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House BILL NO. 81

INTRODUCED BY \_\_\_\_\_  
BY REQUEST OF THE DEPARTMENT OF STATE LANDS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW GOVERNING MINERAL DEVELOPMENT ON STATE LANDS; REVISING PROSPECTING PERMITS ON STATE LANDS BY MAKING THE PERMIT NONEXCLUSIVE; PROHIBITING MECHANIZED PROSPECTING; ELIMINATING THE PREFERENCE RIGHT TO LEASE AND COMPENSATION FOR IMPROVEMENTS; GENERALLY REVISING THE STATUTES REGARDING LEASING OF STATE LANDS FOR OIL AND GAS; AMENDING SECTIONS 77-3-131, 77-3-423, 77-3-432, 77-3-433, 77-3-435, AND 77-3-442, MCA; AND REPEALING SECTION 77-3-132, MCA."

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

**Section 1.** Section 77-3-131, MCA, is amended to read:

**"77-3-131. Limitations on prospecting permits.** A permit ~~shall be~~ is limited to nonmechanized prospecting for metalliferous minerals or gems and is nonexclusive. ~~no~~ A permittee may not remove from any lands or mineral rights covered by the permit any metalliferous minerals or gems except such as those that are necessary for the proper testing and sampling of the lands or mineral rights and except ~~as~~ those that are permitted by the board."

**Section 2.** Section 77-3-423, MCA, is amended to read:

**"77-3-423. Annual rental.** (1) The annual money rentals to be paid to the state for oil and gas leases ~~issued on and after July 1, 1975, shall~~ must be set by the board but may not be less than \$1.50 for each acre of land leased.

(2) In addition to the sum of \$1.50 per acre, the rental for the first year of the lease ~~shall~~ must also include any sum in excess of \$1.50 per acre offered and accepted for the first year's rental.

(3) This annual rental ~~shall in no case~~ may not be less than \$100 a year.

(4) The first year's rental ~~shall~~ must be paid before the issuance of the lease. The rentals for each subsequent year of the lease ~~shall be~~ are due and payable before the beginning of ~~such~~ the subsequent year, ~~and upon.~~ Upon failure to make ~~such~~ a payment, the lease terminates unless there is a ~~producing well~~

1 on the lease a well currently being drilled, a producing well, or a shut-in well approved by the department.  
 2 Rental paid for any year ~~shall~~ must be credited against any royalty that accrues during that year."  
 3

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

5 "77-3-432. **Royalty.** In ~~every~~ each oil and gas lease granted by the state under this part ~~and acts~~  
 6 ~~amendatory thereto~~, there ~~shall~~ must be reserved to the state as consideration ~~therefor~~ for the lease a  
 7 royalty in all oil and gas produced and saved from ~~the~~ lands covered ~~thereby~~ by the lease and not used for  
 8 light, fuel, and operation purposes on the leased premises, which ~~shall~~ must be equivalent to the full market  
 9 value, as ascertained by the board at the date of ~~such~~ the lease, of the estate or interest of the state in the  
 10 lands and oil and gas deposits disposed of under ~~such~~ the lease. ~~Such~~ The royalty reservation ~~shall~~ must  
 11 be set by the board but may not be less than 12½% on gas and not less than 12½% on ~~that portion of~~  
 12 ~~the average production of~~ oil or casinghead gasoline for each producing well ~~not exceeding 3,000 barrels~~  
 13 for the calendar month. The state may share the expense of transporting the oil to the nearest market on  
 14 a basis proportional to the state's royalty interest in ~~such~~ the oil and at a rate per mile acceptable to the  
 15 department."  
 16

17 **Section 4.** Section 77-3-433, MCA, is amended to read:

18 "77-3-433. **Shut-in gas royalty.** The royalty on gas, including casinghead gas and all gaseous  
 19 substances, ~~while the same is~~ not sold or used off the premises, ~~shall~~ must be at the rate of \$400 per ~~well~~  
 20 lease each year or the amount of the annual rental provided in ~~said~~ the lease ~~in lieu of such per well rate,~~  
 21 whichever is the greater, payable on or before the annual anniversary date of the lease. As long as ~~such~~  
 22 the leased lands contain a well capable of ~~such~~ production and ~~such~~ the requisite payment is made, the  
 23 lease ~~shall~~ must be considered as a producing lease under the lease terms."  
 24

25 **Section 5.** Section 77-3-435, MCA, is amended to read:

26 "77-3-435. **Payments due to state -- audit -- notice -- action.** (1) The report under 77-3-431 ~~shall~~  
 27 must be accompanied by payment of the amount due the state as royalty for the month covered by the  
 28 report unless the state's royalty is being or has been paid ~~direct~~ directly by the purchaser ~~thereof~~. However,  
 29 ~~where~~ when the amount of royalty due from any lease is determined by the board to be so small as to make  
 30 it uneconomical to collect monthly, the board may authorize royalty payments to be made semiannually.

