

CHAPTER NO. 201

SENATE BILL NO. 118

INTRODUCED BY NELSON

BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

January 16, 1979	Introduced and referred to Committee on Natural Resources.
January 23, 1979	Committee recommend bill do pass. Report adopted.
January 24, 1979	Printed and placed on members' desks.
January 25, 1979	Second reading, do pass.
January 26, 1979	Considered correctly engrossed.
January 27, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

January 29, 1979	Introduced and referred to Committee on Natural Resources.
March 5, 1979	Committee recommend bill be concurred in and be placed on Consent Calendar.
March 7, 1979	Third reading Consent Calendar concurred in.

IN THE SENATE

March 9, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 Senet BILL NO. 118
 2 INTRODUCED BY NELSON
 3 BY REQUEST OF THE CODE COMMISSIONER

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY THE LAWS RELATING TO MINERALS, OIL, AND GAS;
 7 AMENDING SECTIONS 82-1-108, 82-4-142, 82-4-252, 82-4-304,
 8 82-4-332, 82-10-201, 82-11-131, AND 82-15-202, MCA."

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

11 Section 1. Section 82-1-108, MCA, is amended to read:
 12 "82-1-108. Filing record of work performed. (1) Within
 13 3 months from the day any firing of shotpoints in such
 14 geophysical exploration is done by any person, firm, or
 15 corporation within this state, such person, firm, or
 16 corporation shall file with the county clerk and recorder of
 17 the county in which ~~such~~ the work was done a record showing
 18 each township and range within ~~said~~ the county in which such
 19 the work was performed and the approximate date ~~at~~ on which
 20 such the work was performed.

21 (2) Such person, firm, or corporation shall file with
 22 ~~said~~ the county clerk and recorder a record showing the
 23 location of each ~~such~~ shotpoint and date fired within a
 24 maximum area of any square, 4-section area of land, upon
 25 written request ~~therefor-by-said~~ of the county clerk and

1 recorders, which ~~the~~ request must be based upon the
 2 complaint of a property owner that physical ~~damages~~ damage
 3 to ~~such~~ his property ~~have-arisen-by-reason-of~~ has resulted
 4 ~~from~~ the use of the seismograph and explosives in such
 5 geophysical operations at some location within ~~said~~ the
 6 maximum 4-square mile area, and ~~such-written-notice~~ the
 7 request shall designate the name and address of the
 8 complaining person and ~~shall-describe~~ the approximate date
 9 ~~of-the-alleged-damages~~ and the nature of the alleged
 10 damages. The required record of operations in response to
 11 ~~such-written-demand-therefor-by~~ the request of the county
 12 clerk and recorder shall be supplied within 10 days from the
 13 date on which ~~such-written-demand~~ the request is received."

14 Section 2. Section 82-4-142, MCA, is amended to read:
 15 "82-4-142. Mandamus to compel enforcement. (1) A
 16 resident of this state, with knowledge that a requirement of
 17 this part or a rule adopted under this part is not being
 18 enforced by a public officer or employee whose duty it is to
 19 enforce the requirement or rule, may bring the failure to
 20 enforce to the attention of the public officer or employee
 21 by a written statement under oath that shall state the
 22 specific facts of the failure to enforce the requirement or
 23 rule. Knowingly making false statements or charges in the
 24 affidavit subjects the affiant to penalties prescribed under
 25 ~~the-law-of-perjury~~ in 45-7-202.

1 (2) If the public officer or employee neglects or
2 refuses for an unreasonable time after receipt of the
3 statement to enforce the requirement or rule, the resident
4 may bring an action of mandamus in the district court of the
5 first judicial district of this state in and for the county
6 of Lewis and Clark or in the district court of the county in
7 which the land is located. ~~The~~ If the court ~~if it finds~~
8 that a requirement of this part or a rule adopted under this
9 part is not being enforced, it shall order the public
10 officer or employee whose duty it is to enforce the
11 requirement or rule to perform his duties. If he fails to do
12 so, the public officer or employee shall be held in contempt
13 of court and is subject to the penalties provided by law."

14 Section 3. Section 82-4-252, MCA, is amended to read:
15 "82-4-252. Mandamus. (1) A resident of this state,
16 with knowledge that a requirement of this part or a rule
17 adopted under this part is not being enforced by a public
18 officer or employee whose duty it is to enforce the
19 requirement or rule, may bring the failure to enforce to the
20 attention of the public officer or employee by a written
21 statement under oath that shall state the specific facts of
22 the failure to enforce the requirement or rule. Knowingly
23 making false statements or charges in the affidavit subjects
24 the affiant to penalties prescribed ~~under the law of perjury~~
25 in 45-7-202.

1 (2) If the public officer or employee neglects or
2 refuses for an unreasonable time after receipt of the
3 statement to enforce the requirement or rule, the resident
4 may bring an action of mandamus in the district court of the
5 first judicial district of this state, in and for the county
6 of Lewis and Clark, or in the district court of the county
7 in which the land is located. The court, if it finds that a
8 requirement of this part or a rule adopted under this part
9 is not being enforced, shall order the public officer or
10 employee whose duty it is to enforce the requirement or rule
11 to perform his duties. If he fails to do so, the public
12 officer or employee shall be held in contempt of court and
13 is subject to the penalties provided by law."

