

HOUSE BILL NO. 795

INTRODUCED BY GILBERT, RAMIREZ, IVERSON, SPAETH,
MENKE, WEEDING, KOLSTAD, ABRAMS

IN THE HOUSE

FEBRUARY 17, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON NATURAL RESOURCES.

MARCH 13, 1987 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

 STATEMENT OF INTENT ADOPTED.

MARCH 14, 1987 PRINTING REPORT.

MARCH 16, 1987 SECOND READING, DO PASS.

MARCH 17, 1987 ENGROSSING REPORT.

 THIRD READING, PASSED.
AYES, 91; NOES, 5.

 TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 18, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

MARCH 27, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 30, 1987 ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

 ON MOTION, TAKEN FROM SECOND READING
AND REREFERRED TO COMMITTEE
ON FINANCE & CLAIMS.

APRIL 3, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

APRIL 6, 1987 SECOND READING, CONCURRED IN.

APRIL 7, 1987

THIRD READING, CONCURRED IN.
AYES, 50; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

APRIL 8, 1987

RECEIVED FROM SENATE.

SENT TO ENROLLING.

1 *House* BILL NO. *795*
 2 INTRODUCED BY *Gilbert Ramon, J. Ross Spool*
 3 *Wendy*
 4 *Robert Adams*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 6 OIL AND GAS CONSERVATION LAWS TO INCORPORATE REGULATION OF
 7 CLASS II INJECTION WELLS AS DEFINED BY THE FEDERAL
 8 ENVIRONMENTAL PROTECTION AGENCY; ESTABLISHING AN INJECTION
 9 WELL OPERATING FEE; APPROPRIATING FUNDS; AMENDING SECTIONS
 10 82-11-101, 82-11-111, 82-11-123, 82-11-141, 82-11-142,
 11 82-11-147, AND 82-11-148, MCA; AND PROVIDING AN IMMEDIATE
 12 EFFECTIVE DATE."

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

14 Section 1. Section 82-11-101, MCA, is amended to read:
 15 "82-11-101. Definitions. As used in this chapter,
 16 unless the context requires otherwise, the following
 17 definitions apply:

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

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

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

25 (a) that have been brought to the surface in

1 connection with oil or natural gas production;
 2 (b) for purposes of enhancing the ultimate recovery of
 3 oil or natural gas; or
 4 (c) for purposes of storing liquid hydrocarbons.

5 ~~(2)~~(4) "Department" means the department of natural
 6 resources and conservation provided for in Title 2, chapter
 7 15, part 33.

8 ~~(3)~~(5) "Determinations" means those decisions
 9 delegated to the state by or under authority of the Natural
 10 Gas Policy Act of 1978 or any successor or similar
 11 legislation relating to oil and gas.

12 ~~(4)~~(6) "Enhanced recovery" means the increased
 13 recovery from a pool achieved by artificial means or by the
 14 application of energy extrinsic to the pool; such artificial
 15 means or application includes pressuring, cycling, pressure
 16 maintenance, or injection into the pool of any substance or
 17 form of energy as is contemplated in secondary recovery and
 18 tertiary programs but does not include the injection in a
 19 well of a substance or form of energy for the sole purpose
 20 of aiding in the lifting of fluids in the well or
 21 stimulating of the reservoir at or near the well by
 22 mechanical, chemical, thermal, or explosive means.

23 ~~(5)~~(7) "Field" means the general area underlaid by one
 24 or more pools.

25 ~~(6)~~(8) "Gas" means all natural gases and all other

1 fluid hydrocarbons as produced at the wellhead and not
2 defined as oil in subsection ~~(7)~~ (9) of this section.

3 ~~(7)~~(9) "Oil" means crude petroleum oil and other
4 hydrocarbons regardless of gravity which are produced at the
5 wellhead in liquid form by ordinary production methods and
6 which are not the result of condensation of gas before or
7 after it leaves the reservoir.

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

13 ~~(9)~~(11) "Person" means any natural person, corporation,
14 association, partnership, receiver, trustee, executor,
15 administrator, guardian, fiduciary, or other representative
16 of any kind and includes any agency or instrumentality of
17 the state or any governmental subdivision thereof.

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

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

7 ~~(10)~~(13) "Pool" means an underground reservoir
8 containing a common accumulation of oil or gas or both; each
9 zone of a structure which is completely separated from any
10 other zone in the same structure is a pool, as that term is
11 used in this chapter.

12 ~~(11)~~(14) "Producer" means the owner of a well or wells
13 capable of producing oil or gas or both.

14 (15) "State waters" means any body of water, either
15 surface or underground.

