

SENATE BILL NO. 18

INTRODUCED BY GAGE

IN THE SENATE

DECEMBER 28, 1990                   INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

JANUARY 7, 1991                    FIRST READING.

JANUARY 11, 1991                  ON MOTION, REREFERRED TO COMMITTEE  
ON NATURAL RESOURCES.

JANUARY 24, 1991                  COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 25, 1991                  PRINTING REPORT.

                                      SECOND READING, DO PASS.

JANUARY 26, 1991                  ENGROSSING REPORT.

                                      THIRD READING, PASSED.  
AYES, 46; NOES, 0.

                                      TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 26, 1991                  INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

                                      FIRST READING.

FEBRUARY 2, 1991                  ON MOTION, REREFERRED TO COMMITTEE  
ON NATURAL RESOURCES.

MARCH 13, 1991                    COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

MARCH 16, 1991                    SECOND READING, CONCURRED IN.

MARCH 18, 1991                    THIRD READING, CONCURRED IN.  
AYES, 94; NOES, 4.

                                      RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 23, 1991

SECOND READING, AMENDMENTS NOT  
CONCURRED IN.

MARCH 28, 1991

ON MOTION, CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 3, 1991

ON MOTION, CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 22, 1991

CONFERENCE COMMITTEE REPORTED.

APRIL 23, 1991

SECOND READING, CONFERENCE COMMITTEE  
REPORT ADOPTED.

IN THE HOUSE

APRIL 23, 1991

CONFERENCE COMMITTEE REPORT  
ADOPTED.

IN THE SENATE

APRIL 24, 1991

THIRD READING, CONFERENCE COMMITTEE  
REPORT ADOPTED.

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 SENATE BILL NO. 18  
2 INTRODUCED BY GAGE  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE OIL  
5 AND GAS LAWS; AUTHORIZING CERTAIN POOLING AND UNIT  
6 AGREEMENTS; CLARIFYING RESPONSIBILITY FOR MITIGATION OF  
7 DAMAGES; AND AMENDING SECTIONS 77-3-430, 82-11-101,  
8 82-11-103, 82-11-161, AND 82-11-164, MCA."  
9

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

11 **Section 1.** Section 77-3-430, MCA, is amended to read:

12 "77-3-430. Pooling agreements and unit operations.

13 Nothing contained in this or in prior related laws prevents  
14 the board from entering into agreements for the pooling of  
15 acreage with others for unit operations for the production  
16 of oil or gas or both and the apportionment of oil or gas  
17 royalties or both on an acreage or other equitable basis and  
18 from modifying leases with respect to delay rentals, delay  
19 drilling penalties, and royalties in accordance with such  
20 the pooling agreements and such the unit plans of operation.  
21 However, such the agreements may not change the percentage  
22 of royalties to be paid to the state from the percentages as  
23 fixed in its leases. The board shall enter into pooling and  
24 unit agreements when to do so will conserve the natural  
25 resources of an oil and gas area, promote its development in

1 an orderly and economical manner to meet market conditions,  
2 avoid waste, and ensure a more equitable distribution of the  
3 proceeds of production. The board may modify existing  
4 pooling and unit agreements so as to commit the state lands  
5 included therein in the pooling and unit agreements for as  
6 long as the unitized substance or substances for which the  
7 state lands are committed is produced from any lands in the  
8 unit."

9 **Section 2.** Section 82-11-101, MCA, is amended to read:

10 "82-11-101. Definitions. As used in this chapter,  
11 unless the context requires otherwise, the following  
12 definitions apply:

13 (1) "Administrator" means the administrator of the  
14 division of oil and gas conservation.

15 (2) "Board" means the board of oil and gas conservation  
16 provided for in 2-15-3303.

17 (3) "Class II injection well" means a well, as defined  
18 by the federal environmental protection agency or any  
19 successor agency, that injects fluids:

20 (a) that have been brought to the surface in connection  
21 with oil or natural gas production;

22 (b) for purposes of enhancing the ultimate recovery of  
23 oil or natural gas; or

24 (c) for purposes of storing liquid hydrocarbons.

25 (4) "Department" means the department of natural

1 resources and conservation provided for in Title 2, chapter  
2 15, part 33.

3 (5) "Determinations" means those decisions delegated to  
4 the state by or under authority of the Natural Gas Policy  
5 Act of 1978 or any successor or similar legislation relating  
6 to oil and gas.

7 (6) "Enhanced recovery" means the increased recovery  
8 from a pool achieved by artificial means or by the  
9 application of energy extrinsic to the pool; such artificial  
10 means or application includes pressuring, cycling, pressure  
11 maintenance, or injection into the pool of any substance or  
12 form of energy as is contemplated in secondary recovery and  
13 tertiary programs but does not include the injection in a  
14 well of a substance or form of energy for the sole purpose  
15 of aiding in the lifting of fluids in the well or  
16 stimulating of the reservoir at or near the well by  
17 mechanical, chemical, thermal, or explosive means.

18 (7) "Field" means the general area underlaid by one or  
19 more pools.

20 (8) "Fluid" means any material or substance that flows  
21 or moves, whether in a semisolid, liquid, sludge, gas, or  
22 any other form or state.

23 (9) "Gas" means all natural gases and all other fluid  
24 hydrocarbons as produced at the wellhead and not defined as  
25 oil in subsection (10) of this section.

1 (10) "Oil" means crude petroleum oil and other  
2 hydrocarbons regardless of gravity which are produced at the  
3 wellhead in liquid form by ordinary production methods and  
4 which are not the result of condensation of gas before or  
5 after it leaves the reservoir.

6 (11) "Owner" means the person who has the right to drill  
7 into and produce from a pool and to appropriate the oil or  
8 gas he produces ~~therefrom~~ from a pool either for himself or  
9 others or for himself and others, and the term includes all  
10 persons holding such that authority by or through him.

11 (12) "Person" means any natural person, corporation,  
12 association, partnership, receiver, trustee, executor,  
13 administrator, guardian, fiduciary, or other representative  
14 of any kind and includes any agency or instrumentality of  
15 the state or any governmental subdivision thereof of the  
16 state.

17 (13) "Pollution" means contamination or other alteration  
18 of the physical, chemical, or biological properties of any  
19 state waters that exceeds that permitted by state water  
20 quality standards or standards adopted by the board,  
21 including but not limited to the disposal, discharge,  
22 seepage, drainage, infiltration, flow, or injection of any  
23 liquid, gaseous, solid, or other substance into any state  
24 waters that will or is likely to create a nuisance or render  
25 the waters harmful, detrimental, or injurious to public

1 health, recreation, safety, welfare, livestock, wild  
2 animals, birds, fish, or other wildlife. A disposal,  
3 discharge, seepage, drainage, infiltration, flow, or  
4 injection of fluid that is authorized under a rule, permit,  
5 or order of the board is not pollution under this chapter.

6 (14) "Pool" means an underground reservoir containing a  
7 common accumulation of oil or gas or both; each zone of a  
8 structure which is completely separated from any other zone  
9 in the same structure is a pool, as that term is used in  
10 this chapter.

11 (15) "Producer" means the owner of a well or wells  
12 capable of producing oil or gas or both.

13 (16) "Responsible person" means a person who is  
14 determined by the board under 82-10-402 to have abandoned an  
15 oil or gas well, injection well, disposal well, water  
16 service well, drill site, sump, or seismographic shot hole,  
17 or other area where oil and gas operations are conducted and  
18 who is:

19 ~~(a) a corporation, association, partnership, or other~~  
20 ~~business organization with assets in excess of \$250,000; or~~

21 ~~(b) if the business organization does not have assets~~  
22 ~~in excess of \$250,000; a natural person with primary~~  
23 ~~ownership in the business organization.~~

24 (17) "State waters" means any body of water, either  
25 surface or underground.

1 (18) "Waste" means:

2 (a) physical waste, as that term is generally  
3 understood in the oil and gas industry;

4 (b) the inefficient, excessive, or improper use of or  
5 the unnecessary dissipation of reservoir energy;

6 (c) the location, spacing, drilling, equipping,  
7 operating, or producing of any oil or gas well or wells in a  
8 manner which causes or tends to cause reduction in the  
9 quantity of oil or gas ultimately recoverable from a pool  
10 under prudent and proper operations or which causes or tends  
11 to cause unnecessary or excessive surface loss or  
12 destruction of oil or gas; and

13 (d) the inefficient storing of oil or gas. (The  
14 production of oil or gas from any pool or by any well to the  
15 full extent that the well or pool can be produced in  
16 accordance with methods designed to result in maximum  
17 ultimate recovery, as determined by the board, is not waste  
18 within the meaning of this definition.)"

