

## 1 HOUSE BILL NO. 81

2 INTRODUCED BY DEVANEY

3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE STATUTES REGARDING THE  
6 LEASING OF STATE LANDS FOR OIL AND GAS; REVISING THE REQUIREMENTS FOR OIL AND GAS  
7 OPERATIONS; AMENDING SECTIONS 77-3-423, 77-3-432, 77-3-433, 77-3-435, 77-3-442, 82-11-123,  
8 AND 82-11-161, MCA; REPEALING SECTIONS 82-11-113, 82-11-114, 82-11-115, 82-11-116, AND  
9 82-11-162, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:12  
13 **Section 1.** Section 77-3-423, MCA, is amended to read:

14 **"77-3-423. Annual rental.** (1) The annual money rentals to be paid to the state for oil and gas  
15 leases ~~issued on and after July 1, 1975, shall~~ must be set by the board but may not be less than \$1.50  
16 for each acre of land leased.

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

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

20 (4) The first year's rental ~~shall~~ must be paid before the issuance of the lease. The rentals for each  
21 subsequent year of the lease ~~shall be~~ are due and payable before the beginning of ~~such~~ the subsequent  
22 ~~lease year, and upon~~ Upon failure to make ~~such~~ the rental payment, the lease terminates unless there is  
23 ~~a producing well~~ a well currently being drilled, a producing well, or a shut-in well approved by the  
24 department on the lease. Rental paid for any year ~~shall~~ must be credited against any royalty that accrues  
25 during that year."

26  
27 **Section 2.** Section 77-3-432, MCA, is amended to read:

28 **"77-3-432. Royalty.** In ~~every~~ each oil and gas lease granted by the state under this part ~~and acts~~  
29 ~~amendatory thereto~~, there ~~shall~~ must be reserved to the state as consideration ~~therefor~~ for the lease a  
30 royalty in all oil and gas produced and saved from all lands covered ~~thereby~~ by the lease and not used for

1 light, fuel, and operation purposes on the leased premises, which ~~shall~~ must be equivalent to the full market  
 2 value, as ascertained by the board at the date of ~~such the~~ the lease, of the estate or interest of the state in the  
 3 lands and oil and gas deposits disposed of under ~~such the~~ the lease. ~~Such The~~ The royalty reservation ~~shall~~ must  
 4 be set by the board but may not be less than 12 1/2% on gas and not less than 12 1/2% on ~~that portion~~  
 5 ~~of the average production of oil or casinghead gasoline for each producing well not exceeding 3,000 barrels~~  
 6 for the calendar month. The state may share the expense of transporting the oil to the nearest market on  
 7 a basis proportional to the state's royalty interest in ~~such the~~ the oil and at a rate per mile acceptable to the  
 8 department."

9

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

11 **"77-3-433. Shut-in gas royalty.** The royalty on gas, including casinghead gas and all gaseous  
 12 substances, ~~while the same is~~ not sold or used off the premises, ~~shall~~ must be at the rate of \$400 per well  
 13 lease each year or the amount of the annual rental provided in ~~said the~~ the lease ~~in lieu of such per well rate,~~  
 14 whichever is the greater, payable on or before the annual anniversary date of the lease. As long as ~~such~~  
 15 the leased lands contain a well capable of ~~such~~ production in paying quantities and ~~such the~~ requisite  
 16 payment is made, the lease ~~shall~~ must be considered as a producing lease under the lease terms."

17

18 **Section 4.** Section 77-3-435, MCA, is amended to read:

19 **"77-3-435. Payments due to state -- audit -- notice -- action.** (1) The report under 77-3-431 ~~shall~~  
 20 must be accompanied by payment of the amount due the state as royalty for the month covered by the  
 21 report unless the state's royalty is being or has been paid ~~direct~~ directly by the purchaser ~~thereof.~~ However,  
 22 ~~where~~ when the amount of royalty due from ~~any a~~ a lease is determined by the board to be so small as to  
 23 make it uneconomical to collect monthly, the board may authorize royalty payments to be made  
 24 semiannually.