14 Section 4. Section 82-4-304, MCA, is amended to read:
15 "82-4-304. Exemption -- works performed prior to
16 promulgation of rules. No provision of this part shall be
17 applicable to any exploration or mining work performed prior
18 to the date of promulgation of the ~~director's~~ board's rules
19 pursuant to 82-4-321."

20 Section 5. Section 82-4-332, MCA, is amended to read:
21 "82-4-332. Exploration license. (1) An exploration
22 license shall be issued to any applicant therefor who shall:
23 (a) pay a fee of \$5 to the board;
24 (b) agree to reclaim any surface area damaged by the
25 applicant during exploration operations, ~~et~~ as may be

1 reasonably required by the board;

2 (c) not be in default of any other reclamation
3 obligation under this law.

4 (2) An application for an exploration license shall be
5 made in writing, notarized, and submitted to the department
6 in duplicate upon forms prepared and furnished by it. The
7 application shall include an exploration map or sketch in
8 sufficient detail to locate the area to be explored and to
9 determine whether significant environmental problems would
10 be encountered. The department shall by rules ~~rule~~ determine
11 the precise nature of such exploration map or sketch. The
12 applicant must state what types ~~type~~ of prospecting and
13 excavation techniques will be employed in disturbing the
14 land.

15 (3) Upon filing of any certificate of claim location
16 as permitted by federal and state mining laws and
17 regulations, the locator shall provide copies of ~~said the~~
18 ~~certificates~~ certificate to the board.

19 (4) Prior to the issuance of an exploration license,
20 the applicant shall file with the department a reclamation
21 and revegetation bond in a form and amount as determined by
22 the department in accordance with 82-4-338.

23 (5) In the event that the holder of an exploration
24 permit license desires to mine or develop the area covered
25 by the exploration license and has fulfilled all of the

1 requirements for a development or operating permit, the
2 department may allow the postponement of the reclamation of
3 the acreage explored if that acreage is incorporated into
4 the complete reclamation plan submitted with the application
5 for a development or operating permit. Any land actually
6 affected by exploration or excavation under an exploration
7 license and not covered by the development or operating
8 reclamation plan shall be reclaimed within 2 years after the
9 completion of exploration or abandonment of the site in a
10 manner acceptable to the department."

11 Section 6. Section 82-10-201, MCA, is amended to read:
12 "82-10-201. Authorization for lease and terms -- land
13 not subject to leasing. The governing body of any county,
14 city, town, school district, or incorporated political
15 subdivision within the state of Montana may, if deemed--for
16 in the best interests of the county, city, town, school
17 district, or incorporated political subdivision, lease any
18 real property owned by the county, city, town, school
19 district, or incorporated political subdivision for oil and
20 gas development purposes. Such leases shall be made upon the
21 best terms obtainable, shall provide for such terms, except
22 as hereinafter provided, as the governing body shall ~~deem~~
23 consider to be for the best interests of the county, city,
24 town, school district, or incorporated political
25 subdivision, shall reserve a royalty of not less than

1 12 1/2% which shall include any royalty payable to any
 2 person other than the lessor, and shall be for a periods
 3 period not exceeding 10 years and so long thereafter as oil,
 4 gas, or other hydrocarbons shall be produced from the
 5 premises embraced in the lease, ~~provided, however~~ **However,**
 6 that nothing contained herein shall authorize the leasing of
 7 lands acquired by a county by tax deed except under the
 8 provisions of ~~[84-4174], which section is hereby declared in~~
 9 ~~full force and effect Title 7, Chapter 8, part 25."~~

10 Section 7. Section 82-11-131, MCA, is amended to read:

11 "82-11-131. Privilege and license tax. (1) For the
 12 purpose of providing funds for defraying the expenses of the
 13 operation and enforcement of this chapter and expenses of
 14 the board, ~~the operators and producers~~ an operator or
 15 producer of oil and gas shall pay an assessment not to
 16 exceed 2/10 of 1% of the market value of each barrel of
 17 crude petroleum originally produced, saved and marketed, or
 18 stored within the state or exported from the state, and the
 19 same rate on the market value of each 10,000 cubic feet of
 20 natural gas produced, saved and marketed, or stored within
 21 the state or exported therefrom.

22 (2) The board shall by order, without prior notice or
 23 hearing, fix the amount of the assessments assessment and
 24 may from time to time, without prior notice or hearing,
 25 reduce or increase the amount thereof as, in its judgment,

1 the expenses chargeable against the oil and gas conservation
 2 fund may require, ~~however~~ **However,** the assessments
 3 assessment fixed by the board may not exceed the limits
 4 prescribed in this section. The amounts amount of the
 5 ~~assessments~~ assessment shall be a percentage factor (not to
 6 exceed 100%) of the rates rate set forth in subsection (1)
 7 above, and the same percentage factor shall be applied by
 8 the board in fixing the amount of the assessment on each
 9 barrel of crude production and each 10,000 cubic feet of
 10 natural gas mentioned in that subsection. ~~The producers~~ A
 11 producer of the crude petroleum and natural gas shall pay
 12 the ~~assessments~~ assessment on each barrel of crude petroleum
 13 and each 10,000 cubic feet of natural gas produced for
 14 ~~themselves~~ himself, as well as for others another, including
 15 a royalty holders holder, and the producers producer shall
 16 be reimbursed for the payments made on crude oil and natural
 17 gas produced for others another in the same manner as they
 18 are he is reimbursed for net proceeds tax paid on crude
 19 petroleum or natural gas produced for others another under
 20 15-23-607.