19 **Section 3.** Section 82-11-103, MCA, is amended to read:

20 "82-11-103. Lands subject to law. This chapter applies  
21 to all lands in the state lawfully subject to its taxation  
22 and police powers, including all state-owned lands. It  
23 applies to lands of the United States or to lands subject to  
24 the jurisdiction of the United States orly to the extent  
25 that control and supervision of conservation of oil and gas

1 by the United States on its lands fails to effect the intent  
 2 and purposes of this chapter and otherwise applies to those  
 3 lands to such the extent as that any officer of the United  
 4 States having jurisdiction or his duly authorized  
 5 representative approves any of the provisions of this  
 6 chapter or an order of the board which that affects those  
 7 lands. This chapter also applies to any lands committed to a  
 8 unit agreement approved by the secretary of the interior or  
 9 his duly authorized representative, except that the board  
 10 may, with respect to those unit agreements, suspend the  
 11 application of this chapter or any part of this chapter so  
 12 long as the conservation of oil and gas and the prevention  
 13 of waste as provided in this chapter is accomplished under  
 14 the unit agreements. The suspension does not relieve an  
 15 operator or owner from making such reports as that may be  
 16 required by the board with respect to operations and  
 17 production under the unit agreement, and the suspension does  
 18 not relieve an operator or owner from the payment of taxes  
 19 on his oil and gas production or payment for permit fees as  
 20 required by this chapter."

21 **Section 4.** Section 82-11-161, MCA, is amended to read:

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

1 gas production damage mitigation account is controlled by  
 2 the board.

3 (2) On July 1, 1991, and at the beginning of each  
 4 succeeding biennium, there must be allocated to the oil and  
 5 gas production damage mitigation account \$50,000 from the  
 6 interest income of the resource indemnity trust fund, except  
 7 if at the beginning of a biennium the unobligated cash  
 8 balance in the oil and gas production damage mitigation  
 9 account:

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

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

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

20 (a) all funds received by the board pursuant to  
 21 82-11-136; and

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

24 (4) If a sufficient balance exists in the account,  
 25 funds are statutorily appropriated, as provided in 17-7-502,

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

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

21 (6) The board shall submit to the legislature at the  
 22 beginning of each regular session a complete financial  
 23 report on the oil and gas production damage mitigation  
 24 account, including a description of all expenditures made  
 25 since the preceding report."

1 **Section 5.** Section 82-11-164, MCA, is amended to read:  
 2 "82-11-164. Lien created. (1) The oil and gas  
 3 production damage mitigation account has a lien in the  
 4 amount of the expenditure from the account under  
 5 82-11-161(4), plus interest accrued at the rate of 10% a  
 6 year, against all real and personal property in this state  
 7 owned by:  
 8 (a) the responsible person, ~~if that person is~~  
 9 ~~subsequently identified or located;~~ or  
 10 (b) in which the responsible person, ~~if that person is~~  
 11 ~~known but cannot or will not fully reimburse the oil and gas~~  
 12 ~~production damage mitigation account~~ has an interest.  
 13 (2) The lien created under subsection (1) must be filed  
 14 in the office of the secretary of state and must attach to  
 15 all real or personal property of the responsible person.  
 16 (3) A lien created by this section is valid until paid  
 17 in full or otherwise discharged. The lien must be foreclosed  
 18 in accordance with applicable laws governing foreclosure of  
 19 ~~mortgages and liens."~~  
 20 **NEW SECTION. Section 6. Saving clause.** [This act] does  
 21 not affect rights and duties that matured, penalties that  
 22 were incurred, or proceedings that were begun before [the  
 23 effective date of this act].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0018, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

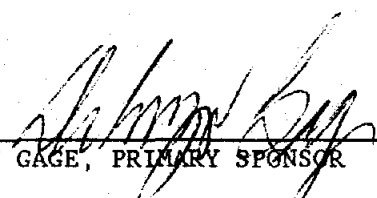
This bill revises oil and gas laws to: 1) authorize certain pooling and unit agreements; and 2) clarify responsibility for mitigation of damages.

FISCAL IMPACT:

There are no fiscal or revenue implications.



ROD SUNDSTED, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning



DELWYN GAGE, PRIMARY SPONSOR      DATE

Fiscal Note for SB0018, as introduced

4/7/91

SB 18



RE-REFERRED AND  
APPROVED BY COMM. ON  
NATURAL RESOURCES

1 SENATE BILL NO. 18  
2 INTRODUCED BY GAGE

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE OIL  
5 AND GAS LAWS; AUTHORIZING CERTAIN POOLING AND UNIT  
6 AGREEMENTS; CLARIFYING RESPONSIBILITY FOR MITIGATION OF  
7 DAMAGES; AND AMENDING SECTIONS 77-3-430, 82-11-101,  
8 82-11-103, 82-11-104, 82-11-161, AND 82-11-164, MCA."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section ~~17~~ Section 77-3-430, MCA, is amended to read:  
12 "77-3-430. Pooling agreements and unit operations:  
13 Nothing contained in this or in prior related laws prevents  
14 the board from entering into agreements for the pooling of  
15 acreage with others for unit operations for the production  
16 of oil or gas or both and the apportionment of oil or gas  
17 royalties or both on an acreage or other equitable basis and  
18 from modifying leases with respect to delay rentals, delay  
19 drilling penalties, and royalties in accordance with such  
20 the pooling agreements and such the unit plans of operation.  
21 However, such the agreements may not change the percentage  
22 of royalties to be paid to the state from the percentages as  
23 fixed in its leases. The board shall enter into pooling and  
24 unit agreements when to do so will conserve the natural  
25 resources of an oil and gas area, promote its development in

1 ~~an orderly and economical manner to meet market conditions,~~  
2 ~~avoid waste, and ensure a more equitable distribution of the~~  
3 ~~proceeds of production. The board may modify existing~~  
4 ~~pooling and unit agreements so as to commit the state lands~~  
5 ~~included therein in the pooling and unit agreements for as~~  
6 ~~long as the unitized substance or substances for which the~~  
7 ~~state lands are committed is produced from any lands in the~~  
8 ~~unit."~~

9 Section 1. Section 82-11-101, MCA, is amended to read:

10 "82-11-101. Definitions. As used in this chapter,  
11 unless the context requires otherwise, the following  
12 definitions apply:

- 13 (1) "Administrator" means the administrator of the  
14 division of oil and gas conservation.  
15 (2) "Board" means the board of oil and gas conservation  
16 provided for in 2-15-3303.  
17 (3) "Class II injection well" means a well, as defined  
18 by the federal environmental protection agency or any  
19 successor agency, that injects fluids:  
20 (a) that have been brought to the surface in connection  
21 with oil or natural gas production;  
22 (b) for purposes of enhancing the ultimate recovery of  
23 oil or natural gas; or  
24 (c) for purposes of storing liquid hydrocarbons.  
25 (4) "Department" means the department of natural

SECOND READING

1 resources and conservation provided for in Title 2, chapter  
2 15, part 33.

3 (5) "Determinations" means those decisions delegated to  
4 the state by or under authority of the Natural Gas Policy  
5 Act of 1978 or any successor or similar legislation relating  
6 to oil and gas.

7 (6) "Enhanced recovery" means the increased recovery  
8 from a pool achieved by artificial means or by the  
9 application of energy extrinsic to the pool; such artificial  
10 means or application includes pressuring, cycling, pressure  
11 maintenance, or injection into the pool of any substance or  
12 form of energy as is contemplated in secondary recovery and  
13 tertiary programs but does not include the injection in a  
14 well of a substance or form of energy for the sole purpose  
15 of aiding in the lifting of fluids in the well or  
16 stimulating of the reservoir at or near the well by  
17 mechanical, chemical, thermal, or explosive means.

18 (7) "Field" means the general area underlaid by one or  
19 more pools.

20 (8) "Fluid" means any material or substance that flows  
21 or moves, whether in a semisolid, liquid, sludge, gas, or  
22 any other form or state.

23 (9) "Gas" means all natural gases and all other fluid  
24 hydrocarbons as produced at the wellhead and not defined as  
25 oil in subsection (10) of this section.