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

28 (3) Except as provided in subsection (4), the department may, within 7 years of the filing of a  
 29 report pursuant to 77-3-431, commence an audit of a lessee's or a former lessee's operation to determine  
 30 whether the report is complete and accurate and whether all royalties owed have been paid. The

1 department shall notify the lessee in writing of the audit. The notice must describe the period for which  
 2 the audit is being conducted. Upon conclusion of the audit, the department shall notify the lessee of the  
 3 department's conclusions and, if the department has determined that additional royalties are owed, the  
 4 basis for that determination. An action to compel payment of royalties due must be commenced within 2  
 5 years of the date of mailing the notice.

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

9

10 **Section 5.** Section 77-3-442, MCA, is amended to read:

11 **"77-3-442. Disposition of property of lessee upon termination of lease.** (1) Upon the termination  
 12 for any cause of ~~any~~ a lease issued under this part, the former lessee has 6 months after the date of the  
 13 termination to remove from the premises all machinery, fixtures, improvements, buildings, and equipment  
 14 belonging to ~~him on the premises~~ the lessee, except for casing in the wells and other equipment or  
 15 apparatus necessary for the preservation of any oil or gas well or wells. As to ~~such~~ the casing, equipment,  
 16 and apparatus, any succeeding lessee or, in the event there is no succeeding lessee, the state wishing to  
 17 have ~~such~~ the property left upon the premises shall pay ~~the~~ a reasonable value thereof for the property to  
 18 the former lessee.

19 (2) If the succeeding lessee or the board is unable to agree with the former lessee upon the  
 20 reasonable cash value of ~~such~~ the casing, equipment, and apparatus, the succeeding lessee or, if there is  
 21 no succeeding lessee, the state, ~~as the case may be~~, shall pay in cash to the former lessee a sum fixed as  
 22 a reasonable price by a board of three appraisers, one of whom ~~shall~~ must be chosen by the successful  
 23 bidder, one by the former lessee, and the third by the two ~~se~~ appraisers chosen. If a person refuses to  
 24 appoint an appraiser within 15 days of a request to do so by the department, the department may appoint  
 25 an appraiser for that person. ~~It~~ The appraisal ~~shall~~ must be reported to the respective parties in writing and  
 26 is final and conclusive.

27 (3) ~~The~~ Unless the department gives written authorization, the former lessee may not remain in  
 28 possession ~~and~~ or manage the land and property formerly covered by ~~his~~ the lease, ~~until the value of the~~  
 29 ~~easing, equipment, and apparatus which the succeeding lessee or the state desires to have left upon the~~  
 30 ~~premises is fixed in the manner provided in this section and has been paid to him in cash.~~ During the time

1 the former lessee remains in ~~such~~ authorized possession, ~~he~~ the lessee may retain the same share of the  
 2 products of the premises as inured to ~~him~~ the lessee during the term of ~~his~~ the lease. ~~Should~~ If the state  
 3 or other bidder does not desire any of the lessee's property as provided in this section, the lessee shall  
 4 properly plug all wells and remove all of ~~his~~ the lessee's property from the ~~lands~~ premises."

5

6 **Section 6.** Section 82-11-123, MCA, is amended to read:

7 **"82-11-123. Requirements for oil and gas operations.** Subject to the administrative control of the  
 8 department under 2-15-121, the board shall require:

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

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

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

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

23 (5) the furnishing of a reasonable bond with good and sufficient surety, conditioned for  
 24 performance of the duty to properly plug each dry or abandoned well. The bond may be forfeited in its  
 25 entirety by the board for failure to perform the duty to properly plug each dry or abandoned well and may  
 26 not be canceled or absolved:

27 ~~if~~ if the well fails to produce oil or gas in commercial quantities, until:

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

30 ~~##(b)~~ (b) the requirements of 82-11-163 are met; ~~or.~~

1 ~~(b) if the well is completed after June 30, 1989, until the owner notifies the board that the well~~  
 2 ~~is producing oil and gas in commercial quantities and meets the requirements of 82-11-162;~~

3 (6) proper gauging or other measuring of oil and gas produced and saved to determine the quantity  
 4 and quality of oil and gas;

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

10 (8) the installation, use, and maintenance of monitoring equipment or methods in the operation of  
 11 class II injection wells."

