

1 HOUSE BILL NO. 344

2 INTRODUCED BY G. CUSTER

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A TRANSFER OF FUNDS TO THE COAL BED
5 METHANE PROTECTION ACCOUNT; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL
6 RESOURCES AND CONSERVATION TO ALLOW CONSERVATION DISTRICTS TO PROPERLY ADMINISTER
7 THE COAL BED METHANE PROTECTION PROGRAM; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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9 WHEREAS, the Coal Bed Methane Protection Act requires the distribution of coal bed methane protection
10 account funds in accordance with section 76-15-905, MCA; and

11 WHEREAS, a long-term coal bed methane protection account and program were established by the
12 Legislature in 2001, with rules and procedures established in 2005 and 2011, to compensate private landowners
13 and water rights holders for damage to soil, crops, and water quality and availability attributable to the
14 development of coal bed methane; and

15 WHEREAS, stakeholders have worked extensively to create baseline data for producers and water users
16 affected by coal bed methane development; and

17 WHEREAS, conservation districts with coal beds within their exterior boundaries or with water sources,
18 land values, or agricultural production adversely affected by the extraction, development, or both extraction and
19 development of coal bed methane administer the program; and

20 WHEREAS, conservation districts have established procedures for evaluating claims for compensation
21 submitted by a private landowner or a water rights holder, and conservation districts can approve or deny claims
22 for compensation and also receive compensation for their administrative expenses under the program, which is
23 overseen by the Department of Natural Resources and Conservation; and

24 WHEREAS, the Department is responsible for administering funds in the account for use by the
25 conservation districts and is responsible for approval of a conservation district's procedures for evaluating claims
26 for compensation under the program; and

27 WHEREAS, to encourage a consistent approach among conservation districts administering the program,
28 representatives from the Big Horn, Custer, Carbon, Carter, Powder River, Rosebud, Treasure, Wibaux, Garfield,
29 Gallatin, Yellowstone, and Prairie Conservation Districts have prepared procedures, guidelines, and claim forms;
30 and

1 WHEREAS, the Department's role is limited to approval of the conservation district's rules and
2 administration of funds, and the Department does not have review authority over conservation district decisions
3 or actions implementing the program; and

4 WHEREAS, under the Coal Bed Methane Protection Act applications for compensation may be made
5 only for private lands and private water rights; and

6 WHEREAS, the Powder River Conservation District approved five landowner claims in fiscal year 2015
7 and fiscal year 2016; and

8 WHEREAS, the five claims totaled more than \$131,000 for diminished well water for livestock and homes;
9 and

10 WHEREAS, an additional fiscal year 2017 claim is pending for property located in the Powder River
11 Basin; and

12 WHEREAS, the approved claims were completed after the 2015 legislative session and could not be
13 considered for funding; and

14 WHEREAS, methane gas in drinking water has increased in some wells, reducing pumped water well
15 flow; and

16 WHEREAS, gas levels can be unsafe in some situations; and

17 WHEREAS, coal bed methane production has potentially depleted aquifers and reduced pressure in
18 some saturated coal seams, facilitating the release of methane gas; and

19 WHEREAS, depleted coal bed aquifers can take decades to recover to the levels they were prior to coal
20 bed methane production; and

21 WHEREAS, depleted coal bed aquifers affect private water wells and can cause a decrease in or
22 absence of water pumped from wells; and

23 WHEREAS, depleted coal bed aquifers also can result in an absence of flow from artesian or flowing
24 wells; and

25 WHEREAS, depleted coal bed aquifers continue to produce methane gas in the absence of active coal
26 bed methane industry pumping; and

27 WHEREAS, gas tends to move up in elevation and potentially migrate from downslope bedrock areas
28 in Wyoming to upslope bedrock areas in Montana and into water wells; and

29 WHEREAS, coal bed methane resources remain available for future use, and there is a potential for
30 future activities to affect private landowners, creating the potential for more claims; and

1 WHEREAS, Montana's conservation districts support continued funding for the program; and
 2 WHEREAS, the 2011 Montana Legislature transferred \$8.5 million from the coal bed methane protection
 3 account to the guarantee account for distribution to school districts, and money in the account remains subject
 4 to legislative fund transfers each session; and
 5 WHEREAS, \$190,000 is the minimum amount necessary to address coal bed methane program budget
 6 challenges and represents only about 31% of a fully funded biennial program.

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

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 10 NEW SECTION. **Section 1. Transfer.** By June 10, 2017, the state treasurer shall transfer \$190,000
 11 from the general fund to the coal bed methane protection account provided for in 76-15-904.

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 13 NEW SECTION. **Section 2. Appropriation.** For the biennium beginning July 1, 2017, there is
 14 appropriated \$190,000 from the general fund to the department of natural resources and conservation to support
 15 the coal bed methane protection program and to address claims approved and pending approval.

16
 17 NEW SECTION. **Section 3. Notification to tribal governments.** The secretary of state shall send a
 18 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
 19 Chippewa tribe.

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 21 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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