

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING NATURAL GAS LAWS; REQUIRING THE CAPTURE
5 AND TAXATION OF CERTAIN NATURAL GAS; LIMITING THE AMOUNT OF NATURAL GAS THAT CAN BE
6 FLARED; REQUIRING THAT CERTAIN CAPTURED NATURAL GAS BE TAXED; REQUIRING AN OPERATOR
7 TO PAY THE MINERAL OWNER A ROYALTY FOR CAPTURED NATURAL GAS; PROVIDING A METHOD FOR
8 VALUING CAPTURED NATURAL GAS; REQUIRING AN OPERATOR TO FILE A GAS CAPTURE PLAN PRIOR
9 TO OBTAINING A PERMIT; AMENDING SECTIONS 15-36-305, 82-10-103, 82-10-104, 82-11-121, 82-11-123,
10 82-11-124, 82-11-136, 82-11-163, 82-11-181, AND 82-11-182, MCA; AND PROVIDING AN EFFECTIVE DATE
11 AND AN APPLICABILITY DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 **Section 1.** Section 15-36-305, MCA, is amended to read:

16 **"15-36-305. Determination of gross value of product.** (1) The total gross value of all oil or natural gas
17 produced and sold each quarter must be determined by taking the total number of barrels or cubic feet of oil or
18 natural gas produced and sold each month at the average value at the mouth of the well during the month that
19 the oil or natural gas is produced and sold, as determined by the department. ~~However, in~~

20 (2) (a) Natural gas produced as part of the oil production process that exceeds the limit in
21 82-11-121(2)(a) and is captured must be taxed as provided in 15-36-304 unless an exception is granted pursuant
22 to 82-11-121(2)(b).

23 (b) The department shall determine the value of the natural gas as provided in subsection (1). If the
24 natural gas is not sold, the department shall value the natural gas using the average value for all natural gas
25 produced and sold over the previous 4 calendar quarters.

26 (3) In computing the total number of barrels of oil or cubic feet of gas produced and sold or captured
27 under subsections (1) and (2), there must be deducted the amount of oil or gas used by the person in connection
28 with the operation of the well from which the oil or gas is produced or for pumping the oil or gas from the well to
29 a tank or pipeline.

30 ~~(2)~~(4) For the purposes of determining average value at the mouth of a well, a fee of up to 25 cents a



1 barrel paid to the operator or producer to administer royalty payments, whether or not the fee is payable on a per
2 barrel basis, may not be considered a part of the value of the oil."

3

4 **Section 2.** Section 82-10-103, MCA, is amended to read:

5 **"82-10-103. Obligation to pay royalties as essence of contract -- interest.** (1) (a) The obligation
6 arising under an oil and gas lease to pay oil or gas royalties to the royalty owner or the owner's assignee, to
7 deliver oil or gas to a purchaser to the credit of the royalty owner or the owner's assignee, or to pay a portion of
8 the proceeds of the sale of the oil or gas to the royalty owner or the owner's assignee is of the essence in the
9 lease contract.

10 (b) A lease contract must include a provision requiring the operator to pay a royalty to the royalty owner
11 or the owner's assignee on gas captured in accordance with 82-11-121(2). The value of the captured gas must
12 be determined in accordance with 15-36-305(2)(b).

13 (2) If the operator under an oil and gas lease fails to pay oil or gas royalties to the royalty owner or the
14 owner's assignee within 120 days after the initial oil or gas produced under the lease is marketed and within 60
15 days for all oil and 90 days for all gas produced and marketed, the unpaid royalties must bear interest at the
16 maximum rate of interest authorized under 31-1-107 from the date due until paid. The operator may remit
17 semiannually to a person entitled to royalties the aggregate of 6 months' royalties whenever the aggregate
18 amount is less than \$50 and annually whenever the aggregate amount is less than \$10.

19 (3) A royalty owner seeking a remedy for failure to make payments under the lease or seeking payments
20 under this section shall bring the action in the district court for the county in which the oil or gas well is located,
21 and that court has jurisdiction over any actions brought under this section. The prevailing party in any proceeding
22 brought under this section is entitled to recover court costs and reasonable attorney fees.

