

## SENATE BILL NO. 173

INTRODUCED BY C. KAUFMANN

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING BONDS AND FEES PAID FOR OIL AND GAS DEVELOPMENT; ESTABLISHING BONDS; SETTING AN IDLE WELL FEE; REQUIRING THE BOARD OF OIL AND GAS TO DEPOSIT IDLE WELL FEES IN THE DAMAGE MITIGATION ACCOUNT; AMENDING SECTIONS 82-11-123, 82-11-125, 82-11-134, 82-11-136, 82-11-161, AND 82-11-163, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

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12 **Section 1.** Section 82-11-123, MCA, is amended to read:13 **"82-11-123. (Temporary) Requirements for oil and gas operations.** (1) Subject to the administrative  
14 control of the department under 2-15-121, the board shall require:15 ~~(1)~~(a) identification of ownership of oil or gas wells, producing properties, and tanks;16 ~~(2)~~(b) the making and filing of acceptable well logs, including bottom-hole temperatures (in order to  
17 facilitate the discovery of potential geothermal energy sources), the making and filing of reports on well locations,  
18 and the filing of directional surveys, geological sample logs, mud logs, core descriptions, and ordinary core  
19 analysis, if made; however, logs of exploratory or wildcat wells need not be filed for a period of 6 months following  
20 completion of those wells;21 ~~(3)~~(c) the drilling, casing, producing, and plugging of wells and class II injection wells in a manner that  
22 prevents the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas strata,  
23 blowouts, cave-ins, seepages, and fires and the pollution of fresh water supplies by oil, gas, salt, or brackish  
24 water;25 ~~(4)~~(d) the restoration of surface lands to their previous grade and productive capability after a well is  
26 plugged or a seismographic shot hole has been utilized and necessary measures to prevent adverse hydrological  
27 effects from the well or hole, unless the surface owner agrees in writing, with the approval of the board or its  
28 representatives, to a different plan of restoration;29 ~~(5)~~(e) in accordance with subsections (2) and (3), the furnishing of a reasonable bond with good and  
30 sufficient surety, conditioned for performance of the duty to properly plug each dry or abandoned well. The bond

1 may be forfeited in its entirety by the board for failure to perform the duty to properly plug each dry or abandoned  
2 well and may not be canceled or absolved if the well fails to produce oil or gas in commercial quantities, until:

3 ~~(a)~~(i) the board determines the well is properly plugged and abandoned as provided in the board's rules;

4 or

5 ~~(b)~~(ii) the requirements of 82-11-163 are met.

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

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

13 ~~(e)~~(h) the installation, use, and maintenance of monitoring equipment or methods in the operation of  
14 class II injection wells.

15 (2) (a) Except as provided in subsections (2)(b) and (2)(c), the bond required under subsection (i)(e) may  
16 not be less than \$60,000 for each well.

17 (b) If a well is drilled solely for the purpose of exploring for oil and gas and is less than 2,000 feet deep,  
18 the bond may not be less than \$20,000.

19 (c) When providing bond or other surety for multiple wells, the bond may not be less than \$250,000.

20 (3) (a) A person providing bond for multiple wells in accordance with subsection (2)(c) shall also place  
21 \$5,000 for each inactive well in escrow to properly plug each dry or abandoned well or pay an annual idle well  
22 fee per well to the board in accordance with 82-11-134.

23 (b) The idle well fee is determined by the board and may not be more than \$500 or less than \$100 for  
24 each well.

25 **82-11-123. (Effective on occurrence of contingency) Requirements for oil and gas and carbon**  
26 **dioxide injection operations.** (1) Subject to the administrative control of the department under 2-15-121, the  
27 board shall require:

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

30 (b) the making and filing of acceptable well logs, including bottom-hole temperatures, in order to facilitate

1 the discovery of potential geothermal energy sources, the making and filing of reports on well locations, and the  
2 filing of directional surveys, geological sample logs, mud logs, core descriptions, and ordinary core analysis, if  
3 made. However, logs of exploratory or wildcat wells need not be filed for a period of 6 months following  
4 completion of those wells.