1 (10) "Oil" means crude petroleum oil and other  
2 hydrocarbons regardless of gravity which are produced at the  
3 wellhead in liquid form by ordinary production methods and  
4 which are not the result of condensation of gas before or  
5 after it leaves the reservoir.

6 (11) "Owner" means the person who has the right to drill  
7 into and produce from a pool and to appropriate the oil or  
8 gas he produces therefrom from a pool either for himself or  
9 others or for himself and others, and the term includes all  
10 persons holding such that authority by or through him.

11 (12) "Person" means any natural person, corporation,  
12 association, partnership, receiver, trustee, executor,  
13 administrator, guardian, fiduciary, or other representative  
14 of any kind and includes any agency or instrumentality of  
15 the state or any governmental subdivision thereof of the  
16 state.

17 (13) "Pollution" means contamination or other alteration  
18 of the physical, chemical, or biological properties of any  
19 state waters that exceeds that permitted by state water  
20 quality standards or standards adopted by the board,  
21 including but not limited to the disposal, discharge,  
22 seepage, drainage, infiltration, flow, or injection of any  
23 liquid, gaseous, solid, or other substance into any state  
24 waters that will or is likely to create a nuisance or render  
25 the waters harmful, detrimental, or injurious to public

1 health, recreation, safety, welfare, livestock, wild  
2 animals, birds, fish, or other wildlife. A disposal,  
3 discharge, seepage, drainage, infiltration, flow, or  
4 injection of fluid that is authorized under a rule, permit,  
5 or order of the board is not pollution under this chapter.

6 (14) "Pool" means an underground reservoir containing a  
7 common accumulation of oil or gas or both; each zone of a  
8 structure which is completely separated from any other zone  
9 in the same structure is a pool, as that term is used in  
10 this chapter.

11 (15) "Producer" means the owner of a well or wells  
12 capable of producing oil or gas or both.

13 (16) "Responsible person" means a person who is  
14 determined by the board under 82-10-402 to have abandoned an  
15 oil or gas well, injection well, disposal well, water  
16 service SOURCE well, drill site, sump, or seismographic shot  
17 hole, or other area where oil and gas DRILLING AND  
18 PRODUCTION operations are WERE conducted and who is-

19 ~~(a)--a-corporation, association, partnership, or other~~  
20 ~~business-organization-with-assets-in-excess-of-\$250,000, or~~

21 ~~(b)--if--the--business-organization--does--not--have--assets~~  
22 ~~in--excess--of--\$250,000,--a--natural--person--with--primary~~  
23 ~~ownership-in-the-business-organization.~~

24 (17) "State waters" means any body of water, either  
25 surface or underground.

1 (18) "Waste" means:

2 (a) physical waste, as that term is generally  
3 understood in the oil and gas industry;

4 (b) the inefficient, excessive, or improper use of or  
5 the unnecessary dissipation of reservoir energy;

6 (c) the location, spacing, drilling, equipping,  
7 operating, or producing of any oil or gas well or wells in a  
8 manner which causes or tends to cause reduction in the  
9 quantity of oil or gas ultimately recoverable from a pool  
10 under prudent and proper operations or which causes or tends  
11 to cause unnecessary or excessive surface loss or  
12 destruction of oil or gas; and

13 (d) the inefficient storing of oil or gas. (The  
14 production of oil or gas from any pool or by any well to the  
15 full extent that the well or pool can be produced in  
16 accordance with methods designed to result in maximum  
17 ultimate recovery, as determined by the board, is not waste  
18 within the meaning of this definition.)"

19 **Section 2.** Section 82-11-103, MCA, is amended to read:

20 **"82-11-103. Lands subject to law.** This chapter applies  
21 to all lands in the state lawfully subject to its taxation  
22 and police powers, including all state-owned lands. It  
23 applies to lands of the United States or to lands subject to  
24 the jurisdiction of the United States only to the extent  
25 that control and supervision of conservation of oil and gas

1 by the United States on its lands fails to effect the intent  
 2 and purposes of this chapter and otherwise applies to those  
 3 lands to such the extent as that any officer of the United  
 4 States having jurisdiction or his duly authorized  
 5 representative approves any of the provisions of this  
 6 chapter or an order of the board which that affects those  
 7 lands. This chapter also applies to any lands committed to a  
 8 unit agreement approved by the secretary of the interior or  
 9 his duly authorized representative, except that the board  
 10 may, with respect to those unit agreements, suspend the  
 11 application of this chapter or any part of this chapter so  
 12 long as the conservation of oil and gas and the prevention  
 13 of waste as provided in this chapter is accomplished under  
 14 the unit agreements. The suspension does not relieve an  
 15 operator or owner from making such reports as that may be  
 16 required by the board with respect to operations and  
 17 production under the unit agreement, and the suspension does  
 18 not relieve an operator or owner from the payment of taxes  
 19 on his oil and gas production or payment for permit fees as  
 20 required by this chapter."

21 **SECTION 3. SECTION 82-11-104, MCA, IS AMENDED TO READ:**

22 "82-11-104. Construction -- no conflict with board of  
 23 land commissioners' authority. ~~Nothing--herein--contained~~  
 24 ~~shall~~ No provision of this chapter may be construed to  
 25 conflict with 77-3-430, granting the board of land

1 commissioners the authority to enter into pooling and  
 2 unitization agreements for the production of oil or gas with  
 3 others, provided that state lands are subject to the  
 4 provisions of this chapter concerning spacing and statutory  
 5 pooling and unitization in the absence of voluntary pooling  
 6 and unitization agreements."

7 **Section 4.** Section 82-11-161, MCA, is amended to read:

8 "82-11-161. Oil and gas production damage mitigation  
 9 account -- statutory appropriation. (1) There is an oil and  
 10 gas production damage mitigation account within the state  
 11 special revenue fund established in 17-2-102. The oil and  
 12 gas production damage mitigation account is controlled by  
 13 the board.

14 (2) On July 1, 1991, and at the beginning of each  
 15 succeeding biennium, there must be allocated to the oil and  
 16 gas production damage mitigation account \$50,000 from the  
 17 interest income of the resource indemnity trust fund, except  
 18 if at the beginning of a biennium the unobligated cash  
 19 balance in the oil and gas production damage mitigation  
 20 account:

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

23 (b) is less than \$200,000, then an amount less than or  
 24 equal to the difference between the unobligated cash balance  
 25 and \$200,000, but not more than \$50,000, must be allocated

1 to the oil and gas production damage mitigation account from  
2 the interest income of the resource indemnity trust fund.

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

6 (a) all funds received by the board pursuant to  
7 82-11-136; and

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

10 (4) If a sufficient balance exists in the account,  
11 funds are statutorily appropriated, as provided in 17-7-502,  
12 from the oil and gas production damage mitigation account,  
13 upon the authorization of the board, to pay the reasonable  
14 costs of properly plugging a well and either reclaiming or  
15 restoring, or both, a drill site or other DRILLING OR  
16 PRODUCING area damaged by oil and gas operations if the  
17 board determines that the well, sump, or hole, drill site,  
18 or DRILLING OR PRODUCING area has been abandoned and the  
19 responsible person cannot be identified or located or if the  
20 responsible person does-not-have-sufficient-funds-to-pay-the  
21 costs fails or refuses to properly plug, reclaim, or restore  
22 the well, drill site, or DRILLING OR PRODUCING area within a  
23 reasonable time after demand by the board. The responsible  
24 person shall, however, pay costs to the extent of his  
25 available resources and is subsequently liable to fully

1 reimburse the account or is subject to a lien on property as  
2 provided in 82-11-164 for costs expended from the account to  
3 properly plug, reclaim, or restore the well, drill site, or  
4 DRILLING OR PRODUCING area and to mitigate any damage caused  
5 by-the-well for which he is responsible.

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

8 (6) The board shall submit to the legislature at the  
9 beginning of each regular session a complete financial  
10 report on the oil and gas production damage mitigation  
11 account, including a description of all expenditures made  
12 since the preceding report."

13 **Section 5.** Section 82-11-164, MCA, is amended to read:

14 "82-11-164. Lien created. (1) The oil and gas  
15 production damage mitigation account has a lien in the  
16 amount of the expenditure from the account under  
17 82-11-161(4), plus interest accrued at the rate of 10% a  
18 year, against all real and personal property in this state  
19 owned by:

20 (a) ~~the responsible person,---if---that---person---is~~  
21 ~~subsequently-identified-or-located; or~~

22 (b) ~~in which the responsible person,---if---that---person---is~~  
23 ~~known-but-cannot-or-will-not-fully-reimburse-the-oil-and-gas~~  
24 ~~production-damage-mitigation-account has an interest.~~

25 (2) The lien created under subsection (1) must be filed

1 in the office of the secretary of state and must attach to  
2 all real or personal property of the responsible person.