23 (4) This section does not apply if a royalty owner or the owner's assignee has elected to take the owner's
24 or assignee's proportionate share of production in kind or whenever there is a dispute as to the title of the
25 minerals or entitlement to royalties, the outcome of which would affect distribution of royalty payments."

26

27 **Section 3.** Section 82-10-104, MCA, is amended to read:

28 **"82-10-104. Payment of royalties -- form of record required.** (1) An oil and gas producer paying
29 royalties by check, draft, or order shall include with every payment a form showing the following matters relating
30 to that payment:

- 1 (a) the name of the royalty owner to whom the payment is made;
 2 (b) the date of the check, draft, or order;
 3 (c) any royalty owner identification number used by the producer for the royalty owner;
 4 (d) the time period during which production occurred for which payment is being made;
 5 (e) any number used to identify the lease under which production occurred;
 6 (f) the type of product produced or captured;
 7 (g) barrels of oil and cubic feet of gas for which payment is made;
 8 (h) the amount and type of all taxes withheld;
 9 (i) the net value of production;
 10 (j) the royalty owner's net value; and
 11 (k) contact information for obtaining additional information regarding the payment and answers to
 12 questions.

13 (2) In addition to the information required in subsection (1), an oil and gas producer paying royalties to
 14 a royalty owner shall, at the time of payment, specify by line item every charge assessed against the royalty
 15 owner.

16 (3) Any person purposely and knowingly violating the provisions of subsection (1) or (2) is guilty of a
 17 misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000."
 18

19 **Section 4.** Section 82-11-121, MCA, is amended to read:

20 **"82-11-121. Oil and gas waste prohibited.** (1) Waste of oil and gas or either of them as waste is
 21 defined in this chapter is prohibited.

22 (2) (a) Except as provided in subsection (2)(b), an operator may not flare more than 35,000 cubic feet
 23 of natural gas per day from a well after a 60-day stabilized production test. Gas in excess of the limit must be
 24 captured.

25 (b) The board may grant an exception to the limits provided for in subsection (2)(a)."
 26

27 **Section 5.** Section 82-11-123, MCA, is amended to read:

28 **"82-11-123. (Temporary) Requirements for oil and gas operations.** Subject to the administrative
 29 control of the department under 2-15-121, the board shall require:

- 30 (1) identification of ownership of oil or gas wells, producing properties, and tanks;

1 (2) the making and filing of acceptable well logs, including bottom-hole temperatures (in order to facilitate
2 the discovery of potential geothermal energy sources), the making and filing of reports on well locations, and the
3 filing of directional surveys, geological sample logs, mud logs, core descriptions, and ordinary core analysis, if
4 made; however, logs of exploratory or wildcat wells need not be filed for a period of 6 months following completion
5 of those wells;

6 (3) prior to obtaining a permit, the filing of a gas capture plan that details how much natural gas an
7 operator anticipates producing from a well, the method of delivering the natural gas to a processor, where the
8 natural gas will be processed, anticipated flaring, and alternatives to flaring;

9 ~~(3)~~(4) the drilling, casing, producing, and plugging of wells and class II injection wells in a manner that
10 prevents the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas strata,
11 blowouts, cave-ins, seepages, and fires and the pollution of fresh water supplies by oil, gas, salt, or brackish
12 water;

13 ~~(4)~~(5) the restoration of surface lands to their previous grade and productive capability after a well is
14 plugged or a seismographic shot hole has been utilized and necessary measures to prevent adverse hydrological
15 effects from the well or hole, unless the surface owner agrees in writing, with the approval of the board or its
16 representatives, to a different plan of restoration;

17 ~~(5)~~(6) the furnishing of a reasonable bond with good and sufficient surety, conditioned for performance
18 of the duty to properly plug each dry or abandoned well. The bond may be forfeited in its entirety by the board
19 for failure to perform the duty to properly plug each dry or abandoned well and may not be canceled or absolved
20 if the well fails to produce oil or gas in commercial quantities, until:

21 (a) the board determines the well is properly plugged and abandoned as provided in the board's rules;
22 or

23 (b) the requirements of 82-11-163 are met.