16 ~~(12)~~(16) "Waste" means:

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

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

21 (c) the location, spacing, drilling, equipping,
22 operating, or producing of any oil or gas well or wells in a
23 manner which causes or tends to cause reduction in the
24 quantity of oil or gas ultimately recoverable from a pool
25 under prudent and proper operations or which causes or tends

1 to cause unnecessary or excessive surface loss or
2 destruction of oil or gas; and

3 (d) the inefficient storing of oil or gas. (The
4 production of oil or gas from any pool or by any well to the
5 full extent that the well or pool can be produced in
6 accordance with methods designed to result in maximum
7 ultimate recovery, as determined by the board, is not waste
8 within the meaning of this definition.)"

9 Section 2. Section 82-11-111, MCA, is amended to read:

10 "82-11-111. Powers and duties of board. (1) The board
11 shall make such investigations as it considers proper to
12 determine whether waste exists or is imminent or whether
13 other facts exist which justify any action by the board
14 under the authority granted by this chapter with respect
15 thereto.

16 (2) Subject to the administrative control of the
17 department under 2-15-121, the board shall:

18 (a) require measures to be taken to prevent
19 contamination of or damage to surrounding land or
20 underground strata caused by drilling operations and
21 production, including but not limited to regulating the
22 disposal or injection of salt water and disposal of oil
23 field wastes;

24 (b) classify wells as oil or gas wells or class II
25 injection wells for purposes material to the interpretation

1 or enforcement of this chapter;

2 (c) adopt and enforce rules and orders to effectuate
3 the purposes and the intent of this chapter.

4 (3) The board shall determine and prescribe what
5 producing wells shall be defined as "stripper wells" and
6 what wells shall be defined as "wildcat wells" and make such
7 orders as in its judgment are required to protect those
8 wells and provide that stripper wells may be produced to
9 capacity if it is considered necessary in the interest of
10 conservation to do so.

11 (4) With respect to any pool from which gas was being
12 produced by a gas well on or prior to April 1, 1953, this
13 chapter does not authorize the board to limit or restrain
14 the rate (daily or otherwise) of production of gas from that
15 pool by any well then or thereafter drilled and producing
16 from that pool to less than the rate at which the well can
17 be produced without adversely affecting the quantity of gas
18 ultimately recoverable by the well.

19 (5) The board has exclusive jurisdiction over all
20 class II injection wells and all pits and ponds in relation
21 to those injection wells. The board may:

22 (a) issue, suspend, revoke, modify, or deny permits to
23 operate class II injection wells, consistent with rules made
24 by it;

25 (b) examine plans and other information needed to

1 determine whether a permit should be issued or require
 2 changes in plans as a condition to the issuance of a permit;

3 (c) clearly specify in a permit any limitations
 4 imposed as to the volume and characteristics of the fluids
 5 to be injected and the operation of the well;

6 (d) authorize its staff to enter upon any public or
 7 private property at reasonable times to:

8 (i) investigate conditions relating to violations of
 9 permit conditions;

10 (ii) have access to and copy records required under
 11 this chapter;

12 (iii) inspect monitoring equipment or methods; and

13 (iv) sample fluids which the operator is required to
 14 sample; and

15 (e) adopt standards for the design, construction,
 16 testing, and operation of class II injection wells."

17 NEW SECTION. Section 3. Confidentiality of records.

18 (1) Any information that is furnished to the board or the
 19 board's staff or that is obtained by either of them is a
 20 matter of public record and open to public use. However, any
 21 information unique to the owner or operator that would, if
 22 disclosed, reveal methods or processes entitled to
 23 protection as trade secrets must be maintained as
 24 confidential if so determined by the board.

25 (2) If an owner or operator disagrees with a

1 determination by the board that certain material will not be
 2 maintained as confidential, the owner or operator may file a
 3 declaratory judgment action in a court of competent
 4 jurisdiction to establish the existence of a trade secret if
 5 he wishes such information to enjoy confidential status. The
 6 department must be served in any such action and may
 7 intervene as a party.

8 (3) Any information not intended to be public when
 9 submitted to the board or the board's staff must be
 10 submitted in writing and clearly marked as confidential.

11 (4) Data describing physical and chemical
 12 characteristics of a liquid, gaseous, solid, or other
 13 substance injected or discharged into state waters may not
 14 be considered confidential.

15 (5) The board may use any information in compiling or
 16 publishing analyses or summaries relating to water pollution
 17 if such analyses or summaries do not identify the owner or
 18 operator or reveal any information that is otherwise made
 19 confidential by this section.