5 (c) the drilling, casing, producing, and plugging of wells, carbon dioxide injection wells, and class II  
6 injection wells in a manner that prevents the escape of carbon dioxide, oil, or gas out of one stratum into another,  
7 the intrusion of water into carbon dioxide, oil, or gas strata, blowouts, cave-ins, seepages, and fires and the  
8 pollution of fresh water supplies by carbon dioxide, oil, gas, salt, or brackish water;

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

13 (e) except as provided in subsection (1)(f) and in accordance with subsections (2) and (3), the furnishing  
14 of a reasonable bond with good and sufficient surety, conditioned for performance of the duty to properly plug  
15 each dry or abandoned well. The bond may be forfeited in its entirety by the board for failure to perform the duty  
16 to properly plug each dry or abandoned well and may not be canceled or absolved if the well fails to produce oil  
17 or gas in commercial quantities, until:

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

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

21 (f) the furnishing of reasonable bond or other surety for a carbon dioxide injection well, geologic storage  
22 reservoir, and the carbon dioxide stored in the reservoir with good and sufficient surety for performance of the  
23 duty to operate and manage a carbon dioxide injection well, geologic storage reservoir, and the carbon dioxide  
24 stored in the reservoir and to properly plug and reclaim each carbon dioxide injection well. The bond or other  
25 surety may be forfeited in its entirety by the board for failure to perform the duty to properly manage and operate  
26 a well, reservoir, and stored carbon dioxide or to plug a well. Except as provided in 82-11-183(8), the bond or  
27 other surety may not be canceled or absolved.

28 (g) proper gauging or other measuring of oil and gas produced and saved to determine the quantity and  
29 quality of oil and gas;

30 (h) that every person who produces, transports, or stores oil or gas or injects or disposes of water or

1 carbon dioxide in this state shall make available within this state for a period of 5 years complete and accurate  
 2 records of the quantities. The records must be available for examination by the board or its employees at all  
 3 reasonable times. The person shall file with the board reports as it may prescribe with respect to quantities,  
 4 transportations, and storages of the oil, gas, carbon dioxide, or water.

5 (i) the installation, use, and maintenance of monitoring equipment or methods in the operation of carbon  
 6 dioxide injection wells and class II injection wells.

7 (2) (a) Except as provided in subsections (2)(b) and (2)(c), the bond required under subsection (i)(e) may  
 8 not be less than \$60,000 for each well.

9 (b) If a well is drilled solely for the purpose of exploring for oil and gas and is less than 2,000 feet deep,  
 10 the bond may not be less than \$20,000.

11 (c) When providing bond or other surety for multiple wells, the bond may not be less than \$250,000.

12 (3) (a) A person providing bond for multiple wells in accordance with subsection (2)(c) shall also place  
 13 \$5,000 for each inactive well in escrow to properly plug each dry or abandoned well or pay an annual idle well  
 14 fee per well to the board in accordance with 82-11-134.

15 (b) The idle well fee is determined by the board and may not be more than \$500 or less than \$100 for  
 16 each well.

17 ~~(2)(4)~~ In addition to the requirements of subsection (1), the geologic carbon dioxide injection well  
 18 permitting 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."

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 4 **Section 2.** Section 82-11-125, MCA, is amended to read:

5 **"82-11-125. Availability of cores or chips, cuttings, and bottom-hole temperatures to board.** (1)

6 (a) An Except as provided in subsection (1)(b), an owner drilling a well for gas or oil shall ~~make available to~~  
 7 provide the board at its field offices representative cores or chips, when available, the cuttings from the well, and  
 8 the bottom-hole temperatures of the wells, ~~in order to facilitate the discovery of geothermal potential. However,~~  
 9 cores, Cores, chips, or cuttings need not be ~~so~~ made available for a period of 6 months following completion or  
 10 abandonment of the wells.

11 (b) The board may, however, relieve the owner of a well of the obligation to furnish cores, If the board  
 12 determines that submitting cores, chips, or cuttings when, in the opinion of the board, the furnishing thereof would  
 13 be is unduly burdensome for the owner; ~~however, then cores, chips, or cuttings do not need to be provided. the~~  
 14 owner desiring relief must apply to If submitting the cores, chips, or cuttings is burdensome, the owner shall  
 15 request and receive permission from the board to not ~~so furnish~~ meet the requirements of subsection (1)(a).