12  
 13 **Section 7.** Section 82-11-161, MCA, is amended to read:

14 **"82-11-161. Oil and gas production damage mitigation account -- statutory appropriation.** (1)

15 There is an oil and gas production damage mitigation account within the state special revenue fund  
 16 established in 17-2-102. The oil and gas production damage mitigation account is controlled by the board.

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

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

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

25 (3) In addition to the allocation provided in subsection (2), there must be deposited in the oil and  
 26 gas production damage mitigation account:

27 ~~(a) all funds received by the board pursuant to 82-11-136; and~~

28 ~~(b) all fees received by the board from owners of producing wells pursuant to 82-11-162.~~

29 (4) If a sufficient balance exists in the account, funds are statutorily appropriated, as provided in  
 30 17-7-502, from the oil and gas production damage mitigation account, upon the authorization of the board,

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

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

13

14 NEW SECTION. Section 8. Repealer. Sections 82-11-113, 82-11-114, 82-11-115, 82-11-116, and  
15 82-11-162, MCA, are repealed.

16

17 NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval.

18

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0081, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the statutes regarding the leasing of state lands for oil and gas; revising the requirements for oil and gas operations.

FISCAL IMPACT:

None

Dave Lewis 1-7-97  
DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

Charles R. Devaney 1-9-97  
CHARLES R. DEVANEY, PRIMARY SPONSOR      DATE  
Fiscal Note for HB0081, as introduced

HB 81

APPROVED BY COM ON  
NATURAL RESOURCES

HOUSE BILL NO. 81

INTRODUCED BY DEVANEY

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE STATUTES REGARDING THE LEASING OF STATE LANDS FOR OIL AND GAS; REVISING THE REQUIREMENTS FOR OIL AND GAS OPERATIONS; AMENDING SECTIONS 77-3-423, 77-3-432, 77-3-433, 77-3-435, 77-3-442, 82-11-123, AND 82-11-161, MCA; REPEALING SECTIONS 82-11-113, 82-11-114, 82-11-115, 82-11-116, AND 82-11-162, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** 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~~ The annual rental ~~shall in no case under this section 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 ~~lease year, and upon.~~ Upon failure to make ~~such~~ the rental payment, the lease terminates unless there is ~~a producing well~~ a well currently being drilled, a producing well, or a shut-in well approved by the ~~department~~ department on the lease. Rental paid for any year ~~shall~~ must be credited against any royalty that accrues during that year."

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"**77-3-432. Royalty.** In ~~every~~ each oil and gas lease granted by the state under this part ~~and acts~~ ~~amendatory thereto,~~ there ~~shall~~ must be reserved to the state as consideration ~~therefor~~ for the lease a royalty in all oil and gas produced and saved from all lands covered ~~thereby~~ by the lease and not used for

1 light, fuel, and operation purposes on the leased premises, which ~~shall~~ must be equivalent to the full market  
 2 value, as ascertained by the board at the date of ~~such~~ the lease, of the estate or interest of the state in the  
 3 lands and oil and gas deposits disposed of under ~~such~~ the lease. ~~Such~~ The royalty reservation ~~shall~~ must  
 4 be set by the board but may not be less than 12 1/2% on gas and not less than 12 1/2% on ~~that portion~~  
 5 ~~of the average production of~~ oil or casinghead gasoline for each producing well ~~not exceeding 3,000 barrels~~  
 6 for the calendar month. The state may share the expense of transporting the oil to the nearest market on  
 7 a basis proportional to the state's royalty interest in ~~such~~ the oil and at a rate per mile acceptable to the  
 8 department."

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

11 **"77-3-433. Shut-in gas royalty.** The royalty on gas, including casinghead gas and all gaseous  
 12 substances, ~~while the same is~~ not sold or used off the premises, ~~shall~~ must be at the rate of \$400 per ~~well~~  
 13 lease each year or the amount of the annual rental provided in ~~said~~ the lease ~~in lieu of such per well rate,~~  
 14 whichever is the greater, payable on or before the annual anniversary date of the lease. As long as ~~such~~  
 15 the leased lands contain a well capable of ~~such~~ production in paying quantities and ~~such~~ the requisite  
 16 payment is made, the lease ~~shall~~ must be considered as a producing lease under the lease terms."