3 (3) A lien created by this section is valid until paid  
4 in full or otherwise discharged. The lien must be foreclosed  
5 in accordance with applicable laws governing foreclosure of  
6 mortgages-and liens."

7 NEW SECTION. **Section 6.** Saving clause. [This act] does  
8 not affect rights and duties that matured, penalties that  
9 were incurred, or proceedings that were begun before [the  
10 effective date of this act].

-End-

## 1 SENATE BILL NO. 18

2 INTRODUCED BY GAGE

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE OIL  
5 AND GAS LAWS; AUTHORIZING CERTAIN POOLING AND UNIT  
6 AGREEMENTS; CLARIFYING RESPONSIBILITY FOR MITIGATION OF  
7 DAMAGES; AND AMENDING SECTIONS 77-3-430, 82-11-101,  
8 82-11-103, 82-11-104, 82-11-161, AND 82-11-164, MCA."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:11 ~~Section 1, Section 77-3-430, MCA, is amended to read:~~12 ~~"77-3-430, Pooling agreements and unit operations,~~

13 ~~Nothing contained in this or in prior related laws prevents~~  
14 ~~the board from entering into agreements for the pooling of~~  
15 ~~acreage with others for unit operations for the production~~  
16 ~~of oil or gas or both and the apportionment of oil or gas~~  
17 ~~royalties or both on an acreage or other equitable basis and~~  
18 ~~from modifying leases with respect to delay rentals, delay~~  
19 ~~drilling penalties, and royalties in accordance with such~~  
20 ~~the pooling agreements and such the unit plans of operation.~~  
21 ~~However, such the agreements may not change the percentage~~  
22 ~~of royalties to be paid to the state from the percentages as~~  
23 ~~fixed in its leases. The board shall enter into pooling and~~  
24 ~~unit agreements when to do so will conserve the natural~~  
25 ~~resources of an oil and gas area, promote its development in~~

1 ~~an orderly and economical manner to meet market conditions,~~  
2 ~~avoid waste, and ensure a more equitable distribution of the~~  
3 ~~proceeds of production. The board may modify existing~~  
4 ~~pooling and unit agreements so as to commit the state lands~~  
5 ~~included therein in the pooling and unit agreements for as~~  
6 ~~long as the unitized substance or substances for which the~~  
7 ~~state lands are committed is produced from any lands in the~~  
8 ~~unit."~~

9 Section 1. Section 82-11-101, MCA, is amended to read:

10 "82-11-101. Definitions. As used in this chapter,  
11 unless the context requires otherwise, the following  
12 definitions apply:

13 (1) "Administrator" means the administrator of the  
14 division of oil and gas conservation.

15 (2) "Board" means the board of oil and gas conservation  
16 provided for in 2-15-3303.

17 (3) "Class II injection well" means a well, as defined  
18 by the federal environmental protection agency or any  
19 successor agency, that injects fluids:

20 (a) that have been brought to the surface in connection  
21 with oil or natural gas production;

22 (b) for purposes of enhancing the ultimate recovery of  
23 oil or natural gas; or

24 (c) for purposes of storing liquid hydrocarbons.

25 (4) "Department" means the department of natural

THIRD READING

1 resources and conservation provided for in Title 2, chapter  
2 15, part 33.

3 (5) "Determinations" means those decisions delegated to  
4 the state by or under authority of the Natural Gas Policy  
5 Act of 1978 or any successor or similar legislation relating  
6 to oil and gas.

7 (6) "Enhanced recovery" means the increased recovery  
8 from a pool achieved by artificial means or by the  
9 application of energy extrinsic to the pool; such artificial  
10 means or application includes pressuring, cycling, pressure  
11 maintenance, or injection into the pool of any substance or  
12 form of energy as is contemplated in secondary recovery and  
13 tertiary programs but does not include the injection in a  
14 well of a substance or form of energy for the sole purpose  
15 of aiding in the lifting of fluids in the well or  
16 stimulating of the reservoir at or near the well by  
17 mechanical, chemical, thermal, or explosive means.

18 (7) "Field" means the general area underlaid by one or  
19 more pools.

20 (8) "Fluid" means any material or substance that flows  
21 or moves, whether in a semisolid, liquid, sludge, gas, or  
22 any other form or state.

23 (9) "Gas" means all natural gases and all other fluid  
24 hydrocarbons as produced at the wellhead and not defined as  
25 oil in subsection (10) of this section.

1 (10) "Oil" means crude petroleum oil and other  
2 hydrocarbons regardless of gravity which are produced at the  
3 wellhead in liquid form by ordinary production methods and  
4 which are not the result of condensation of gas before or  
5 after it leaves the reservoir.

6 (11) "Owner" means the person who has the right to drill  
7 into and produce from a pool and to appropriate the oil or  
8 gas he produces therefrom from a pool either for himself or  
9 others or for himself and others, and the term includes all  
10 persons holding such that authority by or through him.

11 (12) "Person" means any natural person, corporation,  
12 association, partnership, receiver, trustee, executor,  
13 administrator, guardian, fiduciary, or other representative  
14 of any kind and includes any agency or instrumentality of  
15 the state or any governmental subdivision thereof of the  
16 state.

17 (13) "Pollution" means contamination or other alteration  
18 of the physical, chemical, or biological properties of any  
19 state waters that exceeds that permitted by state water  
20 quality standards or standards adopted by the board,  
21 including but not limited to the disposal, discharge,  
22 seepage, drainage, infiltration, flow, or injection of any  
23 liquid, gaseous, solid, or other substance into any state  
24 waters that will or is likely to create a nuisance or render  
25 the waters harmful, detrimental, or injurious to public



1 health, recreation, safety, welfare, livestock, wild  
2 animals, birds, fish, or other wildlife. A disposal,  
3 discharge, seepage, drainage, infiltration, flow, or  
4 injection of fluid that is authorized under a rule, permit,  
5 or order of the board is not pollution under this chapter.

6 (14) "Pool" means an underground reservoir containing a  
7 common accumulation of oil or gas or both; each zone of a  
8 structure which is completely separated from any other zone  
9 in the same structure is a pool, as that term is used in  
10 this chapter.

11 (15) "Producer" means the owner of a well or wells  
12 capable of producing oil or gas or both.

13 (16) "Responsible person" means a person who is  
14 determined by the board under 82-10-402 to have abandoned an  
15 oil or gas well, injection well, disposal well, water  
16 service SOURCE well, drill site, sump, or seismographic shot  
17 hole, or other area where oil and gas DRILLING AND  
18 PRODUCTION operations are WERE conducted and-who-is:

19 ~~(a)--a-corporation, association, partnership, or other~~  
20 ~~business-organization-with-assets-in-excess-of-\$250,000; or~~

21 ~~(b)--if--the--business-organization--does--not--have--assets~~  
22 ~~in--excess--of--\$250,000;--a--natural--person--with--primary~~  
23 ~~ownership-in-the-business-organization.~~

24 (17) "State waters" means any body of water, either  
25 surface or underground.

1 (18) "Waste" means:

2 (a) physical waste, as that term is generally  
3 understood in the oil and gas industry;

4 (b) the inefficient, excessive, or improper use of or  
5 the unnecessary dissipation of reservoir energy;

6 (c) the location, spacing, drilling, equipping,  
7 operating, or producing of any oil or gas well or wells in a  
8 manner which causes or tends to cause reduction in the  
9 quantity of oil or gas ultimately recoverable from a pool  
10 under prudent and proper operations or which causes or tends  
11 to cause unnecessary or excessive surface loss or  
12 destruction of oil or gas; and

13 (d) the inefficient storing of oil or gas. (The  
14 production of oil or gas from any pool or by any well to the  
15 full extent that the well or pool can be produced in  
16 accordance with methods designed to result in maximum  
17 ultimate recovery, as determined by the board, is not waste  
18 within the meaning of this definition.)"