20 Section 4. Section 82-11-123, MCA, is amended to read:

21 "82-11-123. Requirements for oil and gas operations.
 22 Subject to the administrative control of the department
 23 under 2-15-121, the board shall require:

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

1 (2) the making and filing of acceptable well logs,
 2 including bottom-hole temperatures, to facilitate the
 3 discovery of potential geothermal energy sources, reports on
 4 well locations, and the filing of directional surveys, if
 5 made; however, logs of exploratory or wildcat wells need not
 6 be filed for a period of 6 months following completion of
 7 those wells;

8 (3) the drilling, casing, producing, and plugging of
 9 wells and class II injection wells in such manner as to
 10 prevent the escape of oil or gas out of one stratum into
 11 another, the intrusion of water into oil or gas stratum,
 12 blowouts, cavings, seepages, and fires and the pollution of
 13 fresh water supplies by oil, gas, salt, or brackish water;

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

21 (5) the furnishing of a reasonable bond with good and
 22 sufficient surety, conditioned for performance of the duty
 23 to properly plug each dry or abandoned well;

24 (6) proper gauging or other measuring of oil and gas
 25 produced and saved to determine the quantity and quality

1 thereof; and

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

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

15 Section 5. Section 82-11-141, MCA, is amended to read:
 16 "82-11-141. Administrative procedure. (1) Unless
 17 otherwise provided, the Montana Administrative Procedure Act
 18 applies to this chapter.

19 (2) An order or amendment thereof, except in an
 20 emergency, may not be made by the board without a public
 21 hearing upon at least 10 days' notice. The public hearing
 22 shall be held at such time and place as may be prescribed by
 23 the board, and any interested person is entitled to be
 24 heard.

25 (3) When an emergency requiring immediate action is

1 found to exist, the board may issue an emergency order
 2 without advance notice or hearing which shall be effective
 3 upon promulgation. An emergency order may not remain in
 4 effect more-than-15-days beyond the next regular meeting of
 5 the board.

6 (4) If notice is required by the chapter and the
 7 Montana Administrative Procedure Act does not apply, the
 8 notice shall be made by publication in one or more issues of
 9 a newspaper in general circulation in Helena and a newspaper
 10 of general circulation in the county where the land or some
 11 part thereon is situated, and the board may also cause
 12 publication to be made in a trade journal or bulletin of
 13 general circulation in the oil and gas industry in the
 14 state.

15 (5) Proof of service by publication under subsection
 16 (4) shall be made by the affidavit of the printer or
 17 publisher of the newspaper, trade journal, or bulletin in
 18 which the notice is published or by a foreman or principal
 19 clerk of the newspaper, bulletin, or trade journal.

20 (6) Except as provided otherwise in this chapter, the
 21 board may act upon its own motion or upon the petition of an
 22 interested person. On the filing of a petition concerning a
 23 matter within the jurisdiction of the board, the board shall
 24 promptly fix a date for a hearing thereon and shall cause
 25 notice of the hearing to be given. The hearing shall be held

1 without undue delay after the filing of the petition. The
 2 board shall enter its order within 30 days after the
 3 hearing."

4 Section 6. Section 82-11-142, MCA, is amended to read:
 5 "82-11-142. Subpoena power -- civil actions. (1) If
 6 the Montana Administrative Procedure Act does not apply, the
 7 board may subpoena witnesses, administer oaths, and require
 8 the production of records, books, and documents for
 9 examination at any hearing or investigation conducted by it.
 10 Witnesses subpoenaed under this subsection shall be paid the
 11 same per diem and mileage as is provided to be paid to
 12 witnesses attending the district courts of this state.

13 (2) This chapter, a suit by or against the board, a
 14 violation charged or asserted against a person under this
 15 chapter, or a rule or order issued under this chapter does
 16 not impair, abridge, or delay a cause of action for damages
 17 or other civil remedy which a person may have or assert
 18 against a person violating this chapter or a rule or order
 19 issued under it. A person so aggrieved by the violation may
 20 sue for and recover such damages or relief as he otherwise
 21 may be entitled to receive.