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18 **Section 4.** Section 77-3-435, MCA, is amended to read:

19 **"77-3-435. Payments due to state -- audit -- notice -- action.** (1) The report under 77-3-431 ~~shall~~  
 20 must be accompanied by payment of the amount due the state as royalty for the month covered by the  
 21 report unless the state's royalty is being or has been paid ~~direct~~ directly by the purchaser ~~thereof~~. However,  
 22 ~~where~~ when the amount of royalty due from ~~any~~ a lease is determined by the board to be so small as to  
 23 make it uneconomical to collect monthly, the board may authorize royalty payments to be made  
 24 semiannually.

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

28 (3) Except as provided in subsection (4), the department may, within 7 years of the filing of a  
 29 report pursuant to 77-3-431, commence an audit of a lessee's or a former lessee's operation to determine  
 30 whether the report is complete and accurate and whether all royalties owed have been paid. The

1 department shall notify the lessee in writing of the audit. The notice must describe the period for which  
 2 the audit is being conducted. Upon conclusion of the audit, the department shall notify the lessee of the  
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 7 files a false report or purposely or knowingly fails to pay royalties owed, the department may conduct an  
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 12 for any cause of ~~any a~~ lease issued under this part, the former lessee has 6 months after the date of the  
 13 termination to remove from the premises all machinery, fixtures, improvements, buildings, and equipment  
 14 belonging to ~~him on the premises~~ the lessee, except for casing in the wells and other equipment or  
 15 apparatus necessary for the preservation of any oil or gas well or wells. As to ~~such the~~ casing, equipment,  
 16 and apparatus, any succeeding lessee or, in the event there is no succeeding lessee, the state wishing to  
 17 have ~~such the~~ property left upon the premises shall pay ~~the a~~ reasonable value ~~thereof~~ for the property to  
 18 the former lessee.

19 (2) If the succeeding lessee or the board is unable to agree with the former lessee upon the  
 20 reasonable cash value of ~~such the~~ casing, equipment, and apparatus, the succeeding lessee or, if there is  
 21 no succeeding lessee, the state, as the case may be, shall pay in cash to the former lessee a sum fixed as  
 22 a reasonable price by a board of three appraisers, one of whom ~~shall~~ must be chosen by the successful  
 23 bidder, one by the former lessee, and the third by the two ~~se~~ appraisers chosen. If a person refuses to  
 24 appoint an appraiser within 15 days of a request to do so by the department, the department may appoint  
 25 an appraiser for that person. ~~He~~ The appraisal shall must be reported to the respective parties in writing and  
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 28 possession and or manage the land and property formerly covered by his the lease, ~~until the value of the~~  
 29 ~~easing, equipment, and apparatus which the succeeding lessee or the state desires to have left upon the~~  
 30 ~~premises is fixed in the manner provided in this section and has been paid to him in cash.~~ During the time

1 the former lessee remains in ~~such~~ authorized possession, ~~he~~ the lessee may retain the same share of the  
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 4 properly plug all wells and remove all of ~~his~~ the lessee's property from the ~~lands~~ premises."

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 12 locations, and the filing of directional surveys, geological sample logs, mud logs, core descriptions, and  
 13 ordinary core analysis, if made; however, logs of exploratory or wildcat wells need not be filed for a period  
 14 of 6 months following completion of those wells;

15 (3) the drilling, casing, producing, and plugging of wells and class II injection wells in a manner that  
 16 prevents the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas  
 17 strata, blowouts, cave-ins, seepages, and fires and the pollution of fresh water supplies by oil, gas, salt,  
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19 (4) the restoration of surface lands to their previous grade and productive capability after a well  
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 21 hydrological effects from the well or hole, unless the surface owner agrees in writing, with the approval  
 22 of the board or its representatives, to a different plan of restoration;