21 ~~{3}--For the purposes of this section a "lease" means~~
 22 ~~that particularly described tract of land contained in a~~
 23 ~~contract in writing whereby a person having a fee estate~~
 24 ~~in the land so described conveys a portion of his interest~~
 25 ~~to another in consideration of a certain rental or other~~

1 recompense or consideration. Further, for the purposes of
2 this section, leases owned or operated by one lessee which
3 in whole or in part cover or affect an underground reservoir
4 containing a common accumulation of crude petroleum oil or
5 natural gas or both or which are encompassed within or
6 affected by one particular unit agreement shall be
7 considered as one lease relative to payments to be made
8 under this section."

9 Section 8. Section 82-15-202, MCA, is amended to read:

10 "82-15-202. Purpose. This part is intended to compel a
11 persons ~~person~~, firms ~~firm~~, companies ~~company~~, associations
12 ~~association~~, and corporations ~~or corporation~~ doing business
13 in the state of Montana and engaged in the selling of and
14 dealing in standard petroleum products to treat ~~all~~
15 customers ~~a customer~~ in one part of the state of Montana on
16 an equal ~~basis~~ with ~~all customers a customer~~ in other parts
17 ~~another part~~ of the state ~~of Montana~~ or in the nearest
18 adjoining state and to promote the uniform application of
19 the law of the state of Montana providing a tax on ~~all~~
20 gasoline used by a motor vehicles ~~vehicle~~ when traveling
21 over the a public highways ~~highway~~. This part shall be
22 liberally construed to accomplish those purposes."

-End-

Approved by Committee on Natural Resources

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13 3 months from the day any firing of shotpoints in such
14 geophysical exploration is done by any person, firm, or
15 corporation within this state, such person, firm, or
16 corporation shall file with the county clerk and recorder of
17 the county in which such ~~the~~ work was done a record showing
18 each township and range within ~~said the~~ county in which such
19 ~~the~~ work was performed and the approximate date ~~at on~~ which
20 such ~~the~~ work was performed.

21 (2) Such person, firm, or corporation shall file with
22 ~~said the~~ county clerk and recorder a record showing the
23 location of each such shotpoint and date fired within a
24 maximum area of any square, 4-section area of land, upon
25 written request ~~therefor-by-said of the~~ county clerk and

1 recorders, which ~~the~~ request must be based upon the
2 complaint of a property owner that physical ~~damages~~ damage
3 to such ~~his~~ property ~~have arisen by reason of~~ has resulted
4 ~~from~~ the use of the seismograph and explosives in such
5 geophysical operations at some location within ~~said the~~
6 maximum 4-square mile area, and ~~such--written--notice the~~
7 request shall designate the name and address of the
8 complaining person and ~~shall describe~~ the approximate date
9 ~~of--the--alleged--damages~~ and the nature of the alleged
10 damages. The required record of operations in response to
11 ~~such--written--demand--therefor--by the request of~~ the county
12 clerk and recorder shall be supplied within 10 days from the
13 date on which ~~such-written-demand the request~~ is received."

14 Section 2. Section 82-4-142, MCA, is amended to read:

15 "82-4-142. Mandamus to compel enforcement. (1) A
16 resident of this state, with knowledge that a requirement of
17 this part or a rule adopted under this part is not being
18 enforced by a public officer or employee whose duty it is to
19 enforce the requirement or rule, may bring the failure to
20 enforce to the attention of the public officer or employee
21 by a written statement under oath that shall state the
22 specific facts of the failure to enforce the requirement or
23 rule. Knowingly making false statements or charges in the
24 affidavit subjects the affiant to penalties prescribed ~~under~~
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2 refuses for an unreasonable time after receipt of the
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10 officer or employee whose duty it is to enforce the
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12 so, the public officer or employee shall be held in contempt
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14 Section 3. Section 82-4-252, MCA, is amended to read:
15 "82-4-252. Mandamus. (1) A resident of this state,
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15 "82-4-304. Exemption -- works performed prior to
16 promulgation of rules. No provision of this part shall be
17 applicable to any exploration or mining work performed prior
18 to the date of promulgation of the ~~director's~~ board's rules
19 pursuant to 82-4-321."

20 Section 5. Section 82-4-332, MCA, is amended to read:
21 "82-4-332. Exploration license. (1) An exploration
22 license shall be issued to any applicant therefor who shall:
23 (a) pay a fee of \$5 to the board;
24 (b) agree to reclaim any surface area damaged by the
25 applicant during exploration operations, ~~at~~ as may be

1 reasonably required by the board;

2 (c) not be in default of any other reclamation
3 obligation under this law.

4 (2) An application for an exploration license shall be
5 made in writing, notarized, and submitted to the department
6 in duplicate upon forms prepared and furnished by it. The
7 application shall include an exploration map or sketch in
8 sufficient detail to locate the area to be explored and to
9 determine whether significant environmental problems would
10 be encountered. The department shall by ~~rules~~ rule determine
11 the precise nature of such exploration map or sketch. The
12 applicant must state what ~~types~~ type of prospecting and
13 excavation techniques will be employed in disturbing the
14 land.

