUBSECTION (2)(B),~~ THE amount of oil and natural gas production taxes
 13 collected for the privilege and license tax pursuant to 82-11-131 must be deposited, in accordance with the
 14 provisions of 15-1-501, in the state special revenue fund for the purpose of paying expenses of the board, as
 15 provided in 82-11-135.

16 (B) IN THE 2007 BIENNIUM, UP TO \$50,000 MAY BE ALLOCATED TO THE LEGISLATIVE SERVICES DIVISION FOR THE
 17 PURPOSE OF A STUDY OF SPLIT ESTATES OF PROPERTY BETWEEN MINERAL OWNERS AND SURFACE OWNERS RELATED
 18 TO OIL AND GAS DEVELOPMENT AND COAL BED METHANE RECLAMATION AND BONDING.

19 (3) (a) For ~~tax year 2003 and succeeding each tax years year,~~ the amount of oil and natural gas
 20 production taxes determined under subsection (1)(b) plus the phased-out amount distributed pursuant to
 21 15-36-324(12)(b) as that section read on December 31, 2002, is allocated to each county according to the
 22 following schedule:

| | 2003 | 2004 | 2005 | 2006 and succeeding tax years |
|-------------|---------|--------|--------|-------------------------------------|
| 26 Big Horn | 45.03% | 45.04% | 45.04% | 45.05% |
| 27 Blaine | 57.56% | 57.84% | 58.11% | 58.39% |
| 28 Carbon | 50.24% | 49.59% | 48.93% | 48.27% |
| 29 Chouteau | 56.67% | 57.16% | 57.65% | 58.14% |
| 30 Custer | 403.63% | 92.27% | 80.9% | 69.53% |

| | | | | | |
|----|--------------------|---------|--------|--------|--------|
| 1 | Daniels | 48.31% | 49.15% | 49.98% | 50.81% |
| 2 | Dawson | 56.32% | 53.48% | 50.64% | 47.79% |
| 3 | Fallon | 39.89% | 40.52% | 41.15% | 41.78% |
| 4 | Fergus | 112.2% | 97.86% | 83.52% | 69.18% |
| 5 | Garfield | 54.51% | 51.66% | 48.81% | 45.96% |
| 6 | Glacier | 76.56% | 70.65% | 64.74% | 58.83% |
| 7 | Golden Valley | 55.5% | 56.45% | 57.41% | 58.37% |
| 8 | Hill | 66.97% | 66.15% | 65.33% | 64.51% |
| 9 | Liberty | 63.32% | 61.53% | 59.73% | 57.94% |
| 10 | McCone | 58.75% | 55.81% | 52.86% | 49.92% |
| 11 | Musselshell | 57.06% | 54.25% | 51.44% | 48.64% |
| 12 | Petroleum | 67.8% | 61.21% | 54.62% | 48.04% |
| 13 | Phillips | 53.3% | 53.54% | 53.78% | 54.02% |
| 14 | Pondera | 104.14% | 87.51% | 70.89% | 54.26% |
| 15 | Powder River | 64.7% | 63.44% | 62.17% | 60.9% |
| 16 | Prairie | 38.43% | 39.08% | 39.73% | 40.38% |
| 17 | Richland | 45.23% | 45.97% | 46.72% | 47.47% |
| 18 | Roosevelt | 46.75% | 46.4% | 46.06% | 45.71% |
| 19 | Rosebud | 37.41% | 38.05% | 38.69% | 39.33% |
| 20 | Sheridan | 46.64% | 47.09% | 47.54% | 47.99% |
| 21 | Stillwater | 56.05% | 55.2% | 54.35% | 53.51% |
| 22 | Sweet Grass | 58.23% | 59.24% | 60.24% | 61.24% |
| 23 | Teton | 53.01% | 50.71% | 48.4% | 46.1% |
| 24 | Toole | 56.2% | 56.67% | 57.14% | 57.61% |
| 25 | Valley | 59.82% | 57.02% | 54.22% | 51.43% |
| 26 | Wibaux | 47.71% | 48.19% | 48.68% | 49.16% |
| 27 | Yellowstone | 50.69% | 49.37% | 48.06% | 46.74% |
| 28 | All other counties | 50.15% | 50.15% | 50.15% | 50.15% |

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

1 (4) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of
 2 oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as
 3 follows:

4 ~~(a) for the fiscal year ending June 30, 2003, to be distributed as follows:~~

5 ~~—— (i) a total of \$400,000 to the coal bed methane protection account established in 76-15-904; and~~

6 ~~—— (ii) all remaining proceeds to the state general fund;~~

7 ~~—— (b)(a) for the fiscal year beginning July 1, 2003, through the fiscal year ending June 30, 2011, to be~~
 8 distributed as follows:

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

10 (ii) 2.95% to the reclamation and development grants special revenue account established in 90-2-1104;

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

12 (iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the
 13 purposes of the state tax levy as provided in 20-25-423;

14 ~~—— (v) for fiscal year 2006, \$50,000 \$25,000 to the legislative services division for use by the environmental~~
 15 ~~quality council to conduct a split estates and coal bed methane study as provided in [section 1]; and~~

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

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

18 (i) 4.18% to the reclamation and development grants special revenue account established in 90-2-1104;

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

20 (iii) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the
 21 purposes of the state tax levy as provided in 20-25-423; and

22 (iv) all remaining proceeds to the state general fund."

23

24 **NEW SECTION. Section 4. Appropriation.** The ~~\$50,000 \$25,000 \$50,000~~ allocated to the legislative
 25 services division ~~for use by the environmental quality council~~ in 15-36-331 is appropriated to the legislative
 26 services division FROM THE STATE SPECIAL REVENUE FUND for use by the environmental quality council for the
 27 purposes provided in [section 1].

28

29 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

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