24 ~~(6)~~(7) proper gauging or other measuring of oil and gas produced and saved to determine the quantity
25 and quality of oil and gas;

26 ~~(7)~~(8) that every person who produces, transports, or stores oil or gas or injects or disposes of water in
27 this state shall make available within this state for a period of 5 years complete and accurate records of the
28 quantities. The records must be available for examination by the board or its employees at all reasonable times.
29 The person shall file with the board reports as it may prescribe with respect to quantities, transportations, and
30 storages of the oil, gas, or water.

1 ~~(8)~~(9) the installation, use, and maintenance of monitoring equipment or methods in the operation of
2 class II injection wells.

3 **82-11-123. (Effective on occurrence of contingency) Requirements for oil and gas and carbon**
4 **dioxide injection operations.** (1) Subject to the administrative control of the department under 2-15-121, the
5 board shall require:

6 (a) identification of ownership of carbon dioxide injection wells, carbon dioxide, geologic storage
7 reservoirs, and oil or gas wells, producing properties, and tanks;

8 (b) the making and filing of acceptable well logs, including bottom-hole temperatures, in order to facilitate
9 the discovery of potential geothermal energy sources, the making and filing of reports on well locations, and the
10 filing of directional surveys, geological sample logs, mud logs, core descriptions, and ordinary core analysis, if
11 made. However, logs of exploratory or wildcat wells need not be filed for a period of 6 months following
12 completion of those wells.

13 ~~(c)~~ prior to obtaining a permit, the filing of a gas capture plan that details how much natural gas an
14 operator anticipates producing from a well, the method of delivering the natural gas to a processor, where the
15 natural gas will be processed, anticipated flaring, and alternatives to flaring;

16 ~~(e)~~(d) the drilling, casing, producing, and plugging of wells, carbon dioxide injection wells, and class II
17 injection wells in a manner that prevents the escape of carbon dioxide, oil, or gas out of one stratum into another,
18 the intrusion of water into carbon dioxide, oil, or gas strata, blowouts, cave-ins, seepages, and fires and the
19 pollution of fresh water supplies by carbon dioxide, oil, gas, salt, or brackish water;

20 ~~(d)~~(e) the restoration of surface lands to their previous grade and productive capability after a well is
21 plugged or a seismographic shot hole has been utilized and necessary measures to prevent adverse hydrological
22 effects from the well or hole, unless the surface owner agrees in writing, with the approval of the board or its
23 representatives, to a different plan of restoration;

24 ~~(e)~~(f) except as provided in subsection ~~(1)~~(f) (1)(g), the furnishing of a reasonable bond with good and
25 sufficient surety, conditioned for performance of the duty to properly plug each dry or abandoned well. The bond
26 may be forfeited in its entirety by the board for failure to perform the duty to properly plug each dry or abandoned
27 well and may not be canceled or absolved if the well fails to produce oil or gas in commercial quantities, until:

28 (i) the board determines the well is properly plugged and abandoned as provided in the board's rules;
29 or

30 (ii) the requirements of 82-11-163 are met.

1 ~~(f)~~(g) the furnishing of reasonable bond or other surety for a carbon dioxide injection well, geologic
2 storage reservoir, and the carbon dioxide stored in the reservoir with good and sufficient surety for performance
3 of the duty to operate and manage a carbon dioxide injection well, geologic storage reservoir, and the carbon
4 dioxide stored in the reservoir and to properly plug and reclaim each carbon dioxide injection well. The bond or
5 other surety may be forfeited in its entirety by the board for failure to perform the duty to properly manage and
6 operate a well, reservoir, and stored carbon dioxide or to plug a well. Except as provided in 82-11-183(8), the
7 bond or other surety may not be canceled or absolved.