16 (2) (a) The owner of a stratigraphic test well drilled for the purpose of obtaining lithologic information  
 17 useful in potential oil and gas operations, as ~~such well is~~ defined by the board's rules, shall within 3 years from  
 18 the date of the cessation of the drilling of the well make available to the board complete sets of sample cuttings  
 19 and representative cores or chips and well logs of the wells, ~~which logs shall. Logs must~~ include, among other  
 20 information, the size of casing used, the type and depth of water, if any, located, and bottom-hole temperatures  
 21 for geothermal purposes. ~~The~~

22 (b) Except as provided in 82-11-123, the board shall require and the owner of a stratigraphic test well  
 23 shall furnish to provide, prior to the commencement of drilling of the well, a good and sufficient surety bond, ~~to~~  
 24 be approved prior to the commencement of the drilling, ~~. The bond must be~~ conditioned upon the proper plugging  
 25 of the well prior to abandonment. Except as provided in 82-11-123, the amount of the bond to must be determined  
 26 by the estimated depth as in of the test well and in accordance with the board's rules provided for oil and gas  
 27 wells; ~~prior. Prior~~ to abandonment, the wells ~~shall must~~ be plugged by the owner ~~thereof of the wells~~ or by the  
 28 surety ~~should if the owner be is~~ in default, ~~the. The~~ plugging ~~to must~~ conform to ~~the~~ standards set ~~down~~ and  
 29 determined by the board."  
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1           **Section 3.** Section 82-11-134, MCA, is amended to read:

2           **"82-11-134. Permit fees.** In addition to the privilege and license tax, before commencing the drilling of  
3 an oil or gas well or stratigraphic test well or core hole, a person shall secure from the board a drilling permit and  
4 shall pay to the board ~~therefor the following amounts:~~

- 5           (1) for each well whose estimated depth is:
- 6           ~~(a)~~ 3,500 feet or less, \$25;
- 7           ~~(2)(b)~~ from 3,501 feet to 7,000 feet, \$75;
- 8           ~~(3)(c)~~ 7,000 feet and deeper, \$150;
- 9           (2) idle well fees, if required, pursuant to 82-11-123(3)."

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11           **Section 4.** Section 82-11-136, MCA, is amended to read:

12           **"82-11-136. (Temporary) Expenditure of funds from bonds for plugging wells.** The board may  
13 accept and expend all funds received by it from bonds for properly plugging dry or abandoned wells as authorized  
14 in ~~82-11-123(5)~~ 82-11-123(1)(e) or held in escrow in accordance with 82-11-123(3)(a).

15           **82-11-136. (Effective on occurrence of contingency) Expenditure of funds from bonds for**  
16 **plugging wells.** (1) The board may accept and expend all funds received by it from bonds for properly plugging  
17 dry or abandoned wells as authorized in 82-11-123(1)(e) or held in escrow in accordance with 82-11-123(3)(a).

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

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21           **Section 5.** Section 82-11-161, MCA, is amended to read:

22           **"82-11-161. (Temporary) Oil and gas production damage mitigation account -- statutory**  
23 **appropriation.** (1) There is an oil and gas production damage mitigation account within the state special revenue  
24 fund established in 17-2-102. The oil and gas production damage mitigation account is controlled by the board.

25           (2) At the beginning of each biennium, there must be allocated to the oil and gas production damage  
26 mitigation account \$50,000 from the interest income of the resource indemnity trust fund, except that if at the  
27 beginning of a biennium the unobligated cash balance in the oil and gas production damage mitigation account:

- 28           (a) equals or exceeds \$200,000, no allocation will be made; or
- 29           (b) is less than \$200,000, then an amount less than or equal to the difference between the unobligated  
30 cash balance and \$200,000, but not more than \$50,000, must be allocated to the oil and gas production damage

1 mitigation account from the interest income of the resource indemnity trust fund.

2 (3) In addition to the allocation provided in subsection (2), there must be deposited in the oil and gas  
3 production damage mitigation account all funds received by the board pursuant to 82-11-136 and pursuant to  
4 82-11-134(2).

5 (4) If a sufficient balance exists in the account, funds are statutorily appropriated, as provided in  
6 17-7-502, from the oil and gas production damage mitigation account, upon the authorization of the board, to pay  
7 the reasonable costs of properly plugging a well and either reclaiming or restoring, or both, a drill site or other  
8 drilling or producing area damaged by oil and gas operations if the board determines that the well, sump, hole,  
9 drill site, or drilling or producing area has been abandoned and the responsible person cannot be identified or  
10 located or if the responsible person fails or refuses to properly plug, reclaim, or restore the well, sump, hole, drill  
11 site, or drilling or producing area within a reasonable time after demand by the board. The responsible person  
12 shall, however, pay costs to the extent of that person's available resources and is subsequently liable to fully  
13 reimburse the account or is subject to a lien on property as provided in 82-11-164 for costs expended from the  
14 account to properly plug, reclaim, or restore the well, sump, hole, drill site, or drilling or producing area and to  
15 mitigate any damage for which the person is responsible.