19 **Section 2.** Section 82-11-103, MCA, is amended to read:

20 "82-11-103. Lands subject to law. This chapter applies  
21 to all lands in the state lawfully subject to its taxation  
22 and police powers, including all state-owned lands. It  
23 applies to lands of the United States or to lands subject to  
24 the jurisdiction of the United States only to the extent  
25 that control and supervision of conservation of oil and gas

1 by the United States on its lands fails to effect the intent  
 2 and purposes of this chapter and otherwise applies to those  
 3 lands to such the extent as that any officer of the United  
 4 States having jurisdiction or his duly authorized  
 5 representative approves any of the provisions of this  
 6 chapter or an order of the board which that affects those  
 7 lands. This chapter also applies to any lands committed to a  
 8 unit agreement approved by the secretary of the interior or  
 9 his duly authorized representative, except that the board  
 10 may, with respect to those unit agreements, suspend the  
 11 application of this chapter or any part of this chapter so  
 12 long as the conservation of oil and gas and the prevention  
 13 of waste as provided in this chapter is accomplished under  
 14 the unit agreements. The suspension does not relieve an  
 15 operator or owner from making such reports as that may be  
 16 required by the board with respect to operations and  
 17 production under the unit agreement, and the suspension does  
 18 not relieve an operator or owner from the payment of taxes  
 19 on his oil and gas production or payment for permit fees as  
 20 required by this chapter."

21 **SECTION 3. SECTION 82-11-104, MCA, IS AMENDED TO READ:**

22 "82-11-104. Construction -- no conflict with board of  
 23 land commissioners' authority. Nothing--herein--contained  
 24 shall No provision of this chapter may be construed to  
 25 conflict with 77-3-430, granting the board of land

1 commissioners the authority to enter into pooling and  
 2 unitization agreements for the production of oil or gas with  
 3 others, provided that state lands are subject to the  
 4 provisions of this chapter concerning spacing and statutory  
 5 pooling and unitization in the absence of voluntary pooling  
 6 and unitization agreements."

7 **Section 4.** Section 82-11-161, MCA, is amended to read:

8 "82-11-161. Oil and gas production damage mitigation  
 9 account -- statutory appropriation. (1) There is an oil and  
 10 gas production damage mitigation account within the state  
 11 special revenue fund established in 17-2-102. The oil and  
 12 gas production damage mitigation account is controlled by  
 13 the board.

14 (2) On July 1, 1991, and at the beginning of each  
 15 succeeding biennium, there must be allocated to the oil and  
 16 gas production damage mitigation account \$50,000 from the  
 17 interest income of the resource indemnity trust fund, except  
 18 if at the beginning of a biennium the unobligated cash  
 19 balance in the oil and gas production damage mitigation  
 20 account:

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

23 (b) is less than \$200,000, then an amount less than or  
 24 equal to the difference between the unobligated cash balance  
 25 and \$200,000, but not more than \$50,000, must be allocated

1 to the oil and gas production damage mitigation account from  
2 the interest income of the resource indemnity trust fund.

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

6 (a) all funds received by the board pursuant to  
7 82-11-136; and

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

10 (4) If a sufficient balance exists in the account,  
11 funds are statutorily appropriated, as provided in 17-7-502,  
12 from the oil and gas production damage mitigation account,  
13 upon the authorization of the board, to pay the reasonable  
14 costs of properly plugging a well and either reclaiming or  
15 restoring, or both, a drill site or other DRILLING OR  
16 PRODUCING area damaged by oil and gas operations if the  
17 board determines that the well, sump, or hole, drill site,  
18 or DRILLING OR PRODUCING area has been abandoned and the  
19 responsible person cannot be identified or located or if the  
20 responsible person does-not-have-sufficient-funds-to-pay-the  
21 costs fails or refuses to properly plug, reclaim, or restore  
22 the well, drill site, or DRILLING OR PRODUCING area within a  
23 reasonable time after demand by the board. The responsible  
24 person shall, however, pay costs to the extent of his  
25 available resources and is subsequently liable to fully

1 reimburse the account or is subject to a lien on property as  
2 provided in 82-11-164 for costs expended from the account to  
3 properly plug, reclaim, or restore the well, drill site, or  
4 DRILLING OR PRODUCING area and to mitigate any damage caused  
5 by-the-well for which he is responsible.

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

8 (6) The board shall submit to the legislature at the  
9 beginning of each regular session a complete financial  
10 report on the oil and gas production damage mitigation  
11 account, including a description of all expenditures made  
12 since the preceding report."

13 **Section 5.** Section 82-11-164, MCA, is amended to read:

14 "82-11-164. Lien created. (1) The oil and gas  
15 production damage mitigation account has a lien in the  
16 amount of the expenditure from the account under  
17 82-11-161(4), plus interest accrued at the rate of 10% a  
18 year, against all real and personal property in this state  
19 owned by:

20 (a) ~~the responsible person,---if---that---person---is~~  
21 ~~subsequently-identified-or-located;~~ or

22 (b) ~~in which the responsible person,-if-that-person-is~~  
23 ~~known-but-cannot-or-will-not-fully-reimburse-the-oil-and-gas~~  
24 ~~production-damage-mitigation-account~~ has an interest.

25 (2) The lien created under subsection (1) must be filed

SB 0018/02

1 in the office of the secretary of state and must attach to  
2 all real or personal property of the responsible person.

3 (3) A lien created by this section is valid until paid  
4 in full or otherwise discharged. The lien must be foreclosed  
5 in accordance with applicable laws governing foreclosure of  
6 mortgages-and liens."

7 NEW SECTION. **Section 6.** Saving clause. [This act] does  
8 not affect rights and duties that matured, penalties that  
9 were incurred, or proceedings that were begun before [the  
10 effective date of this act].

-End-

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 18 (third reading copy -- blue) be concurred in as amended .

Signed: Bob Raney  
Bob Raney, Chairman

Carried by: Rep. GILBERT

And, that such amendments read:

1. Page 5, line 18.

Following: "are"

Strike: "WERE"

Insert: "are"

Following: "is-"

Insert: "and who is:

(a) a corporation, association, partnership, or other business organization with assets in excess of \$250,000; or

(b) if the business organization does not have assets in excess of \$250,000, a natural person with primary ownership in the business organization"

HOUSE

SB 18

SENATE BILL NO. 18  
INTRODUCED BY GAGE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE OIL AND GAS LAWS; AUTHORIZING CERTAIN POOLING AND UNIT AGREEMENTS; CLARIFYING RESPONSIBILITY FOR MITIGATION OF DAMAGES; AND AMENDING SECTIONS 77-3-430, 82-11-101, 82-11-103, 82-11-104, 82-11-161, AND 82-11-164, MCA."

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

~~Section 1. Section 77-3-430, MCA, is amended to read:~~

~~"77-3-430. Pooling agreements and unit operations.~~

~~Nothing contained in this or in prior related laws prevents the board from entering into agreements for the pooling of acreage with others for unit operations for the production of oil or gas or both and the apportionment of oil or gas royalties or both on an acreage or other equitable basis and from modifying leases with respect to delay rentals, delay drilling penalties, and royalties in accordance with such the pooling agreements and such the unit plans of operation. However, such the agreements may not change the percentage of royalties to be paid to the state from the percentages as fixed in its leases. The board shall enter into pooling and unit agreements when to do so will conserve the natural resources of an oil and gas area, promote its development in~~

~~an orderly and economical manner to meet market conditions, avoid waste and ensure a more equitable distribution of the proceeds of production. The board may modify existing pooling and unit agreements so as to commit the state lands included therein in the pooling and unit agreements for as long as the unitized substance or substances for which the state lands are committed is produced from any lands in the unit."~~

**Section 1.** Section 82-11-101, MCA, is amended to read:

"82-11-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Administrator" means the administrator of the division of oil and gas conservation.

(2) "Board" means the board of oil and gas conservation provided for in 2-15-3303.

(3) "Class II injection well" means a well, as defined by the federal environmental protection agency or any successor agency, that injects fluids:

(a) that have been brought to the surface in connection with oil or natural gas production;

(b) for purposes of enhancing the ultimate recovery of oil or natural gas; or

(c) for purposes of storing liquid hydrocarbons.

(4) "Department" means the department of natural



1 resources and conservation provided for in Title 2, chapter  
2 15, part 33.

3 (5) "Determinations" means those decisions delegated to  
4 the state by or under authority of the Natural Gas Policy  
5 Act of 1978 or any successor or similar legislation relating  
6 to oil and gas.