1 (2) Oil and gas leases granted by the state ~~shall~~ must contain suitable provisions imposing upon  
 2 all lessees the obligation to make payments due the state in the manner, at the time, and to ~~such~~ the  
 3 representative of the state ~~as~~ that may be required by the board.

4 (3) Except as provided in subsection (4), the department may, within 5 years of the filing of a  
 5 report pursuant to 77-3-431, commence an audit of a lessee's or a former lessee's operation to determine  
 6 whether the report is complete and accurate and all royalties owed have been paid. The department shall  
 7 notify the lessee in writing of the audit. The notice must describe the period for which the audit is being  
 8 conducted. Upon conclusion of the audit, the department shall notify the lessee of the department's  
 9 conclusions and, if the department has determined that additional royalties are owed, the basis for that  
 10 determination. An action to compel payment of royalties due must be commenced within 2 years of the  
 11 date of mailing the notice.

12 (4) If a lessee or former lessee, with intent to evade payment of royalties, purposely or knowingly  
 13 files a false report or purposely or knowingly fails to pay royalties owed, the department may conduct an  
 14 audit and file an action to collect royalties at any time after the royalty is due."

15  
 16 **Section 6.** Section 77-3-442, MCA, is amended to read:

17 **"77-3-442. Disposition of property of lessee upon termination of lease.** (1) Upon the termination  
 18 for any cause of ~~any~~ a lease issued under this part, the former lessee has 6 months after the date of the  
 19 termination to remove from the premises all machinery, fixtures, improvements, buildings, and equipment  
 20 belonging to ~~him on the premises~~ the lessee, except for casing in the wells and other equipment or  
 21 apparatus necessary for the preservation of any oil or gas well or wells. As to ~~such~~ the casing, equipment,  
 22 and apparatus, any succeeding lessee or, in the event there is no succeeding lessee, the state wishing to  
 23 have ~~such~~ the property left upon the premises shall pay ~~the~~ a reasonable value ~~thereof~~ for the property to  
 24 the former lessee.

25 (2) If the succeeding lessee or the board is unable to agree with the former lessee upon the  
 26 reasonable cash value of ~~such~~ the casing, equipment, and apparatus, the succeeding lessee or, if there is  
 27 no succeeding lessee, the state, ~~as the case may be~~, shall pay in cash to the former lessee a sum fixed as  
 28 a reasonable price by a board of three appraisers, one of whom ~~shall~~ must be chosen by the successful  
 29 bidder, one by the former lessee, and the third by the two so chosen. If a person refuses to appoint an  
 30 appraiser within 15 days of a request to do so by the commissioner, the commissioner may appoint an

1 ~~appraiser for that party. Its~~ The appraisal shall must be reported to the respective parties in writing and is  
2 final and conclusive.

3 (3) ~~The~~ Unless the department gives written authorization, the former lessee may not remain in  
4 possession ~~and or~~ manage the land and property formerly covered by ~~his~~ the lease, ~~until the value of the~~  
5 ~~easing, equipment, and apparatus which the succeeding lessee or the state desires to have left upon the~~  
6 ~~premises is fixed in the manner provided in this section and has been paid to him in cash.~~ During the time  
7 the former lessee remains in ~~such~~ authorized possession, ~~he~~ the lessee may retain the same share of the  
8 products of the premises as inured to ~~him~~ the lessee during the term of ~~his~~ the lessee's lease. ~~Should~~ If the  
9 state or other bidder does not desire any of the lessee's property as provided in this section, the lessee shall  
10 properly plug all wells and remove all of ~~his~~ the lessee's property from the lands."

11

12 NEW SECTION. Section 7. Repealer. Section 77-3-132, MCA, is repealed.

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