15 (3) Upon filing of any certificate of claim location
16 as permitted by federal and state mining laws and
17 regulations, the locator shall provide copies of ~~said the~~
18 ~~certificates~~ certificate to the board.

19 (4) Prior to the issuance of an exploration license,
20 the applicant shall file with the department a reclamation
21 and revegetation bond in a form and amount as determined by
22 the department in accordance with 82-4-338.

23 (5) In the event that the holder of an exploration
24 permit license desires to mine or develop the area covered
25 by the exploration license and has fulfilled all of the

1 requirements for a development or operating permit, the
2 department may allow the postponement of the reclamation of
3 the acreage explored if that acreage is incorporated into
4 the complete reclamation plan submitted with the application
5 for a development or operating permit. Any land actually
6 affected by exploration or excavation under an exploration
7 license and not covered by the development or operating
8 reclamation plan shall be reclaimed within 2 years after the
9 completion of exploration or abandonment of the site in a
10 manner acceptable to the department."

11 Section 6. Section 82-10-201, MCA, is amended to read:
12 "82-10-201. Authorization for lease and terms -- land
13 not subject to leasing. The governing body of any county,
14 city, town, school district, or incorporated political
15 subdivision within the state of Montana may, if deemed--for
16 in the best interests of the county, city, town, school
17 district, or incorporated political subdivision, lease any
18 real property owned by the county, city, town, school
19 district, or incorporated political subdivision for oil and
20 gas development purposes. Such leases shall be made upon the
21 best terms obtainable, shall provide for such terms, except
22 as hereinafter provided, as the governing body shall ~~deem~~
23 consider to be for the best interests of the county, city,
24 town, school district, or incorporated political
25 subdivision, shall reserve a royalty of not less than

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1 12 1/2% which shall include any royalty payable to any
 2 person other than the lessor, and shall be for a periods
 3 period not exceeding 10 years and so long thereafter as oil,
 4 gas, or other hydrocarbons shall be produced from the
 5 premises embraced in the lease, ~~provided~~ ~~however~~ However,
 6 ~~that~~ nothing contained herein shall authorize the leasing of
 7 lands acquired by a county by tax deed except under the
 8 provisions of ~~[84-4194]~~ ~~which section is hereby declared in~~
 9 ~~full force and effect~~ Title 7, chapter 8, part 25."

10 Section 7. Section 82-11-131, MCA, is amended to read:

11 "82-11-131. Privilege and license tax. (1) For the
 12 purpose of providing funds for defraying the expenses of the
 13 operation and enforcement of this chapter and expenses of
 14 the board, ~~the operators and producers~~ an operator or
 15 producer of oil and gas shall pay an assessment not to
 16 exceed 2/10 of 1% of the market value of each barrel of
 17 crude petroleum originally produced, saved and marketed, or
 18 stored within the state or exported from the state, and the
 19 same rate on the market value of each 10,000 cubic feet of
 20 natural gas produced, saved and marketed, or stored within
 21 the state or exported therefrom.

22 (2) The board shall by order, without prior notice or
 23 hearing, fix the amount of the ~~assessments~~ assessment and
 24 may from time to time, without prior notice or hearing,
 25 reduce or increase the amount thereof as, in its judgment,

1 the expenses chargeable against the oil and gas conservation
 2 fund may require, ~~however~~ However, the ~~assessments~~
 3 ~~assessment~~ fixed by the board may not exceed the limits
 4 prescribed in this section. The ~~amounts~~ amount of the
 5 ~~assessments~~ assessment shall be a percentage factor (not to
 6 exceed 100%) of the ~~rates~~ rate set forth in subsection (1)
 7 above, and the same percentage factor shall be applied by
 8 the board in fixing the amount of the assessment on each
 9 barrel of crude production and each 10,000 cubic feet of
 10 natural gas mentioned in that subsection. ~~The producers~~ A
 11 producer of the crude petroleum and natural gas shall pay
 12 the ~~assessments~~ assessment on each barrel of crude petroleum
 13 and each 10,000 cubic feet of natural gas produced for
 14 ~~themselves~~ himself, as well as for ~~others~~ another, including
 15 a ~~royalty holders~~ holder, and the ~~producers~~ producer shall
 16 be reimbursed for the payments made on crude oil and natural
 17 gas produced for ~~others~~ another in the same manner as they
 18 ~~are~~ he is reimbursed for net proceeds tax paid on crude
 19 petroleum or natural gas produced for ~~others~~ another under
 20 15-23-607.

21 ~~{3} For the purposes of this section, a "lease" means~~
 22 ~~that particular described tract of land contained in a~~
 23 ~~contract in writing whereby a person having a legal estate~~
 24 ~~in the land so described conveys a portion of his interest~~
 25 ~~to another in consideration of a certain rental or other~~

1 recompense or consideration. Further, for the purposes of
2 this section, leases owned or operated by one lessee which
3 in whole or in part cover or effect on underground reservoir
4 containing a common accumulation of crude petroleum, oil, or
5 natural gas, or both, or which are encompassed within or
6 affected by one particular unit agreement, shall be
7 considered as one lease relative to payments to be made
8 under this section."