16 (5) Interest from funds in the oil and gas production damage mitigation account accrues to that account.

17 **82-11-161. (Effective on occurrence of contingency) Oil and gas production damage mitigation**  
18 **account -- statutory appropriation.** (1) There is an oil and gas production damage mitigation account within  
19 the state special revenue fund established in 17-2-102. The oil and gas production damage mitigation account  
20 is controlled by the board.

21 (2) At the beginning of each biennium, there must be allocated to the oil and gas production damage  
22 mitigation account \$50,000 from the interest income of the resource indemnity trust fund, except that if at the  
23 beginning of a biennium the unobligated cash balance in the oil and gas production damage mitigation account:

24 (a) equals or exceeds \$200,000, no allocation will be made; or

25 (b) is less than \$200,000, then an amount less than or equal to the difference between the unobligated  
26 cash balance and \$200,000, but not more than \$50,000, must be allocated to the oil and gas production damage  
27 mitigation account from the interest income of the resource indemnity trust fund.

28 (3) In addition to the allocation provided in subsection (2), there must be deposited in the oil and gas  
29 production damage mitigation account all funds received by the board pursuant to 82-11-136(1) and pursuant  
30 to 82-11-134(2).

1 (4) If a sufficient balance exists in the account, funds are statutorily appropriated, as provided in  
 2 17-7-502, from the oil and gas production damage mitigation account, upon the authorization of the board, to pay  
 3 the reasonable costs of properly plugging a well and either reclaiming or restoring, or both, a drill site or other  
 4 drilling or producing area damaged by oil and gas operations if the board determines that the well, sump, hole,  
 5 drill site, or drilling or producing area has been abandoned and the responsible person cannot be identified or  
 6 located or if the responsible person fails or refuses to properly plug, reclaim, or restore the well, sump, hole, drill  
 7 site, or drilling or producing area within a reasonable time after demand by the board. However, the responsible  
 8 person shall pay costs to the extent of that person's available resources and is subsequently liable to fully  
 9 reimburse the account or is subject to a lien on property as provided in 82-11-164 for costs expended from the  
 10 account to properly plug, reclaim, or restore the well, sump, hole, drill site, or drilling or producing area and to  
 11 mitigate any damage for which the person is responsible.

12 (5) Interest from funds in the oil and gas production damage mitigation account accrues to that account."  
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14 **Section 6.** Section 82-11-163, MCA, is amended to read:

15 **"82-11-163. (Temporary) Landowner's bond on noncommercial well.** ¶ Except as provided in  
 16 82-11-123(2), if the owner of the surface land upon which has been drilled a well that fails to produce oil or gas  
 17 in commercial quantities acquires the well for domestic purposes, the board may cancel and absolve the bond  
 18 required in ~~82-11-123~~ 82-11-123(1)(e) upon its acceptance of surety in the form of a certificate of deposit or a  
 19 surety 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  
 20 form of a property bond of two times the value of the required certificate of deposit or surety bond. The release  
 21 of the certificate of deposit, surety bond, or property bond must be conditioned on proof provided by the  
 22 landowner that the well has been properly plugged.

23 **82-11-163. (Effective on occurrence of contingency) Landowner's bond on noncommercial well.**  
 24 ¶ Except as provided in 82-11-123(2), if the owner of the surface land upon which has been drilled a well that fails  
 25 to produce oil or gas in commercial quantities acquires the well for domestic purposes, the board may cancel and  
 26 absolve the bond required in 82-11-123(1)(e) upon its acceptance of surety in the form of a certificate of deposit  
 27 or a surety bond in the amount of \$5,000 for a single well or in the amount of \$10,000 for more than one well or  
 28 in the form of a property bond of two times the value of the required certificate of deposit or surety bond. The  
 29 release of the certificate of deposit, surety bond, or property bond must be conditioned on proof provided by the  
 30 landowner that the well has been properly plugged."