23 (5) the furnishing of a reasonable bond with good and sufficient surety, conditioned for  
 24 performance of the duty to properly plug each dry or abandoned well. The bond may be forfeited in its  
 25 entirety by the board for failure to perform the duty to properly plug each dry or abandoned well and may  
 26 not be canceled or absolved;

27 ~~(a)~~ if the well fails to produce oil or gas in commercial quantities, until:

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

30 ~~##~~(b) the requirements of 82-11-163 are met; ~~or.~~

1 ~~(b) if the well is completed after June 30, 1989, until the owner notifies the board that the well~~  
 2 ~~is producing oil and gas in commercial quantities and meets the requirements of 82-11-162;~~

3 (6) proper gauging or other measuring of oil and gas produced and saved to determine the quantity  
 4 and quality of oil and gas;

5 (7) that every person who produces, transports, or stores oil or gas or injects or disposes of water  
 6 in this state shall make available within this state for a period of 5 years complete and accurate records of  
 7 the quantities. The records must be available for examination by the board or its employees at all reasonable  
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 13 **Section 7.** Section 82-11-161, MCA, is amended to read:

14 **"82-11-161. Oil and gas production damage mitigation account -- statutory appropriation.** (1)  
 15 There is an oil and gas production damage mitigation account within the state special revenue fund  
 16 established in 17-2-102. The oil and gas production damage mitigation account is controlled by the board.

17 (2) At the beginning of each biennium, there must be allocated to the oil and gas production  
 18 damage mitigation account \$50,000 from the interest income of the resource indemnity trust fund, except  
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4 cannot be identified or located or if the responsible person fails or refuses to properly plug, reclaim, or  
5 restore the well, sump, hole, drill site, or drilling or producing area within a reasonable time after demand  
6 by the board. The responsible person shall, however, pay costs to the extent of that person's available  
7 resources and is subsequently liable to fully reimburse the account or is subject to a lien on property as  
8 provided in 82-11-164 for costs expended from the account to properly plug, reclaim, or restore the well,  
9 sump, hole, drill site, or drilling or producing area and to mitigate any damage for which the person is  
10 responsible.

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

13

14 **NEW SECTION. Section 8. Repealer.** Sections 82-11-113, 82-11-114, 82-11-115, 82-11-116, and  
15 82-11-162, MCA, are repealed.

16

17 **NEW SECTION. Section 9. Effective date.** [This act] is effective on passage and approval.

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9 82-11-162, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE  
REPRINTED. PLEASE REFER TO SECOND READING COPY  
(YELLOW) FOR COMPLETE TEXT.**

APPROVED BY COM ON  
NATURAL RESOURCES

1 HOUSE BILL NO. 81  
2 INTRODUCED BY DEVANEY  
3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE STATUTES REGARDING THE  
6 LEASING OF STATE LANDS FOR OIL AND GAS; REVISING THE REQUIREMENTS FOR OIL AND GAS  
7 OPERATIONS; AMENDING SECTIONS 77-3-423, 77-3-432, 77-3-433, 77-3-435, 77-3-442, 82-11-123,  
8 AND 82-11-161, MCA; REPEALING SECTIONS 82-11-113, 82-11-114, 82-11-115, 82-11-116, AND  
9 82-11-162, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO THIRD READING COPY (BLUE) FOR COMPLETE TEXT.**

## HOUSE BILL NO. 81

INTRODUCED BY DEVANEY

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE STATUTES REGARDING THE LEASING OF STATE LANDS FOR OIL AND GAS; REVISING THE REQUIREMENTS FOR OIL AND GAS OPERATIONS; AMENDING SECTIONS 77-3-423, 77-3-432, 77-3-433, 77-3-435, 77-3-442, 82-11-123, AND 82-11-161, MCA; REPEALING SECTIONS 82-11-113, 82-11-114, 82-11-115, 82-11-116, AND 82-11-162, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** 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~~ The annual rental ~~shall in no case~~ under this section 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 ~~each~~ the subsequent ~~lease year, and upon~~ Upon failure to make ~~such~~ the rental payment, the lease terminates unless there is ~~a producing well~~ a well currently being drilled, a producing well, or a shut-in well approved by the ~~department~~ department on the lease. Rental paid for any year ~~shall~~ must be credited against any royalty that accrues during that year."