9 Section 8. Section 82-15-202, MCA, is amended to read:

10 "82-15-202. Purpose. This part is intended to compel a
11 persons person, firms firm, companies company, associations
12 association, and corporations or corporation doing business
13 in the state of Montana and engaged in the selling of and
14 dealing in standard petroleum products to treat ~~all~~
15 customers a customer in one part of the state of Montana on
16 an equal basis with ~~all~~ customers a customer in other parts
17 another part of the state ~~of Montana~~ or in the nearest
18 adjoining state and to promote the uniform application of
19 the law of the state of Montana providing a tax on ~~all~~
20 gasoline used by a motor vehicles vehicle when traveling
21 over the a public highways highway. This part shall be
22 liberally construed to accomplish those purposes."

-End-

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 18 each township and range within ~~said the~~ county in which such
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21 (2) Such person, firm, or corporation shall file with
 22 ~~said the~~ county clerk and recorder a record showing the
 23 location of each such shotpoint and date fired within a
 24 maximum area of any square, 4-section area of land, upon
 25 written request ~~therefor by said of the~~ county clerk and

1 recorders, which ~~the~~ request must be based upon the
 2 complaint of a property owner that physical ~~damages~~ damage
 3 to such ~~his~~ property ~~have arisen by reason of~~ has resulted
 4 ~~from~~ the use of the seismograph and explosives in such
 5 geophysical operations at some location within ~~said the~~
 6 maximum 4-square mile area, and ~~such written notice the~~
 7 request shall designate the name and address of the
 8 complaining person and ~~shall describe~~ the approximate date
 9 ~~of the alleged damages~~ and the nature of the alleged
 10 damages. The required record of operations in response to
 11 ~~such written demand therefor by the request of~~ the county
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 21 by a written statement under oath that shall state the
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 25 ~~the law of perjury in 45-7-202.~~

1 (2) If the public officer or employee neglects or
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21 statement under oath that shall state the specific facts of
22 the failure to enforce the requirement or rule. Knowingly
23 making false statements or charges in the affidavit subjects
24 the affiant to penalties prescribed ~~under the law of perjury~~
25 in 45-7-202.

1 (2) If the public officer or employee neglects or
2 refuses for an unreasonable time after receipt of the
3 statement to enforce the requirement or rule, the resident
4 may bring an action of mandamus in the district court of the
5 first judicial district of this state, in and for the county
6 of Lewis and Clark, or in the district court of the county
7 in which the land is located. The court, if it finds that a
8 requirement of this part or a rule adopted under this part
9 is not being enforced, shall order the public officer or
10 employee whose duty it is to enforce the requirement or rule
11 to perform his duties. If he fails to do so, the public
12 officer or employee shall be held in contempt of court and
13 is subject to the penalties provided by law."

14 Section 4. Section 82-4-304, MCA, is amended to read:
15 "82-4-304. Exemption -- works performed prior to
16 promulgation of rules. No provision of this part shall be
17 applicable to any exploration or mining work performed prior
18 to the date of promulgation of the ~~director's~~ board's rules
19 pursuant to 82-4-321."

20 Section 5. Section 82-4-332, MCA, is amended to read:
21 "82-4-332. Exploration license. (1) An exploration
22 license shall be issued to any applicant therefor who shall:
23 (a) pay a fee of \$5 to the board;
24 (b) agree to reclaim any surface area damaged by the
25 applicant during exploration operations, ~~at~~ as may be

1 reasonably required by the board;

2 (c) not be in default of any other reclamation
3 obligation under this law.

4 (2) An application for an exploration license shall be
5 made in writing, notarized, and submitted to the department
6 in duplicate upon forms prepared and furnished by it. The
7 application shall include an exploration map or sketch in
8 sufficient detail to locate the area to be explored and to
9 determine whether significant environmental problems would
10 be encountered. The department shall by rules rule determine
11 the precise nature of such exploration map or sketch. The
12 applicant must state what types type of prospecting and
13 excavation techniques will be employed in disturbing the
14 land.

15 (3) Upon filing of any certificate of claim location
16 as permitted by federal and state mining laws and
17 regulations, the locator shall provide copies of ~~said the~~
18 certificates certificate to the board.

19 (4) Prior to the issuance of an exploration license,
20 the applicant shall file with the department a reclamation
21 and revegetation bond in a form and amount as determined by
22 the department in accordance with 82-4-338.

23 (5) In the event that the holder of an exploration
24 permit license desires to mine or develop the area covered
25 by the exploration license and has fulfilled all of the

1 requirements for a development or operating permit, the
2 department may allow the postponement of the reclamation of
3 the acreage explored if that acreage is incorporated into
4 the complete reclamation plan submitted with the application
5 for a development or operating permit. Any land actually
6 affected by exploration or excavation under an exploration
7 license and not covered by the development or operating
8 reclamation plan shall be reclaimed within 2 years after the
9 completion of exploration or abandonment of the site in a
10 manner acceptable to the department."

