

1 SENATE BILL 442

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Carroll H. Leavell

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10 AN ACT

11 RELATING TO OIL AND GAS; AMENDING A SECTION OF THE OIL AND GAS  
12 ACT TO PROVIDE FOR BLANKET FINANCIAL ASSURANCE ON ANY WELL HELD  
13 IN TEMPORARILY ABANDONED STATUS FOR MORE THAN TWO YEARS;  
14 DECLARING AN EMERGENCY.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 70-2-14 NMSA 1978 (being Laws 1977,  
18 Chapter 237, Section 3, as amended) is amended to read:

19 "70-2-14. REQUIREMENT FOR FINANCIAL ASSURANCE.--

20 A. Each person, firm, corporation or association  
21 who operates any oil, gas or service well within the state  
22 shall, as a condition precedent to drilling or producing the  
23 well, furnish financial assurance in the form of an irrevocable  
24 letter of credit or a cash or surety bond or a well-specific  
25 plugging insurance policy pursuant to the provisions of this

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1 section to the oil conservation division of the energy,  
2 minerals and natural resources department running to the  
3 benefit of the state and conditioned that the well be plugged  
4 and abandoned in compliance with the rules of the oil  
5 conservation division. The oil conservation division shall  
6 establish categories of financial assurance after notice and  
7 hearing. Such categories shall include a blanket plugging  
8 financial assurance in an amount not to exceed fifty thousand  
9 dollars (\$50,000) and one-well plugging financial assurance in  
10 amounts determined sufficient to reasonably pay the cost of  
11 plugging the wells covered by the financial assurance. In  
12 establishing categories of financial assurance, the oil  
13 conservation division shall consider the depth of the well  
14 involved, the length of time since the well was produced, the  
15 cost of plugging similar wells and such other factors as the  
16 oil conservation division deems relevant. ~~[In addition to the~~  
17 ~~blanket plugging financial assurance]~~ The oil conservation  
18 division may allow an operator to increase its blanket plugging  
19 financial assurance to cover wells held in temporarily  
20 abandoned status or require a one-well financial assurance on  
21 any well that has been held in a temporarily abandoned status  
22 for more than two years. If an operator elects to increase its  
23 blanket plugging financial assurance for wells held in  
24 temporarily abandoned status, the blanket plugging financial  
25 assurance amount shall be increased to one hundred fifty

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1 thousand dollars (\$150,000) for the first five wells, three  
2 hundred thousand dollars (\$300,000) for six to ten wells, five  
3 hundred thousand dollars (\$500,000) for eleven to twenty-five  
4 wells and one million dollars (\$1,000,000) for more than  
5 twenty-five wells. At the time an operator posts blanket  
6 plugging financial assurance, an operator may increase its  
7 blanket plugging financial assurance to cover wells held in  
8 temporarily abandoned status and wells it anticipates holding  
9 in temporarily abandoned status at some point in the future.

10 All financial assurance shall remain in force until released by  
11 the oil conservation division. The oil conservation division  
12 shall release financial assurance when it is satisfied the  
13 conditions of the financial assurance have been fully  
14 performed.

15 B. If any of the requirements of the Oil and Gas  
16 Act or the rules promulgated pursuant to that act have not been  
17 complied with, the oil conservation division, after notice and  
18 hearing, may order any well plugged and abandoned by the  
19 operator or surety or both in accordance with division rules.  
20 If the order is not complied with in the time period set out in  
21 the order, the financial assurance shall be forfeited.

22 C. When any financial assurance is forfeited pursuant  
23 to the provisions of the Oil and Gas Act or rules promulgated  
24 pursuant to that act, the director of the oil conservation  
25 division shall give notice to the attorney general, who shall

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1 collect the forfeiture without delay.

2 D. All forfeitures shall be deposited in the state  
3 treasury in the oil and gas reclamation fund.

4 E. When the financial assurance proves insufficient  
5 to cover the cost of plugging oil and gas wells on land other  
6 than federal land and funds must be expended from the oil and  
7 gas reclamation fund to meet the additional expenses, the oil  
8 conservation division is authorized to bring suit against the  
9 operator in the district court of the county in which the well  
10 is located for indemnification for all costs incurred by the  
11 oil conservation division in plugging the well. All funds  
12 collected pursuant to a judgment in a suit for indemnification  
13 brought under the provisions of this section shall be deposited  
14 in the oil and gas reclamation fund.

15 F. An operator required to file financial assurance  
16 for a well pursuant to this section is considered to have met  
17 that requirement if the operator obtains a plugging insurance  
18 policy that includes the specific well and that:

19 (1) is approved by the insurance division of the  
20 public regulation commission;

21 (2) names the state of New Mexico as owner of  
22 the policy and contingent beneficiary;

23 (3) names a primary beneficiary who agrees to  
24 plug the specified wellbore;

25 (4) is fully prepaid and cannot be canceled or

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1 surrendered;

2 (5) provides that the policy continues in effect  
3 until the specified wellbore has been plugged;

4 (6) provides that benefits will be paid when,  
5 but not before, the specified wellbore has been plugged in  
6 accordance with rules of the oil conservation division in  
7 effect at the time of plugging; and

8 (7) provides benefits that are not less than an  
9 amount equal to the one-well financial assurance required by  
10 oil conservation division rules.

11 G. If, subsequent to an operator obtaining an  
12 insurance policy as provided in this section, the one-well  
13 financial assurance requirement applicable to the operator's  
14 well is increased, either because the well is deepened or the  
15 rules of the oil conservation division are amended, the  
16 operator is considered to have met the revised requirement if:

17 (1) the existing policy benefit equals or  
18 exceeds the revised requirement;

19 (2) the operator obtains an amendment increasing  
20 the policy benefit by the amount of the increase in the  
21 applicable financial assurance requirement; or

22 (3) the operator obtains financial assurance  
23 equal to the amount, if any, by which the revised requirement  
24 exceeds the policy benefit."

25 SECTION 2. EMERGENCY.--It is necessary for the public

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1 peace, health and safety that this act take effect immediately.

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