8 ~~(g)~~(h) proper gauging or other measuring of oil and gas produced and saved to determine the quantity
9 and quality of oil and gas;

10 ~~(h)~~(i) that every person who produces, transports, or stores oil or gas or injects or disposes of water or
11 carbon dioxide in this state shall make available within this state for a period of 5 years complete and accurate
12 records of the quantities. The records must be available for examination by the board or its employees at all
13 reasonable times. The person shall file with the board reports as it may prescribe with respect to quantities,
14 transportations, and storages of the oil, gas, carbon dioxide, or water.

15 ~~(i)~~(j) the installation, use, and maintenance of monitoring equipment or methods in the operation of
16 carbon dioxide injection wells and class II injection wells.

17 (2) In addition to the requirements of subsection (1), the geologic carbon dioxide injection well permitting
18 system must include:

19 (a) recordkeeping and reporting requirements sufficient to measure the effectiveness of carbon dioxide
20 injection wells and geologic storage reservoirs;

21 (b) characterization of the injection zone and aquifers above and below the injection zone that may be
22 affected, including applicable pressure and fluid chemistry data to describe the projected effects of injection
23 activities;

24 (c) verification and monitoring at geologic storage reservoirs;

25 (d) mitigation of leaks, including the ability to stop the leaking of carbon dioxide and to address impacts
26 of leaks;

27 (e) adequate baseline monitoring of drinking water wells within 1 mile of the perimeter of the geologic
28 storage reservoir; and

29 (f) at a minimum, requirements pursuant to applicable federal regulatory standards established by:

30 (i) the Energy Independence and Security Act of 2007, Public Law 110-140, and subsequent acts;

- 1 (ii) the Safe Drinking Water Act, 42 U.S.C. 300f, et seq.; and
 2 (iii) the underground injection control program, 40 CFR, parts 144 through 147."

3
 4 **Section 6.** Section 82-11-124, MCA, is amended to read:

5 **"82-11-124. Requirements relating to waste prevention.** Subject to the administrative control of the
 6 department under 2-15-121, the board shall, for the purpose of preventing waste:

7 (1) regulate the drilling, producing, and plugging of wells, the shooting and chemical treatment of wells,
 8 the spacing of wells, operations voluntarily entered into to increase ultimate recovery such as cycling of gas, the
 9 maintenance of pressure, and the introduction of gas, water, or other substances into producing formations; ~~and~~

10 (2) require the filing of gas capture plans in accordance with 82-11-123 and the capture of gas pursuant
 11 to 82-11-121; and

12 ~~(2)(3)~~ fix, upon application made by any interested person after hearing, efficient gas-oil and water-oil
 13 ratios for any particular well or wells."

14
 15 **Section 7.** Section 82-11-136, MCA, is amended to read:

16 **"82-11-136. (Temporary) Expenditure of funds from bonds for plugging wells.** The board may
 17 accept and expend all funds received by it from bonds for properly plugging dry or abandoned wells as authorized
 18 in ~~82-11-123(5)~~ 82-11-123(6).

19 **82-11-136. (Effective on occurrence of contingency) Expenditure of funds from bonds for**
 20 **plugging wells.** (1) The board may accept and expend all funds received by it from bonds for properly plugging
 21 dry or abandoned wells as authorized in ~~82-11-123(1)(e)~~ 82-11-123(1)(f).

22 (2) The board may accept and expend all funds received by it from bonds for properly plugging
 23 abandoned carbon dioxide injection wells as authorized in ~~82-11-123(1)(f)~~ 82-11-123(1)(g)."

24
 25 **Section 8.** Section 82-11-163, MCA, is amended to read:

26 **"82-11-163. (Temporary) Landowner's bond on noncommercial well.** If the owner of the surface land
 27 upon which has been drilled a well that fails to produce oil or gas in commercial quantities acquires the well for
 28 domestic purposes, the board may cancel and absolve the bond required in 82-11-123 upon its acceptance of
 29 surety in the form of a certificate of deposit or a surety bond in the amount of \$5,000 for a single well or in the
 30 amount of \$10,000 for more than one well or in the form of a property bond of two times the value of the required

1 certificate of deposit or surety bond. The release of the certificate of deposit, surety bond, or property bond must
2 be conditioned on proof provided by the landowner that the well has been properly plugged.