11 Section 6. Section 82-10-201, MCA, is amended to read:
12 "82-10-201. Authorization for lease and terms -- land
13 not subject to leasing. The governing body of any county,
14 city, town, school district, or incorporated political
15 subdivision within the state of Montana may, if ~~deemed~~—for
16 in the best interests of the county, city, town, school
17 district, or incorporated political subdivision, lease any
18 real property owned by the county, city, town, school
19 district, or incorporated political subdivision for oil and
20 gas development purposes. Such leases shall be made upon the
21 best terms obtainable, shall provide for such terms, except
22 as hereinafter provided, as the governing body shall ~~deem~~
23 consider to be for the best interests of the county, city,
24 town, school district, or incorporated political
25 subdivision, shall reserve a royalty of not less than

1 12 1/2% which shall include any royalty payable to any
 2 person other than the lessor, and shall be for a periods
 3 period not exceeding 10 years and so long thereafter as oil,
 4 gas, or other hydrocarbons shall be produced from the
 5 premises embraced in the lease, ~~provided, however~~ however,
 6 that nothing contained herein shall authorize the leasing of
 7 lands acquired by a county by tax deed except under the
 8 provisions of ~~[84-4194]~~ which section is hereby declared in
 9 full force and effect Title 7, chapter 8, part 25."

10 Section 7. Section 82-11-131, MCA, is amended to read:

11 "82-11-131. Privilege and license tax. (1) For the
 12 purpose of providing funds for defraying the expenses of the
 13 operation and enforcement of this chapter and expenses of
 14 the board, ~~the operators and producers~~ an operator or
 15 producer of oil and gas shall pay an assessment not to
 16 exceed 2/10 of 1% of the market value of each barrel of
 17 crude petroleum originally produced, saved and marketed, or
 18 stored within the state or exported from the state, and the
 19 same rate on the market value of each 10,000 cubic feet of
 20 natural gas produced, saved and marketed, or stored within
 21 the state or exported therefrom.

22 (2) The board shall by order, without prior notice or
 23 hearing, fix the amount of the assessments assessment and
 24 may from time to time, without prior notice or hearing,
 25 reduce or increase the amount thereof as, in its judgment,

1 the expenses chargeable against the oil and gas conservation
 2 fund may require, ~~however~~ however, the assessments
 3 assessment fixed by the board may not exceed the limits
 4 prescribed in this section. The amounts amount of the
 5 ~~assessments~~ assessment shall be a percentage factor (not to
 6 exceed 100%) of the rates rate set forth in subsection (1)
 7 above, and the same percentage factor shall be applied by
 8 the board in fixing the amount of the assessment on each
 9 barrel of crude production and each 10,000 cubic feet of
 10 natural gas mentioned in that subsection. ~~The producers~~ A
 11 producer of the crude petroleum and natural gas shall pay
 12 the ~~assessments~~ assessment on each barrel of crude petroleum
 13 and each 10,000 cubic feet of natural gas produced for
 14 ~~themselves~~ himself, as well as for others another, including
 15 a royalty holders holder, and the producers producer shall
 16 be reimbursed for the payments made on crude oil and natural
 17 gas produced for others another in the same manner as ~~they~~
 18 ~~are~~ he is reimbursed for net proceeds tax paid on crude
 19 petroleum or natural gas produced for others another under
 20 15-23-607.

21 ~~(3) For the purposes of this section, a "lease" means~~
 22 ~~that particularly described tract of land contained in a~~
 23 ~~contract in writing whereby a person having a legal estate~~
 24 ~~in the land so described conveys a portion of his interest~~
 25 ~~to another in consideration of a certain rental or other~~

1 recompense or consideration. Further, for the purposes of
2 this section, leases owned or operated by one lessee which
3 in whole or in part cover or affect an underground reservoir
4 containing a common accumulation of crude petroleum, oil, or
5 natural gas, or both, or which are encompassed within or
6 affected by one particular unit agreement, shall be
7 considered as one lease relative to payments to be made
8 under this section."

9 Section 8. Section 82-15-202, MCA, is amended to read:
10 "82-15-202. Purpose. This part is intended to compel a
11 persons person, firms firm, companies company, associations
12 association, and corporations or corporation doing business
13 in the state of Montana and engaged in the selling of and
14 dealing in standard petroleum products to treat ~~all~~
15 customers a customer in one part of the state of Montana on
16 an equal basis with ~~all customers~~ a customer in other parts
17 another part of the state of ~~Montana~~ or in the nearest
18 adjoining state and to promote the uniform application of
19 the law of the state of Montana providing a tax on ~~all~~
20 gasoline used by a motor vehicles vehicle when traveling
21 over the a public highways highway. This part shall be
22 liberally construed to accomplish those purposes."

-End-

-9- SB118

1 SENATE BILL NO. 118

2 INTRODUCED BY NELSON

3 BY REQUEST OF THE CODE COMMISSIONER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAWS RELATING TO MINERALS, OIL, AND GAS;
7 AMENDING SECTIONS 82-1-108, 82-4-142, 82-4-252, 82-4-304,
8 82-4-332, 82-10-201, 82-11-131, AND 82-15-202, MCA."

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

11 Section 1. Section 82-1-108, MCA, is amended to read:

12 "82-1-108. Filing record of work performed. (1) Within
13 3 months from the day any firing of shotpoints in such
14 geophysical exploration is done by any person, firm, or
15 corporation within this state, such person, firm, or
16 corporation shall file with the county clerk and recorder of
17 the county in which such ~~the~~ work was done a record showing
18 each township and range within ~~said the~~ county in which such
19 ~~the~~ work was performed and the approximate date ~~at on~~ which
20 such ~~the~~ work was performed.