22 (3) A person, association, corporation, or agency of
 23 the state or federal government may apply to the board
 24 protesting a violation or a threatened violation of this
 25 chapter. The board shall make an investigation and make a

1 written report to the person, association, corporation, or
 2 agency that made the protest. If a violation is established
 3 by the investigation of the board, the board shall take
 4 appropriate enforcement action. If the board fails to take
 5 appropriate enforcement action or to bring suit to enjoin a
 6 ~~violation~~-or threatened violation of this chapter or a rule
 7 or order of the board within 10 days after receipt of
 8 written request to do so by a person who is or will be
 9 adversely affected ~~by the violation~~, the person making the
 10 request may bring the suit in his own behalf to restrain the
 11 ~~violation~~-or threatened violation in a court in which the
 12 board might have brought suit. The board shall be made a
 13 party defendant in the suit in addition to the person
 14 ~~violating~~--or threatening to violate this chapter or a rule
 15 or order of the board, and the action shall proceed and
 16 injunctive relief may be granted without bond in the same
 17 manner as if suit had been brought by the board.

18 {3}{4} If a person fails or refuses to comply with the
 19 subpoena issued by the board or if a witness refuses to
 20 testify as to any material matter regarding which he may be
 21 interrogated, any district court in the state, upon good
 22 cause shown by the application of the board, may issue a
 23 warrant of attachment for the person and, if after hearing
 24 the court finds his failure or refusal to be unjustified,
 25 compel him to comply with the subpoena and to attend before

1 the board and produce any subpoenaed records, books, and
 2 documents for examination and to give his testimony. The
 3 court may punish for contempt as in the case of disobedience
 4 to a like subpoena issued by the court or for refusal to
 5 testify therein."

6 NEW SECTION. Section 7. Prohibited activity. (1) No
 7 person may:

8 (a) cause pollution of any state waters or place or
 9 cause to be placed any liquid, gaseous, solid, or other
 10 substance in a location where the substance is likely to
 11 cause pollution of any state waters;

12 (b) violate any provision set forth in a permit or
 13 stipulation, including but not limited to limitations and
 14 conditions contained in it;

15 (c) violate an order issued pursuant to this chapter;
 16 or

17 (d) violate a provision of this chapter.

18 (2) No person may drill, construct, convert, or
 19 operate a class II injection well or drill an oil or gas
 20 well or stratigraphic test well or core hole as described
 21 under 82-11-134 without a valid permit or order from the
 22 board.

23 NEW SECTION. Section 8. Legal assistance. When
 24 requested by the board, the attorney general or the county
 25 attorneys within their respective counties shall perform

LC 0809/01

1 legal services and conduct legal proceedings necessary to
 2 carry out the purposes of this chapter. The board may also
 3 employ legal counsel to enforce this chapter and to conduct
 4 proceedings under it.

5 NEW SECTION. Section 9. Emergencies -- notice and
 6 hearing. (1) Notwithstanding any other provisions of this
 7 chapter, if the administrator or a board member finds that a
 8 person is committing or about to commit an act in violation
 9 of this chapter or any order or rule issued under it which,
 10 if it occurs or continues, will cause substantial pollution,
 11 the administrator under order of the board or the board
 12 member is authorized to order the person to stop, avoid, or
 13 moderate the act, including immediate closure or shutdown of
 14 any well. This authority is limited to acts the harmful
 15 effects of which will not be remedied immediately after the
 16 commission or cessation of the act or will represent an
 17 immediate threat to public health, safety, or welfare.

18 (2) When any emergency requiring immediate action is
 19 found pursuant to subsection (1), the board is authorized to
 20 issue an emergency order without notice or hearing, which is
 21 effective upon issuance as provided in 82-11-141(3).

22 (3) The board may have written notice served,
 23 personally or by mail, on the alleged violator or his agent.
 24 The notice must state the provision alleged to be violated,
 25 the facts alleged to constitute the violation, the nature of

1 corrective action the board requires, and the time within
 2 which the action is to be taken. For the purposes of this
 3 section, service by mail is complete on the date of mailing.

4 (4) The notice must indicate that the order is an
 5 emergency order.

6 (5) Pursuant to 82-11-141(3), the board may consider
 7 the emergency order at its next regular meeting, without
 8 compliance with the notice requirements of this chapter if
 9 they cannot be accomplished within the time available, and
 10 enter a second emergency order.

11 (6) Upon issuing an order under subsection (2), the
 12 board may fix a place and time for a hearing, not later than
 13 5 days thereafter unless the person to whom the order is
 14 directed requests a later time. The board may deny a request
 15 for a later time if it finds that the person to whom the
 16 order is directed is not complying with the order. If the
 17 board considers it practicable, the hearing must be held in
 18 the county where the violation is alleged to have occurred.
 19 As soon as practicable after the hearing, the board shall
 20 affirm, modify, or set aside the order.