3 **82-11-163. (Effective on occurrence of contingency) Landowner's bond on noncommercial well.**

4 If the owner of the surface land upon which has been drilled a well that fails to produce oil or gas in commercial
5 quantities acquires the well for domestic purposes, the board may cancel and absolve the bond required in
6 ~~82-11-123(1)(e)~~ 82-11-123(1)(f) upon its acceptance of surety in the form of a certificate of deposit or a surety
7 bond in the amount of \$5,000 for a single well or in the amount of \$10,000 for more than one well or in the form
8 of a property bond of two times the value of the required certificate of deposit or surety bond. The release of the
9 certificate of deposit, surety bond, or property bond must be conditioned on proof provided by the landowner that
10 the well has been properly plugged."
11

12 **Section 9.** Section 82-11-181, MCA, is amended to read:

13 **"82-11-181. (Effective on occurrence of contingency) Geologic storage reservoir administrative**
14 **fee -- account established.** (1) (a) A geologic storage operator shall pay to the board a fee on each ton of
15 carbon dioxide injected for storage for the purpose of carrying out the state's responsibility to monitor and manage
16 geologic storage reservoirs. If a geologic storage operator chooses to indefinitely accept liability pursuant to
17 82-11-183(9)(a), the board shall remit the fee to the operator. If a geologic storage operator is required to
18 maintain liability pursuant to 82-11-183(9)(b), the board may not remit the fee.

19 (b) The fee must be in the amount set by board rule.

20 (c) The amount must be based on the anticipated actual expenses that the board will incur in monitoring
21 and managing geologic storage reservoirs during their postclosure phases.

22 (2) There is a geologic storage reservoir program account in the special revenue fund.

23 (3) (a) Each fiscal year there must be deposited in the account the fees collected pursuant to
24 82-11-184(2)(b) and subsection (1) of this section, to be used by the board for monitoring and managing geologic
25 storage reservoirs pursuant to 82-11-183(6) and (8).

26 (b) Funds received from bonds or other surety as authorized in ~~82-11-123(1)(f)~~ 82-11-123(1)(g) and
27 82-11-183 must be deposited in the account.

28 (4) Interest and earnings on the funds in the geologic storage reservoir program account accrue to that
29 account."
30

1 **Section 10.** Section 82-11-182, MCA, is amended to read:

2 **"82-11-182. (Effective on occurrence of contingency) Liability for carbon dioxide during injection.**

3 (1) Until the certificate of project completion is issued pursuant to 82-11-183(1) and title to the stored carbon
4 dioxide and geologic storage reservoir is transferred to the state pursuant to 82-11-183(7), the geologic storage
5 operator is liable for the operation and management of the carbon dioxide injection well, the geologic storage
6 reservoir, and the injected or stored carbon dioxide.

7 (2) Bond or other surety furnished pursuant to ~~82-11-123(1)(f)~~ 82-11-123(1)(g) must be adequate to meet
8 the requirements of subsection (1).

9 (3) For the purposes of 82-11-183 and this section, "title" includes title to the geologic storage reservoir
10 and the stored carbon dioxide."
11

12 NEW SECTION. **Section 11. Notification to tribal governments.** The secretary of state shall send
13 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
14 Chippewa tribe.
15

16 NEW SECTION. **Section 12. Saving clause.** [This act] does not affect rights and duties that matured,
17 penalties that were incurred, or proceedings that were begun before [the effective date of this act].
18

19 NEW SECTION. **Section 13. Effective date.** [This act] is effective July 1, 2015.
20

21 NEW SECTION. **Section 14. Applicability.** [This act] applies to natural gas flared or captured on or
22 after July 1, 2015.
23

- END -