21 (2) Such person, firm, or corporation shall file with
22 ~~said the~~ county clerk and recorder a record showing the
23 location of each such shotpoint and date fired within a
24 maximum area of any square, 4-section area of land, upon
25 written request ~~therefor-by-said of the~~ county clerk and

1 recorder, which ~~the~~ request must be based upon the
2 complaint of a property owner that physical ~~damages~~ damage
3 to such ~~his~~ property ~~have-arisen-by-reason-of~~ has resulted
4 from the use of the seismograph and explosives in such
5 geophysical operations at some location within ~~said the~~
6 maximum 4-square mile area, and such--written--notice ~~the~~
7 request shall designate the name and address of the
8 complaining person and ~~shall-describe~~ the approximate date
9 ~~of--the--alleged--damages~~ and the nature of the alleged
10 damages. The required record of operations in response to
11 such--written--demand--therefor-by the request of the county
12 clerk and recorder shall be supplied within 10 days from the
13 date on which such-written-demand the request is received."

14 Section 2. Section 82-4-142, MCA, is amended to read:

15 "82-4-142. Mandamus to compel enforcement. (1) A
16 resident of this state, with knowledge that a requirement of
17 this part or a rule adopted under this part is not being
18 enforced by a public officer or employee whose duty it is to
19 enforce the requirement or rule, may bring the failure to
20 enforce to the attention of the public officer or employee
21 by a written statement under oath that shall state the
22 specific facts of the failure to enforce the requirement or
23 rule. Knowingly making false statements or charges in the
24 affidavit subjects the affiant to penalties prescribed under
25 ~~the-law-of-perjury in 45-7-202.~~

1 (2) If the public officer or employee neglects or
 2 refuses for an unreasonable time after receipt of the
 3 statement to enforce the requirement or rule, the resident
 4 may bring an action of mandamus in the district court of the
 5 first judicial district of this state in and for the county
 6 of Lewis and Clark or in the district court of the county in
 7 which the land is located. ~~The~~ ~~if the court~~ ~~if it~~ finds
 8 that a requirement of this part or a rule adopted under this
 9 part is not being enforced, ~~it~~ shall order the public
 10 officer or employee whose duty ~~it~~ is to enforce the
 11 requirement or rule to perform his duties. If he fails to do
 12 so, the public officer or employee shall be held in contempt
 13 of court and is subject to the penalties provided by law."

14 Section 3. Section 82-4-252, MCA, is amended to read:

15 "82-4-252. Mandamus. (1) A resident of this state,
 16 with knowledge that a requirement of this part or a rule
 17 adopted under this part is not being enforced by a public
 18 officer or employee whose duty it is to enforce the
 19 requirement or rule, may bring the failure to enforce to the
 20 attention of the public officer or employee by a written
 21 statement under oath that shall state the specific facts of
 22 the failure to enforce the requirement or rule. Knowingly
 23 making false statements or charges in the affidavit subjects
 24 the affiant to penalties prescribed ~~under the law of perjury~~
 25 in 45-7-202.

1 (2) If the public officer or employee neglects or
 2 refuses for an unreasonable time after receipt of the
 3 statement to enforce the requirement or rule, the resident
 4 may bring an action of mandamus in the district court of the
 5 first judicial district of this state, in and for the county
 6 of Lewis and Clark, or in the district court of the county
 7 in which the land is located. The court, if it finds that a
 8 requirement of this part or a rule adopted under this part
 9 is not being enforced, shall order the public officer or
 10 employee whose duty it is to enforce the requirement or rule
 11 to perform his duties. If he fails to do so, the public
 12 officer or employee shall be held in contempt of court and
 13 is subject to the penalties provided by law."

14 Section 4. Section 82-4-304, MCA, is amended to read:

15 "82-4-304. Exemption -- works performed prior to
 16 promulgation of rules. No provision of this part shall be
 17 applicable to any exploration or mining work performed prior
 18 to the date of promulgation of the ~~director's board's~~ rules
 19 pursuant to 82-4-321."

20 Section 5. Section 82-4-332, MCA, is amended to read:

21 "82-4-332. Exploration license. (1) An exploration
 22 license shall be issued to any applicant therefor who shall:

- 23 (a) pay a fee of \$5 to the board;
- 24 (b) agree to reclaim any surface area damaged by the
 25 applicant during exploration operations, ~~and~~ as may be

1 reasonably required by the board;

2 (c) not be in default of any other reclamation
3 obligation under this law.

4 (2) An application for an exploration license shall be
5 made in writing, notarized, and submitted to the department
6 in duplicate upon forms prepared and furnished by it. The
7 application shall include an exploration map or sketch in
8 sufficient detail to locate the area to be explored and to
9 determine whether significant environmental problems would
10 be encountered. The department shall by ~~rules~~ rule determine
11 the precise nature of such exploration map or sketch. The
12 applicant must state what ~~types~~ type of prospecting and
13 excavation techniques will be employed in disturbing the
14 land.

15 (3) Upon filing of any certificate of claim location
16 as permitted by federal and state mining laws and
17 regulations, the locator shall provide copies of ~~said the~~
18 ~~certificates~~ certificate to the board.

19 (4) Prior to the issuance of an exploration license,
20 the applicant shall file with the department a reclamation
21 and revegetation bond in a form and amount as determined by
22 the department in accordance with 82-4-338.