7 (6) "Enhanced recovery" means the increased recovery  
8 from a pool achieved by artificial means or by the  
9 application of energy extrinsic to the pool; such artificial  
10 means or application includes pressuring, cycling, pressure  
11 maintenance, or injection into the pool of any substance or  
12 form of energy as is contemplated in secondary recovery and  
13 tertiary programs but does not include the injection in a  
14 well of a substance or form of energy for the sole purpose  
15 of aiding in the lifting of fluids in the well or  
16 stimulating of the reservoir at or near the well by  
17 mechanical, chemical, thermal, or explosive means.

18 (7) "Field" means the general area underlaid by one or  
19 more pools.

20 (8) "Fluid" means any material or substance that flows  
21 or moves, whether in a semisolid, liquid, sludge, gas, or  
22 any other form or state.

23 (9) "Gas" means all natural gases and all other fluid  
24 hydrocarbons as produced at the wellhead and not defined as  
25 oil in subsection (10) of this section.

1 (10) "Oil" means crude petroleum oil and other  
2 hydrocarbons regardless of gravity which are produced at the  
3 wellhead in liquid form by ordinary production methods and  
4 which are not the result of condensation of gas before or  
5 after it leaves the reservoir.

6 (11) "Owner" means the person who has the right to drill  
7 into and produce from a pool and to appropriate the oil or  
8 gas he produces therefrom from a pool either for himself or  
9 others or for himself and others, and the term includes all  
10 persons holding such that authority by or through him.

11 (12) "Person" means any natural person, corporation,  
12 association, partnership, receiver, trustee, executor,  
13 administrator, guardian, fiduciary, or other representative  
14 of any kind and includes any agency or instrumentality of  
15 the state or any governmental subdivision thereof of the  
16 state.

17 (13) "Pollution" means contamination or other alteration  
18 of the physical, chemical, or biological properties of any  
19 state waters that exceeds that permitted by state water  
20 quality standards or standards adopted by the board,  
21 including but not limited to the disposal, discharge,  
22 seepage, drainage, infiltration, flow, or injection of any  
23 liquid, gaseous, solid, or other substance into any state  
24 waters that will or is likely to create a nuisance or render  
25 the waters harmful, detrimental, or injurious to public

1 health, recreation, safety, welfare, livestock, wild  
2 animals, birds, fish, or other wildlife. A disposal,  
3 discharge, seepage, drainage, infiltration, flow, or  
4 injection of fluid that is authorized under a rule, permit,  
5 or order of the board is not pollution under this chapter.

6 (14) "Pool" means an underground reservoir containing a  
7 common accumulation of oil or gas or both; each zone of a  
8 structure which is completely separated from any other zone  
9 in the same structure is a pool, as that term is used in  
10 this chapter.

11 (15) "Producer" means the owner of a well or wells  
12 capable of producing oil or gas or both.

13 (16) "Responsible person" means a person who is  
14 determined by the board under 82-10-402 to have abandoned an  
15 oil or gas well, injection well, disposal well, water  
16 service SOURCE well, drill site, sump, or seismographic shot  
17 hole, or other area where oil and gas DRILLING AND  
18 PRODUCTION operations are WERE ARE conducted and-who-is; AND  
19 WHO IS:

20 (A) A CORPORATION, ASSOCIATION, PARTNERSHIP, OR OTHER  
21 BUSINESS ORGANIZATION WITH ASSETS IN EXCESS OF \$250,000; OR

22 (B) IF THE BUSINESS ORGANIZATION DOES NOT HAVE ASSETS  
23 IN EXCESS OF \$250,000, A NATURAL PERSON WITH PRIMARY  
24 OWNERSHIP IN THE BUSINESS ORGANIZATION

25 ~~{a}--a-corporation, association, partnership, or other~~

1 ~~business-organization-with-assets-in-excess-of-\$250,000, or~~  
2 ~~{b}--if--the--business-organization--does--not--have--assets~~  
3 ~~in--excess--of--\$250,000,--a--natural--person--with--primary~~  
4 ~~ownership-in-the-business-organization.~~

5 (17) "State waters" means any body of water, either  
6 surface or underground.

7 (18) "Waste" means:

8 (a) physical waste, as that term is generally  
9 understood in the oil and gas industry;

10 (b) the inefficient, excessive, or improper use of or  
11 the unnecessary dissipation of reservoir energy;

12 (c) the location, spacing, drilling, equipping,  
13 operating, or producing of any oil or gas well or wells in a  
14 manner which causes or tends to cause reduction in the  
15 quantity of oil or gas ultimately recoverable from a pool  
16 under prudent and proper operations or which causes or tends  
17 to cause unnecessary or excessive surface loss or  
18 destruction of oil or gas; and

19 (d) the inefficient storing of oil or gas. (The  
20 production of oil or gas from any pool or by any well to the  
21 full extent that the well or pool can be produced in  
22 accordance with methods designed to result in maximum  
23 ultimate recovery, as determined by the board, is not waste  
24 within the meaning of this definition.)"

25 **Section 2.** Section 82-11-103, MCA, is amended to read:



1       **"82-11-103. Lands subject to law.** This chapter applies  
 2 to all lands in the state lawfully subject to its taxation  
 3 and police powers, including all state-owned lands. It  
 4 applies to lands of the United States or to lands subject to  
 5 the jurisdiction of the United States only to the extent  
 6 that control and supervision of conservation of oil and gas  
 7 by the United States on its lands fails to effect the intent  
 8 and purposes of this chapter and otherwise applies to those  
 9 lands to such the extent as that any officer of the United  
 10 States having jurisdiction or his duly authorized  
 11 representative approves any of the provisions of this  
 12 chapter or an order of the board which that affects those  
 13 lands. This chapter also applies to any lands committed to a  
 14 unit agreement approved by the secretary of the interior or  
 15 his duly authorized representative, except that the board  
 16 may, with respect to those unit agreements, suspend the  
 17 application of this chapter or any part of this chapter so  
 18 long as the conservation of oil and gas and the prevention  
 19 of waste as provided in this chapter is accomplished under  
 20 the unit agreements. The suspension does not relieve an  
 21 operator or owner from making such reports as that may be  
 22 required by the board with respect to operations and  
 23 production under the unit agreement, and the suspension does  
 24 not relieve an operator or owner from the payment of taxes  
 25 on his oil and gas production or payment for permit fees as

1 required by this chapter."

2       **SECTION 3. SECTION 82-11-104, MCA, IS AMENDED TO READ:**

3       **"82-11-104. Construction -- no conflict with board of**  
 4 **land commissioners' authority. Nothing--herein--contained**  
 5 **shall No provision of this chapter may be construed to**  
 6 **conflict with 77-3-430, granting the board of land**  
 7 **commissioners the authority to enter into pooling and**  
 8 **unitization agreements for the production of oil or gas with**  
 9 **others, provided that state lands are subject to the**  
 10 **provisions of this chapter concerning spacing and statutory**  
 11 **pooling and unitization in the absence of voluntary pooling**  
 12 **and unitization agreements."**

13       **Section 4. Section 82-11-161, MCA, is amended to read:**

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

20       (2) On July 1, 1991, and at the beginning of each  
 21 succeeding biennium, there must be allocated to the oil and  
 22 gas production damage mitigation account \$50,000 from the  
 23 interest income of the resource indemnity trust fund, except  
 24 if at the beginning of a biennium the unobligated cash  
 25 balance in the oil and gas production damage mitigation

1 account:

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

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

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

12 (a) all funds received by the board pursuant to  
13 82-11-136; and

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

16 (4) If a sufficient balance exists in the account,  
17 funds are statutorily appropriated, as provided in 17-7-502,  
18 from the oil and gas production damage mitigation account,  
19 upon the authorization of the board, to pay the reasonable  
20 costs of properly plugging a well and either reclaiming or  
21 restoring, or both, a drill site or other DRILLING OR  
22 PRODUCING area damaged by oil and gas operations if the  
23 board determines that the well, sump, or hole, drill site,  
24 or DRILLING OR PRODUCING area has been abandoned and the  
25 responsible person cannot be identified or located or if the

1 responsible person ~~does-not-have-sufficient-funds-to-pay-the~~  
2 ~~costs~~ fails or refuses to properly plug, reclaim, or restore  
3 the well, drill site, or DRILLING OR PRODUCING area within a  
4 reasonable time after demand by the board. The responsible  
5 person shall, however, pay costs to the extent of his  
6 available resources and is subsequently liable to fully  
7 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  
9 properly plug, reclaim, or restore the well, drill site, or  
10 DRILLING OR PRODUCING area and to mitigate any damage ~~caused~~  
11 ~~by-the-well~~ for which he is responsible.