**Section 2.** Section 77-3-432, MCA, is amended to read:

**"77-3-432. Royalty.** In ~~every~~ each oil and gas lease granted by the state under this part ~~and acts amendatory thereto~~, there ~~shall~~ must be reserved to the state as consideration ~~therefor~~ for the lease a royalty in all oil and gas produced and saved from all lands covered ~~thereby~~ by the lease and not used for

1 light, fuel, and operation purposes on the leased premises, which ~~shall~~ must be equivalent to the full market  
 2 value, as ascertained by the board at the date of ~~such the~~ the lease, of the estate or interest of the state in the  
 3 lands and oil and gas deposits disposed of under ~~such the~~ the lease. ~~Such The~~ The royalty reservation ~~shall~~ must  
 4 be set by the board but may not be less than 12 1/2% on gas and not less than 12 1/2% on ~~that portion~~  
 5 ~~of the average production of~~ oil or casinghead gasoline for each producing well ~~not exceeding 3,000 barrels~~  
 6 for the calendar month. The state may share the expense of transporting the oil to the nearest market on  
 7 a basis proportional to the state's royalty interest in ~~such the~~ the oil and at a rate per mile acceptable to the  
 8 department."

9

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

11 **"77-3-433. Shut-in gas royalty.** The royalty on gas, including casinghead gas and all gaseous  
 12 substances, ~~while the same is~~ not sold or used off the premises, ~~shall~~ must be at the rate of \$400 per well  
 13 lease each year or the amount of the annual rental provided in ~~said the~~ the lease in lieu of ~~such per well rate,~~  
 14 whichever is the greater, payable on or before the annual anniversary date of the lease. As long as ~~such~~  
 15 the leased lands contain a well capable of ~~such~~ production in paying quantities and ~~such the~~ the requisite  
 16 payment is made, the lease ~~shall~~ must be considered as a producing lease under the lease terms."

17

18 **Section 4.** Section 77-3-435, MCA, is amended to read:

19 **"77-3-435. Payments due to state -- audit -- notice -- action.** (1) The report under 77-3-431 ~~shall~~  
 20 must be accompanied by payment of the amount due the state as royalty for the month covered by the  
 21 report unless the state's royalty is being or has been paid ~~direct~~ directly by the purchaser ~~thereof.~~ However,  
 22 ~~where~~ when the amount of royalty due from ~~any a~~ lease is determined by the board to be so small as to  
 23 make it uneconomical to collect monthly, the board may authorize royalty payments to be made  
 24 semiannually.

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

28 (3) Except as provided in subsection (4), the department may, within 7 years of the filing of a  
 29 report pursuant to 77-3-431, commence an audit of a lessee's or a former lessee's operation to determine  
 30 whether the report is complete and accurate and whether all royalties owed have been paid. The

1 department shall notify the lessee in writing of the audit. The notice must describe the period for which  
 2 the audit is being conducted. Upon conclusion of the audit, the department shall notify the lessee of the  
 3 department's conclusions and, if the department has determined that additional royalties are owed, the  
 4 basis for that determination. An action to compel payment of royalties due must be commenced within 2  
 5 years of the date of mailing the notice.

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

9  
 10 **Section 5. Section 77-3-442, MCA, is amended to read:**

11 **"77-3-442. Disposition of property of lessee upon termination of lease. (1) Upon the termination**  
 12 **for any cause of any a lease issued under this part, the former lessee has 6 months after the date of the**  
 13 **termination to remove from the premises all machinery, fixtures, improvements, buildings, and equipment**  
 14 **belonging to ~~him on the premises~~ the lessee, except for casing in the wells and other equipment or**  
 15 **apparatus necessary for the preservation of any oil or gas well or wells. As to ~~each~~ the casing, equipment,**  
 16 **and apparatus, any succeeding lessee or, in the event there is no succeeding lessee, the state wishing to**  
 17 **have ~~each~~ the property left upon the premises shall pay ~~the~~ a reasonable value thereof for the property to**  
 18 **the former lessee.**