21 (7) If the order of the board is affirmed, it must be
 22 accompanied by a statement specifying the date or dates by
 23 which a violation must cease and may prescribe timetables
 24 for necessary action in preventing, abating, or controlling
 25 the pollution. An action for review of the order of the

1 board may be initiated in the manner specified in 82-11-144.
 2 The initiation of such an action or taking of an appeal may
 3 not stay the effectiveness of the order unless the court
 4 finds that the board did not have reasonable cause to issue
 5 an order under this section.

6 Section 10. Section 82-11-147, MCA, is amended to
 7 read:

8 "82-11-147. Violations. (1) Whenever---it---appears
 9 Notwithstanding any other provisions of this chapter, if the
 10 board finds upon receipt of evidence:

11 (a) that a person is violating or threatening to
 12 violate this chapter or a rule or order of the board, the
 13 board shall may bring suit against that person in the
 14 district court of any county where the violation occurs or
 15 is threatened to restrain the person from continuing the
 16 violation or from carrying out the threat of violation; or

17 (b) that a person is violating this chapter or a rule
 18 or order of the board in a manner for which the board is
 19 authorized to institute proceedings pursuant to [section
 20 11], the board may issue an order either assessing a civil
 21 penalty in the amount prescribed in [section 11], up to a
 22 maximum administrative penalty of \$125,000, or requiring
 23 compliance with this chapter or a rule or order, or both.

24 (2) In the a suit under (1)(a), the court may grant to
 25 the board, without bond or other undertaking, such

1 prohibitory and mandatory injunctions as the facts may
 2 warrant, including temporary restraining orders."

3 NEW SECTION. Section 11. Civil penalties. (1) A
 4 person is guilty of a misdemeanor and is subject to a civil
 5 penalty of at least \$5,000 if that person violates any rule
 6 or order of the board or a provision of this chapter. Each
 7 day of violation constitutes a separate violation.

8 (2) Action under this section does not bar enforcement
 9 of this chapter or of rules or orders issued under it by
 10 injunction or other appropriate remedy.

11 (3) The board, or the attorney general upon request of
 12 the board, shall institute and maintain any enforcement
 13 proceedings in the name of the state.

14 Section 12. Section 82-11-148, MCA, is amended to
 15 read:

16 "82-11-148. Penalties Criminal penalties. A person is
 17 guilty of a misdemeanor and shall be subject to a fine of
 18 not more than \$5,000 \$10,000 per day of violation or
 19 imprisonment in a county jail for a term not exceeding 6
 20 months or to both the fine and imprisonment if that person
 21 willfully violates any lawful rule or order of the board or
 22 if that person, for the purpose of evading this chapter or
 23 any rule or order of the board, knowingly and willfully:

24 (1) makes or causes to be made a false entry or
 25 statement in a report required by this chapter or by a rule

1 or order of the board or a false entry in a record, account,
2 or memorandum required by this chapter or by a rule or
3 order;

4 (2) omits or causes to be omitted from the record,
5 account, or memorandum full, true, and correct entries as
6 required by this chapter or by a rule or order; or

7 (3) removes from this state or destroys, mutilates,
8 alters, or falsifies the record, account, or memorandum."

9 NEW SECTION. Section 13. Class II injection well
10 operating fee. (1) For the purpose of providing funds for
11 defraying the expenses of operating and enforcing the class
12 II injection well regulatory program, as defined by the
13 federal environmental protection agency or any successor
14 agency, each operator of a class II injection well shall pay
15 an annual operating fee not to exceed \$300 per injection
16 well.

17 (2) The department shall collect the operating fee at
18 such time as the board may prescribe by rule. All money
19 collected under this section must be forwarded to the state
20 treasurer for deposit in the state special revenue fund and
21 must be used for the purpose prescribed in subsection (1).

22 (3) The board shall, by rule adopted pursuant to the
23 provisions of the Montana Administrative Procedure Act, fix
24 the amount of the fee described in subsection (1) and may
25 from time to time reduce or increase the amount thereof as

1 the expenses chargeable against the state special revenue
2 fund may require. However, the assessment fixed by the board
3 may not exceed the limits prescribed in subsection (1). The
4 amount of the fee must be expressed in dollars.

5 NEW SECTION. Section 14. Appropriation. There is
6 appropriated from the state special revenue fund to the
7 board of oil and gas conservation \$45,000 for fiscal year
8 1988 and \$280,000 for fiscal year 1989 for purposes of
9 administering this act.

10 NEW SECTION. Section 15. Extension of authority. Any
11 existing authority of the board of oil and gas conservation
12 and the department of revenue to make rules on the subject
13 of the provisions of this act is extended to the provisions
14 of this act.