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

14 (6) The board shall submit to the legislature at the  
15 beginning of each regular session a complete financial  
16 report on the oil and gas production damage mitigation  
17 account, including a description of all expenditures made  
18 since the preceding report."

19 **Section 5.** Section 82-11-164, MCA, is amended to read:

20 **"82-11-164. Lien created.** (1) The oil and gas  
21 production damage mitigation account has a lien in the  
22 amount of the expenditure from the account under  
23 82-11-161(4), plus interest accrued at the rate of 10% a  
24 year, against all real and personal property in this state  
25 owned by:

1       ~~{a} the responsible person---if---that---person---is~~  
2       ~~subsequently-identified-or-located; or~~

3       ~~{b} in which the responsible person-if-that-person-is~~  
4       ~~known-but-cannot-or-will-not-fully-reimburse-the-oil-and-gas~~  
5       ~~production-damage-mitigation-account has an interest.~~

6       (2) The lien created under subsection (1) must be filed  
7       in the office of the secretary of state and must attach to  
8       all real or personal property of the responsible person.

9       (3) A lien created by this section is valid until paid  
10      in full or otherwise discharged. The lien must be foreclosed  
11      in accordance with applicable laws governing foreclosure of  
12      ~~mortgages-and liens."~~

13      NEW SECTION. Section 6. Saving clause. [This act] does  
14      not affect rights and duties that matured, penalties that  
15      were incurred, or proceedings that were begun before [the  
16      effective date of this act].

-End-

Conference Committee  
on Senate Bill No. 18  
Report No. 2, April 22, 1991

Page 1 of 1

Mr. President and Mr. Speaker:


We, your Conference Committee on Senate Bill No. 18, met and considered the amendments in the House Natural Resources Standing Committee Report dated March 13, 1991 and recommend that these amendments be rejected in their entirety.

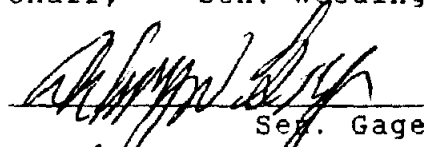
Therefore, we recommend that Senate Bill No. 18 (reference copy - salmon) be amended as follows:

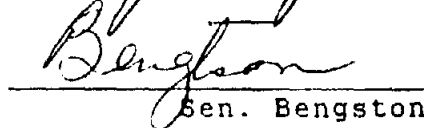
1. Page 5, line 18.  
Strike: "ARE" on line 18.  
Insert: "were"

And that this Conference Committee report be adopted.

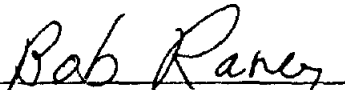
For the Senate:

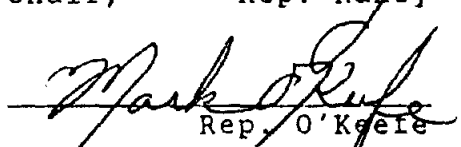
  
Chair, Sen. Weeding


  
Sen. Gage

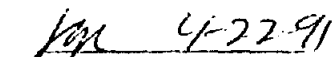
  
Sen. Bengston

For the House:

  
Chair, Rep. Ramey

  
Rep. O'Keefe

  
Rep. DeBruycker

  
Add. Coord.

Sec. of Senate

ADOPT

REJECT

CCR # 2  
SB 18  
861401CC.Sji

1 SENATE BILL NO. 18

2 INTRODUCED BY GAGE

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE OIL  
5 AND GAS LAWS; AUTHORIZING CERTAIN POOLING AND UNIT  
6 AGREEMENTS; CLARIFYING RESPONSIBILITY FOR MITIGATION OF  
7 DAMAGES; AND AMENDING SECTIONS 77-3-430, 82-11-101,  
8 82-11-103, 82-11-104, 82-11-161, AND 82-11-164, MCA."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 ~~Section 1. Section 77-3-430, MCA, is amended to read:~~

12 ~~"77-3-430. Pooling agreements and unit operations:~~

13 ~~Nothing contained in this or in prior related laws prevents~~  
14 ~~the board from entering into agreements for the pooling of~~  
15 ~~acreage with others for unit operations for the production~~  
16 ~~of oil or gas or both and the apportionment of oil or gas~~  
17 ~~royalties or both on an acreage or other equitable basis and~~  
18 ~~from modifying leases with respect to delay rentals, delay~~  
19 ~~drilling penalties, and royalties in accordance with such~~  
20 ~~the pooling agreements and such the unit plans of operation.~~  
21 ~~However, such the agreements may not change the percentage~~  
22 ~~of royalties to be paid to the state from the percentages as~~  
23 ~~fixed in its leases. The board shall enter into pooling and~~  
24 ~~unit agreements when to do so will conserve the natural~~  
25 ~~resources of an oil and gas area, promote its development in~~

1 ~~an orderly and economical manner to meet market conditions,~~  
2 ~~avoid waste, and ensure a more equitable distribution of the~~  
3 ~~proceeds of production. The board may modify existing~~  
4 ~~pooling and unit agreements so as to commit the state lands~~  
5 ~~included therein in the pooling and unit agreements for as~~  
6 ~~long as the unitized substance or substances for which the~~  
7 ~~state lands are committed is produced from any lands in the~~  
8 ~~unit."~~

9 **Section 1.** Section 82-11-101, MCA, is amended to read:

10 **"82-11-101. Definitions.** As used in this chapter,  
11 unless the context requires otherwise, the following  
12 definitions apply:

- 13 (1) "Administrator" means the administrator of the  
14 division of oil and gas conservation.
- 15 (2) "Board" means the board of oil and gas conservation  
16 provided for in 2-15-3303.
- 17 (3) "Class II injection well" means a well, as defined  
18 by the federal environmental protection agency or any  
19 successor agency, that injects fluids:
- 20 (a) that have been brought to the surface in connection  
21 with oil or natural gas production;
- 22 (b) for purposes of enhancing the ultimate recovery of  
23 oil or natural gas; or
- 24 (c) for purposes of storing liquid hydrocarbons.
- 25 (4) "Department" means the department of natural

1 resources and conservation provided for in Title 2, chapter  
2 15, part 33.

3 (5) "Determinations" means those decisions delegated to  
4 the state by or under authority of the Natural Gas Policy  
5 Act of 1978 or any successor or similar legislation relating  
6 to oil and gas.

7 (6) "Enhanced recovery" means the increased recovery  
8 from a pool achieved by artificial means or by the  
9 application of energy extrinsic to the pool; such artificial  
10 means or application includes pressuring, cycling, pressure  
11 maintenance, or injection into the pool of any substance or  
12 form of energy as is contemplated in secondary recovery and  
13 tertiary programs but does not include the injection in a  
14 well of a substance or form of energy for the sole purpose  
15 of aiding in the lifting of fluids in the well or  
16 stimulating of the reservoir at or near the well by  
17 mechanical, chemical, thermal, or explosive means.

18 (7) "Field" means the general area underlaid by one or  
19 more pools.

20 (8) "Fluid" means any material or substance that flows  
21 or moves, whether in a semisolid, liquid, sludge, gas, or  
22 any other form or state.

23 (9) "Gas" means all natural gases and all other fluid  
24 hydrocarbons as produced at the wellhead and not defined as  
25 oil in subsection (10) of this section.

1 (10) "Oil" means crude petroleum oil and other  
2 hydrocarbons regardless of gravity which are produced at the  
3 wellhead in liquid form by ordinary production methods and  
4 which are not the result of condensation of gas before or  
5 after it leaves the reservoir.

6 (11) "Owner" means the person who has the right to drill  
7 into and produce from a pool and to appropriate the oil or  
8 gas he produces ~~therefrom~~ from a pool either for himself or  
9 others or for himself and others, and the term includes all  
10 persons holding ~~such~~ that authority by or through him.

11 (12) "Person" means any natural person, corporation,  
12 association, partnership, receiver, trustee, executor,  
13 administrator, guardian, fiduciary, or other representative  
14 of any kind and includes any agency or instrumentality of  
15 the state or any governmental subdivision ~~thereof~~ of the  
16 state.