19 (2) If the succeeding lessee or the board is unable to agree with the former lessee upon the  
 20 reasonable cash value of ~~each~~ the casing, equipment, and apparatus, the succeeding lessee or, if there is  
 21 no succeeding lessee, the state, ~~as the case may be~~, shall pay in cash to the former lessee a sum fixed as  
 22 a reasonable price by a board of three appraisers, one of whom ~~shall~~ must be chosen by the successful  
 23 bidder, one by the former lessee, and the third by the two ~~ee~~ appraisers chosen. If a person refuses to  
 24 appoint an appraiser within 15 days of a request to do so by the department, the department may appoint  
 25 an appraiser for that person. ~~He~~ The appraisal shall must be reported to the respective parties in writing and  
 26 is final and conclusive.

27 (3) ~~The~~ Unless the department gives written authorization, the former lessee may not remain in  
 28 possession ~~and~~ or manage the land and property formerly covered by ~~his~~ the lease, ~~until the value of the~~  
 29 ~~casing, equipment, and apparatus which the succeeding lessee or the state desires to have left upon the~~  
 30 ~~premises is fixed in the manner provided in this section and has been paid to him in cash.~~ During the time

1 the former lessee remains in ~~such~~ authorized possession, ~~he~~ the lessee may retain the same share of the  
 2 products of the premises as inured to ~~him~~ the lessee during the term of ~~his~~ the lease. ~~Should~~ If the state  
 3 or other bidder does not desire any of the lessee's property as provided in this section, the lessee shall  
 4 properly plug all wells and remove all of ~~his~~ the lessee's property from the ~~lands~~ premises."

5

6 **Section 6.** Section 82-11-123, MCA, is amended to read:

7 **"82-11-123. Requirements for oil and gas operations.** Subject to the administrative control of the  
 8 department under 2-15-121, the board shall require:

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

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

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

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

23 (5) the furnishing of a reasonable bond with good and sufficient surety, conditioned for  
 24 performance of the duty to properly plug each dry or abandoned well. The bond may be forfeited in its  
 25 entirety by the board for failure to perform the duty to properly plug each dry or abandoned well and may  
 26 not be canceled or absolved;

27 ~~(a)~~ if the well fails to produce oil or gas in commercial quantities, until:

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

30 ~~(ii)~~ (b) the requirements of 82-11-163 are met; ~~or.~~

1 ~~(b) if the well is completed after June 30, 1989, until the owner notifies the board that the well~~  
 2 ~~is producing oil and gas in commercial quantities and meets the requirements of 82-11-162;~~

3 (6) proper gauging or other measuring of oil and gas produced and saved to determine the quantity  
 4 and quality of oil and gas;

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

10 (8) the installation, use, and maintenance of monitoring equipment or methods in the operation of  
 11 class II injection wells."

12  
 13 **Section 7. Section 82-11-161, MCA, is amended to read:**

14 **"82-11-161. Oil and gas production damage mitigation account -- statutory appropriation. (1)**  
 15 **There is an oil and gas production damage mitigation account within the state special revenue fund**  
 16 **established in 17-2-102. The oil and gas production damage mitigation account is controlled by the board.**

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

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

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

25 (3) In addition to the allocation provided in subsection (2), there must be deposited in the oil and  
 26 gas production damage mitigation account:

27 ~~(a) all funds received by the board pursuant to 82-11-136; and~~

28 ~~(b) all fees received by the board from owners of producing wells pursuant to 82-11-162.~~

29 (4) If a sufficient balance exists in the account, funds are statutorily appropriated, as provided in  
 30 17-7-502, from the oil and gas production damage mitigation account, upon the authorization of the board,

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

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

13

14 **NEWSECTION. Section 8. Repealer.** Sections 82-11-113, 82-11-114, 82-11-115, 82-11-116, and  
15 82-11-162, MCA, are repealed.

16

17 **NEW SECTION. Section 9. Effective date.** [This act] is effective on passage and approval.

18

-END-