15 NEW SECTION. Section 16. Codification instruction.
16 Sections 3, 7 through 9, 11, and 13 are intended to be
17 codified as an integral part of Title 82, chapter 11, part
18 1, and the provisions of Title 82, chapter 11, part 1, apply
19 to sections 3, 7 through 9, 11, and 13.

20 NEW SECTION. Section 17. Effective date. This act is
21 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB795, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An Act to generally revise the oil and gas conservation laws to incorporate regulation of class II injection wells as defined by the federal Environmental Protection Agency; establishing an injection well operating fee; appropriating funds; and providing an immediate effective date.

ASSUMPTIONS:

1. Revenue estimates are based on the user fee proposed in the bill; approximately 1300 disposal/injection wells would be subject to the user fee.
2. The expenditures estimated for administration of the program by the Board of Oil and Gas Conservation are based on a staff of one professional position, two full-time field inspector positions, and a secretarial support position. Equipment is also required for FY89.
3. Program costs for FY88 are based on the estimated increased operational expenses during the period of negotiation with EPA for state primacy. Program cost for FY89 is based on a full self-supported program.
4. Some EPA grant monies are available to primacy states, however, future funding and level of funding is unknown.
5. The UIC program is estimated to require about 30 to 35% additional funding above the Board's current level funding. The proposed fee system appears adequate to self-fund the program.

FISCAL IMPACT:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
Personal Services	\$ 0	\$ 0	\$ 0	\$ 0	\$ 102,600	\$ 102,600
Operating Expenses	0	45,000	45,000	0	130,400	130,400
Equipment	0	0	0	0	47,000	47,000
TOTAL	\$ 0	\$ 45,000	\$ 45,000	\$ 0	\$ 280,000	\$ 280,000
<u>Revenue:</u>						
A	\$ 0	\$ 45,000	\$ 45,000	\$ 0	\$ 0	\$ 0
B	0	0	0	0	225,000	225,000
C	0	0	0	0	55,000	55,000
TOTAL	\$ 0	\$ 45,000	\$ 45,000	\$ 0	\$ 280,000	\$ 280,000

A = 750 active injection wells X \$60 each
 B = 750 active injection wells X \$300 each
 C = 550 inactive injection wells X \$100 each

David L. Hunter DATE 2/24/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

Bob Gilbert DATE 2-25-87
 BOB GILBERT, PRIMARY SPONSOR

Fiscal Note for HB795, as introduced.

HB 795

APPROVED BY COMM. ON
NATURAL RESOURCES

1 STATEMENT OF INTENT

2 HOUSE BILL 795

3 House Natural Resources Committee

4
5 It is the intent of the legislature that the board of
6 oil and gas conservation adopt rules necessary to regulate
7 class II injection wells under the provisions of this act.
8 These rules must establish an enforceable program meeting
9 the requirements of the environmental protection agency for
10 state administration of an underground injection control
11 program and ensuring compliance with state water quality
12 laws.

1 HOUSE BILL NO. 795

2 INTRODUCED BY GILBERT, RAMIREZ, IVERSON, SPAETH,
3 MENKE, WEEDING, KOLSTAD, ABRAMS
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 OIL AND GAS CONSERVATION LAWS TO INCORPORATE REGULATION OF
7 CLASS II INJECTION WELLS AS DEFINED BY THE FEDERAL
8 ENVIRONMENTAL PROTECTION AGENCY; ESTABLISHING AN INJECTION
9 WELL OPERATING FEE; APPROPRIATING FUNDS; AMENDING SECTIONS
10 82-11-101, 82-11-111, 82-11-123, 82-11-141, 82-11-142,
11 82-11-147, AND 82-11-148, MCA; AND PROVIDING AN IMMEDIATE
12 EFFECTIVE DATE."
13

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

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

16 "82-11-101. Definitions. As used in this chapter,
17 unless the context requires otherwise, the following
18 definitions apply:

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

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

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

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

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

5 (c) for purposes of storing liquid hydrocarbons.

6 †2†(4) "Department" means the department of natural
7 resources and conservation provided for in Title 2, chapter
8 15, part 33.

9 †3†(5) "Determinations" means those decisions
10 delegated to the state by or under authority of the Natural
11 Gas Policy Act of 1978 or any successor or similar
12 legislation relating to oil and gas.

13 †4†(6) "Enhanced recovery" means the increased
14 recovery from a pool achieved by artificial means or by the
15 application of energy extrinsic to the pool; such artificial
16 means or application includes pressuring, cycling, pressure
17 maintenance, or injection into the pool of any substance or
18 form of energy as is contemplated in secondary recovery and
19 tertiary programs but does not include the injection in a
20 well of a substance or form of energy for the sole purpose
21 of aiding in the lifting of fluids in the well or
22 stimulating of the reservoir at or near the well by
23 mechanical, chemical, thermal, or explosive means.

