AN ACT GENERALLY REVISING LAWS RELATED TO OIL AND GAS LEASES; DEFINING TERMS; CLARIFYING THAT THE LESSEE PAYS THE COSTS OF PRODUCTION FROM THE WORKING INTEREST; REQUIRING THE STATE TO SHARE THE EXPENSE OF TRANSPORTING THE OIL TO THE NEAREST MARKET BASED ON THE STATE'S PROPORTIONAL SHARE OF THE ROYALTY INTEREST; AND AMENDING SECTIONS 77-3-432, 77-3-434, AND 82-10-110, MCA.

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

Section 1. Definitions. As used in this part, the following definitions apply:

(1) (a) "Costs of production" means all costs incurred for exploration, development, primary or enhanced recovery, and abandonment operations, including but not limited to lease acquisition, drilling and completion, pumping, lifting, storing or transporting oil to storage tanks on the lease, and recycling of oil and gas.

(b) The term does not include costs associated with transporting the oil or gas to market, including:

(i) compressing;

(ii) adjustments for oil gravity; and

(iii) British thermal unit content or pressure differential.

(2) "Lessee" means the person, including an operator or producer, entitled under an oil and gas lease to drill and operate wells.

(3) "Lessor" means a mineral owner who has executed a lease and who is entitled to the payment of a royalty on production.

(4) "Operator" or "producer" means a person who produces oil and gas.

(5) "Person" means any individual, firm, partnership, limited liability company, or corporation.

(6) "Royalty" means the lessor's share of production under a lease or a royalty owner's share of production apart from a lease.

(7) "Working interest" means the lessee's share of production under a lease.

Section 2. Costs of production. The lessee shall pay costs of production from the working interest.

Section 3. Section 77-3-432, MCA, is amended to read:

"77-3-432. Royalty. In each oil and gas lease granted by the state under this part, there must be reserved to the state as consideration for the lease a royalty in all oil and gas produced and saved from all lands covered by the lease and not used for light, fuel, and operation purposes on the leased premises, which must be equivalent to the full market value, as ascertained by the board at the date of the lease, of the estate or interest of the state in the lands and oil and gas deposits disposed of under the lease. The royalty reservation must be set by the board but may not be less than 12 1/2% on gas and not less than 12 1/2% on oil or casinghead gasoline for each producing well for the calendar month. The state ~~may~~ shall share the expense of transporting the oil to the nearest market on a basis proportional to the state's royalty interest in the oil and at a rate per mile acceptable to the department."

Section 4. Section 77-3-434, MCA, is amended to read:

"77-3-434. Manner of making royalty payment. ~~Such~~ A lease shall provide for the rendering of payment of ~~such~~ a royalty on all oil and gas produced and saved and sold or used off the premises in the following manner and upon the following terms:

(1) the lessee shall pay to the state in cash, for all oil and gas royalty reserved, the posted field price existing on the day ~~such~~ the oil or gas is run into any pipeline or storage tank to the credit of the lessee, plus any bonus actually paid or agreed to be paid to the lessee for ~~such~~ that oil or gas; or

(2) at the option of the state exercised in writing by the board not ~~oftener~~ more often than every 30 days, the lessee shall deliver the state's royalty oil or gas free of ~~cost or deductions~~ costs of production as defined in [section 1] into the pipeline to which the wells of the lessee may be connected or into any storage designated by the state and connected with ~~such~~ the wells."

Section 5. Section 82-10-110, MCA, is amended to read:

"82-10-110. Division order -- definition -- effect. (1) As used in this section, the term "division order" is limited to mean an instrument executed by the lessor of an oil or gas lease or other royalty owner to authorize the sale of and direct the distribution of proceeds from the sale of oil, gas, casinghead gas, or other related hydrocarbons.

(2) A division order may not alter or amend the terms of the underlying oil or gas lease. A division order does not relieve a lessee of any liabilities or obligations under the terms of the underlying oil or gas lease.

(3) A division order must be in writing and:

(a) must warrant the division of interest;

(b) must contain the name, address, and tax identification number of each interest owner to whom disbursements are made by the holder of the proceeds from the sale of oil, gas, casinghead gas, or other related hydrocarbons;

(c) must contain a provision requiring notice of change of ownership; and

(d) may contain any other terms that are necessary to facilitate the transaction."

Section 6. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 82, chapter 10, part 1, and the provisions of Title 82, chapter 10, part 1, apply to [sections 1 and 2].

- END -

I hereby certify that the within bill,

SB 0415, originated in the Senate.

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Secretary of the Senate

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President of the Senate

Signed this_______________________________________day

of____, 2011.

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Speaker of the House

Signed this_______________________________________day

of____, 2011.

SENATE BILL NO. 415

INTRODUCED BY B. LAKE

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