23 (5) In the event that the holder of an exploration
24 permit license desires to mine or develop the area covered
25 by the exploration license and has fulfilled all of the

1 requirements for a development or operating permit, the
2 department may allow the postponement of the reclamation of
3 the acreage explored if that acreage is incorporated into
4 the complete reclamation plan submitted with the application
5 for a development or operating permit. Any land actually
6 affected by exploration or excavation under an exploration
7 license and not covered by the development or operating
8 reclamation plan shall be reclaimed within 2 years after the
9 completion of exploration or abandonment of the site in a
10 manner acceptable to the department."

11 Section 6. Section 82-10-201, MCA, is amended to read:

12 "82-10-201. Authorization for lease and terms -- land
13 not subject to leasing. The governing body of any county,
14 city, town, school district, or incorporated political
15 subdivision within the state of Montana may, if ~~deemed--for~~
16 in the best interests of the county, city, town, school
17 district, or incorporated political subdivision, lease any
18 real property owned by the county, city, town, school
19 district, or incorporated political subdivision for oil and
20 gas development purposes. Such leases shall be made upon the
21 best terms obtainable, shall provide for such terms, except
22 as hereinafter provided, as the governing body shall ~~deem~~
23 consider to be for the best interests of the county, city,
24 town, school district, or incorporated political
25 subdivision, shall reserve a royalty of not less than

1 12 1/2% which shall include any royalty payable to any
 2 person other than the lessor, and shall be for a periods
 3 period not exceeding 10 years and so long thereafter as oil,
 4 gas, or other hydrocarbons shall be produced from the
 5 premises embraced in the lease, ~~provided, however~~ however,
 6 that nothing contained herein shall authorize the leasing of
 7 lands acquired by a county by tax deed except under the
 8 provisions of ~~[84-4194], which section is hereby declared in~~
 9 ~~full force and effect~~ Title 7, chapter 8, part 25."

10 Section 7. Section 82-11-131, MCA, is amended to read:

11 "82-11-131. Privilege and license tax. (1) For the
 12 purpose of providing funds for defraying the expenses of the
 13 operation and enforcement of this chapter and expenses of
 14 the board, ~~the operators and producers~~ an operator or
 15 producer of oil and gas shall pay an assessment not to
 16 exceed 2/10 of 1% of the market value of each barrel of
 17 crude petroleum originally produced, saved and marketed, or
 18 stored within the state or exported from the state, and the
 19 same rate on the market value of each 10,000 cubic feet of
 20 natural gas produced, saved and marketed, or stored within
 21 the state or exported therefrom.

22 (2) The board shall by order, without prior notice or
 23 hearing, fix the amount of the assessments assessment and
 24 may from time to time, without prior notice or hearing,
 25 reduce or increase the amount thereof as, in its judgment,

1 the expenses chargeable against the oil and gas conservation
 2 fund may require, ~~however~~ however, the assessments
 3 assessment fixed by the board may not exceed the limits
 4 prescribed in this section. The amounts amount of the
 5 assessments assessment shall be a percentage factor (not to
 6 exceed 100%) of the rates rate set forth in subsection (1)
 7 above, and the same percentage factor shall be applied by
 8 the board in fixing the amount of the assessment on each
 9 barrel of crude production and each 10,000 cubic feet of
 10 natural gas mentioned in that subsection. ~~The producers~~ A
 11 producer of the crude petroleum and natural gas shall pay
 12 the assessments assessment on each barrel of crude petroleum
 13 and each 10,000 cubic feet of natural gas produced for
 14 themselves himself, as well as for others another, including
 15 a royalty holders holder, and the producers producer shall
 16 be reimbursed for the payments made on crude oil and natural
 17 gas produced for others another in the same manner as they
 18 are he is reimbursed for net proceeds tax paid on crude
 19 petroleum or natural gas produced for others another under
 20 15-23-607.

21 (3) ~~For the purposes of this section, a "lease" means~~
 22 ~~that particular described tract of land contained in a~~
 23 ~~contract in writing whereby a person having a legal estate~~
 24 ~~in the land so described conveys a portion of his interest~~
 25 ~~to another in consideration of a certain rental or other~~

1 recompense or consideration. Further, for the purposes of
2 this section, leases owned or operated by one lessee which
3 in whole or in part cover or effect an underground reservoir
4 containing a common accumulation of crude petroleum, oil, or
5 natural gas, or both, or which are encompassed within or
6 affected by one particular unit agreement, shall be
7 considered as one lease relative to payments to be made
8 under this section."

9 Section 8. Section 82-15-202, MCA, is amended to read:
10 "82-15-202. Purpose. This part is intended to compel a
11 persons ~~person~~, firms ~~firm~~, companies ~~company~~, associations
12 ~~association~~, and corporations ~~or corporation~~ doing business
13 in the state of Montana and engaged in the selling of and
14 dealing in standard petroleum products to treat ~~all~~
15 customers ~~a customer~~ in one part of the state of Montana on
16 an equal ~~basis~~ with ~~all~~ customers ~~a customer~~ in other parts
17 ~~another part~~ of the state of ~~Montana~~ or in the nearest
18 adjoining state and to promote the uniform application of
19 the law of the state of Montana providing a tax on ~~all~~
20 gasoline used by a motor vehicles ~~vehicle~~ when traveling
21 over the a public highways ~~highway~~. This part shall be
22 liberally construed to accomplish those purposes."

-End-