24 †5†(7) "Field" means the general area underlaid by one
25 or more pools.

1 (8) "FLUID" MEANS ANY MATERIAL OR SUBSTANCE THAT FLOWS
 2 OR MOVES, WHETHER IN A SEMISOLID, LIQUID, SLUDGE, GAS, OR
 3 ANY OTHER FORM OR STATE.

4 ~~(6)~~~~(8)~~(9) "Gas" means all natural gases and all other
 5 fluid hydrocarbons as produced at the wellhead and not
 6 defined as oil in subsection ~~(7)~~ ~~(9)~~ (10) of this section.

7 ~~(7)~~~~(9)~~(10) "Oil" means crude petroleum oil and other
 8 hydrocarbons regardless of gravity which are produced at the
 9 wellhead in liquid form by ordinary production methods and
 10 which are not the result of condensation of gas before or
 11 after it leaves the reservoir.

12 ~~(8)~~~~(10)~~(11) "Owner" means the person who has the right
 13 to drill into and produce from a pool and to appropriate the
 14 oil or gas he produces therefrom either for himself or
 15 others or for himself and others, and the term includes all
 16 persons holding such authority by or through him.

17 ~~(9)~~~~(11)~~(12) "Person" means any natural person,
 18 corporation, association, partnership, receiver, trustee,
 19 executor, administrator, guardian, fiduciary, or other
 20 representative of any kind and includes any agency or
 21 instrumentality of the state or any governmental subdivision
 22 thereof.

23 ~~(12)~~(13) "Pollution" means contamination or other
 24 alteration of the physical, chemical, or biological
 25 properties of any state waters that exceeds that permitted

1 by STATE WATER QUALITY STANDARDS OR standards adopted by the
 2 board, including but not limited to the disposal, discharge,
 3 seepage, drainage, infiltration, flow, or injection of any
 4 liquid, gaseous, solid, or other substance into any state
 5 waters that will or is likely to create a nuisance or render
 6 the waters harmful, detrimental, or injurious to public
 7 health, recreation, safety, welfare, livestock, wild
 8 animals, birds, fish, or other wildlife. A disposal,
 9 discharge, seepage, drainage, infiltration, flow, or
 10 injection of fluid that is authorized under a rule, permit,
 11 or order of the board is not pollution under this chapter.

12 ~~(10)~~~~(13)~~(14) "Pool" means an underground reservoir
 13 containing a common accumulation of oil or gas or both; each
 14 zone of a structure which is completely separated from any
 15 other zone in the same structure is a pool, as that term is
 16 used in this chapter.

17 ~~(11)~~~~(14)~~(15) "Producer" means the owner of a well or
 18 wells capable of producing oil or gas or both.

19 ~~(15)~~(16) "State waters" means any body of water, either
 20 surface or underground.

21 ~~(12)~~~~(16)~~(17) "Waste" means:

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

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

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

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

14 Section 2. Section 82-11-111, MCA, is amended to read:

15 "82-11-111. Powers and duties of board. (1) The board
 16 shall make such investigations as it considers proper to
 17 determine whether waste exists or is imminent or whether
 18 other facts exist which justify any action by the board
 19 under the authority granted by this chapter with respect
 20 thereto.

21 (2) Subject to the administrative control of the
 22 department under 2-15-121, the board shall:

23 (a) require measures to be taken to prevent
 24 contamination of or damage to surrounding land or
 25 underground strata caused by drilling operations and

1 production, including but not limited to regulating the
 2 disposal or injection of salt water and disposal of oil
 3 field wastes;

4 (b) classify wells as oil or gas wells or class II
 5 injection wells for purposes material to the interpretation
 6 or enforcement of this chapter;

7 (c) adopt and enforce rules and orders to effectuate
 8 the purposes and the intent of this chapter.

9 (3) The board shall determine and prescribe what
 10 producing wells shall be defined as "stripper wells" and
 11 what wells shall be defined as "wildcat wells" and make such
 12 orders as in its judgment are required to protect those
 13 wells and provide that stripper wells may be produced to
 14 capacity if it is considered necessary in the interest of
 15 conservation to do so.

16 (4) With respect to any pool from which gas was being
 17 produced by a gas well on or prior to April 1, 1953, this
 18 chapter does not authorize the board to limit or restrain
 19 the rate (daily or otherwise) of production of gas from that
 20 pool by any well then or thereafter drilled and producing
 21 from that pool to less than the rate at which the well can
 22 be produced without adversely affecting the quantity of gas
 23 ultimately recoverable by the well.