17 (13) "Pollution" means contamination or other alteration  
18 of the physical, chemical, or biological properties of any  
19 state waters that exceeds that permitted by state water  
20 quality standards or standards adopted by the board,  
21 including but not limited to the disposal, discharge,  
22 seepage, drainage, infiltration, flow, or injection of any  
23 liquid, gaseous, solid, or other substance into any state  
24 waters that will or is likely to create a nuisance or render  
25 the waters harmful, detrimental, or injurious to public

1 health, recreation, safety, welfare, livestock, wild  
2 animals, birds, fish, or other wildlife. A disposal,  
3 discharge, seepage, drainage, infiltration, flow, or  
4 injection of fluid that is authorized under a rule, permit,  
5 or order of the board is not pollution under this chapter.

6 (14) "Pool" means an underground reservoir containing a  
7 common accumulation of oil or gas or both; each zone of a  
8 structure which is completely separated from any other zone  
9 in the same structure is a pool, as that term is used in  
10 this chapter.

11 (15) "Producer" means the owner of a well or wells  
12 capable of producing oil or gas or both.

13 (16) "Responsible person" means a person who is  
14 determined by the board under 82-10-402 to have abandoned an  
15 oil or gas well, injection well, disposal well, water  
16 service SOURCE well, drill site, sump, or seismographic shot  
17 hole, or other area where oil and gas DRILLING AND  
18 PRODUCTION operations are WERE ARE WERE conducted and--who  
19 is: AND-WHO-IS:

20 (A)--A--CORPORATION,--ASSOCIATION,--PARTNERSHIP,--OR--OTHER  
21 BUSINESS-ORGANIZATION-WITH-ASSETS-IN-EXCESS-OF-\$250,000,--OR

22 (B)--IF-THE-BUSINESS-ORGANIZATION-DOES-NOT--HAVE--ASSETS  
23 IN--EXCESS--OF--\$250,000,--A--NATURAL--PERSON--WITH--PRIMARY  
24 OWNERSHIP-IN-THE-BUSINESS-ORGANIZATION

25 (c)--a--corporation,--association,--partnership,--or--other

1 ~~business-organization-with-assets-in-excess-of-\$250,000,--or~~  
2 ~~(b)--if-the-business-organization-does-not--have--assets~~  
3 ~~in--excess--of--\$250,000,--a--natural--person--with--primary~~  
4 ~~ownership-in-the-business-organization.~~

5 (17) "State waters" means any body of water, either  
6 surface or underground.

7 (18) "Waste" means:

8 (a) physical waste, as that term is generally  
9 understood in the oil and gas industry;

10 (b) the inefficient, excessive, or improper use of or  
11 the unnecessary dissipation of reservoir energy;

12 (c) the location, spacing, drilling, equipping,  
13 operating, or producing of any oil or gas well or wells in a  
14 manner which causes or tends to cause reduction in the  
15 quantity of oil or gas ultimately recoverable from a pool  
16 under prudent and proper operations or which causes or tends  
17 to cause unnecessary or excessive surface loss or  
18 destruction of oil or gas; and

19 (d) the inefficient storing of oil or gas. (The  
20 production of oil or gas from any pool or by any well to the  
21 full extent that the well or pool can be produced in  
22 accordance with methods designed to result in maximum  
23 ultimate recovery, as determined by the board, is not waste  
24 within the meaning of this definition.)"

25 **Section 2.** Section 82-11-103, MCA, is amended to read:

1       **"82-11-103. Lands subject to law.** This chapter applies  
 2 to all lands in the state lawfully subject to its taxation  
 3 and police powers, including all state-owned lands. It  
 4 applies to lands of the United States or to lands subject to  
 5 the jurisdiction of the United States only to the extent  
 6 that control and supervision of conservation of oil and gas  
 7 by the United States on its lands fails to effect the intent  
 8 and purposes of this chapter and otherwise applies to those  
 9 lands to such the extent as that any officer of the United  
 10 States having jurisdiction or his duly authorized  
 11 representative approves any of the provisions of this  
 12 chapter or an order of the board which that affects those  
 13 lands. This chapter also applies to any lands committed to a  
 14 unit agreement approved by the secretary of the interior or  
 15 his duly authorized representative, except that the board  
 16 may, with respect to those unit agreements, suspend the  
 17 application of this chapter or any part of this chapter so  
 18 long as the conservation of oil and gas and the prevention  
 19 of waste as provided in this chapter is accomplished under  
 20 the unit agreements. The suspension does not relieve an  
 21 operator or owner from making such reports as that may be  
 22 required by the board with respect to operations and  
 23 production under the unit agreement, and the suspension does  
 24 not relieve an operator or owner from the payment of taxes  
 25 on his oil and gas production or payment for permit fees as

1 required by this chapter."

2       **SECTION 3. SECTION 82-11-104, MCA, IS AMENDED TO READ:**

3       **"82-11-104. Construction -- no conflict with board of**  
 4 **land commissioners' authority. Nothing--herein--contained**  
 5 **shall No provision of this chapter may be construed to**  
 6 **conflict with 77-3-430, granting the board of land**  
 7 **commissioners the authority to enter into pooling and**  
 8 **unitization agreements for the production of oil or gas with**  
 9 **others, provided that state lands are subject to the**  
 10 **provisions of this chapter concerning spacing and statutory**  
 11 **pooling and unitization in the absence of voluntary pooling**  
 12 **and unitization agreements."**

13       **Section 4. Section 82-11-161, MCA, is amended to read:**

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

20       **(2) On July 1, 1991, and at the beginning of each**  
 21 **succeeding biennium, there must be allocated to the oil and**  
 22 **gas production damage mitigation account \$50,000 from the**  
 23 **interest income of the resource indemnity trust fund, except**  
 24 **if at the beginning of a biennium the unobligated cash**  
 25 **balance in the oil and gas production damage mitigation**



1 account:

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

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

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

12 (a) all funds received by the board pursuant to  
13 82-11-136; and

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

16 (4) If a sufficient balance exists in the account,  
17 funds are statutorily appropriated, as provided in 17-7-502,  
18 from the oil and gas production damage mitigation account,  
19 upon the authorization of the board, to pay the reasonable  
20 costs of properly plugging a well and either reclaiming or  
21 restoring, or both, a drill site or other DRILLING OR  
22 PRODUCING area damaged by oil and gas operations if the  
23 board determines that the well, sump, or hole, drill site,  
24 or DRILLING OR PRODUCING area has been abandoned and the  
25 responsible person cannot be identified or located or if the

1 ~~responsible person does-not-have-sufficient-funds-to-pay-the~~  
2 ~~costs fails or refuses to properly plug, reclaim, or restore~~  
3 ~~the well, drill site, or DRILLING OR PRODUCING area within a~~  
4 ~~reasonable time after demand by the board.~~ The responsible  
5 person shall, however, pay costs to the extent of his  
6 available resources and is subsequently liable to fully  
7 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  
9 properly plug, reclaim, or restore the well, drill site, or  
10 DRILLING OR PRODUCING area and to mitigate any damage caused  
11 ~~by-the-well for which he is responsible.~~

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

14 (6) The board shall submit to the legislature at the  
15 beginning of each regular session a complete financial  
16 report on the oil and gas production damage mitigation  
17 account, including a description of all expenditures made  
18 since the preceding report."

19 **Section 5.** Section 82-11-164, MCA, is amended to read:  
20 **"82-11-164. Lien created.** (1) The oil and gas  
21 production damage mitigation account has a lien in the  
22 amount of the expenditure from the account under  
23 82-11-161(4), plus interest accrued at the rate of 10% a  
24 year, against all real and personal property in this state  
25 owned by:

1        ~~(a) the responsible person,---if---that--person--is~~  
2        ~~subsequently-identified-or-located; or~~

3        ~~(b) in which the responsible person,-if-that-person--is~~  
4        ~~known-but-cannot-or-will-not-fully-reimburse-the-oil-and-gas~~  
5        ~~production-damage-mitigation-account has an interest.~~

6        (2) The lien created under subsection (1) must be filed  
7        in the office of the secretary of state and must attach to  
8        all real or personal property of the responsible person.

9        (3) A lien created by this section is valid until paid  
10       in full or otherwise discharged. The lien must be foreclosed  
11       in accordance with applicable laws governing foreclosure of  
12       mortgages-and liens."

13        NEW SECTION. **Section 6. Saving clause.** [This act] does  
14       not affect rights and duties that matured, penalties that  
15       were incurred, or proceedings that were begun before [the  
16       effective date of this act].

-End-