24 (5) The board has exclusive jurisdiction over all
 25 class II injection wells and all pits and ponds in relation

1 to those injection wells. The board may:
 2 (a) issue, suspend, revoke, modify, or deny permits to
 3 operate class II injection wells, consistent with rules made
 4 by it;
 5 (b) examine plans and other information needed to
 6 determine whether a permit should be issued or require
 7 changes in plans as a condition to the issuance of a permit;
 8 (c) clearly specify in a permit any limitations
 9 imposed as to the volume and characteristics of the fluids
 10 to be injected and the operation of the well;
 11 (d) authorize its staff to enter upon any public or
 12 private property at reasonable times to:
 13 (i) investigate conditions relating to violations of
 14 permit conditions;
 15 (ii) have access to and copy records required under
 16 this chapter;
 17 (iii) inspect monitoring equipment or methods; and
 18 (iv) sample fluids which the operator is required to
 19 sample; and
 20 (e) adopt standards for the design, construction,
 21 testing, and operation of class II injection wells."

22 **NEW SECTION.** Section 3. Confidentiality of records.
 23 (1) Any information that is furnished to the board or the
 24 board's staff or that is obtained by either of them is a
 25 matter of public record and open to public use. However, any

1 information unique to the owner or operator that would, if
 2 disclosed, reveal methods or processes entitled to
 3 protection as trade secrets must be maintained as
 4 confidential if so determined by the board.

5 (2) If an owner or operator disagrees with a
 6 determination by the board that certain material will not be
 7 maintained as confidential, the owner or operator may file a
 8 declaratory judgment action in a court of competent
 9 jurisdiction to establish the existence of a trade secret if
 10 he wishes such information to enjoy confidential status. The
 11 department must be served in any such action and may
 12 intervene as a party.

13 (3) Any information not intended to be public when
 14 submitted to the board or the board's staff must be
 15 submitted in writing and clearly marked as confidential.

16 (4) Data describing physical and chemical
 17 characteristics of a liquid, gaseous, solid, or other
 18 substance injected or discharged into state waters may not
 19 be considered confidential.

20 (5) The board may use any information in compiling or
 21 publishing analyses or summaries relating to water pollution
 22 if such analyses or summaries do not identify the owner or
 23 operator or reveal any information that is otherwise made
 24 confidential by this section.

25 Section 4. Section 82-11-123, MCA, is amended to read:

1 "82-11-123. Requirements for oil and gas operations.
2 Subject to the administrative control of the department
3 under 2-15-121, the board shall require:

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

6 (2) the making and filing of acceptable well logs,
7 including bottom-hole temperatures, to facilitate the
8 discovery of potential geothermal energy sources, reports on
9 well locations, and the filing of directional surveys, if
10 made; however, logs of exploratory or wildcat wells need not
11 be filed for a period of 6 months following completion of
12 those wells;

13 (3) the drilling, casing, producing, and plugging of
14 wells and class II injection wells in such manner as to
15 prevent the escape of oil or gas out of one stratum into
16 another, the intrusion of water into oil or gas stratum,
17 blowouts, cavings, seepages, and fires and the pollution of
18 fresh water supplies by oil, gas, salt, or brackish water;

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

1 (5) the furnishing of a reasonable bond with good and
2 sufficient surety, conditioned for performance of the duty
3 to properly plug each dry or abandoned well;

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

7 (7) that every person who produces, transports, or
8 stores oil or gas or injects or disposes of salt water in
9 this state shall make available within this state for a
10 period of 5 years complete and accurate records of the
11 quantities thereof, which records shall be available for
12 examination by the board or its employees at all reasonable
13 times, and that that person file with the board such reports
14 as it may prescribe with respect to quantities,
15 transportations, and storages of the oil or gas or salt
16 water; and

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

20 Section 5. Section 82-11-141, MCA, is amended to read:

21 "82-11-141. Administrative procedure. (1) Unless
22 otherwise provided, the Montana Administrative Procedure Act
23 applies to this chapter.

24 (2) An order or amendment thereof, except in an
25 emergency, may not be made by the board without a public

1 hearing upon at least 10 days' notice. The public hearing
2 shall be held at such time and place as may be prescribed by
3 the board, and any interested person is entitled to be
4 heard.

5 (3) When an emergency requiring immediate action is
6 found to exist, the board may issue an emergency order
7 without advance notice or hearing which shall be effective
8 upon promulgation. An emergency order may not remain in
9 effect ~~more than 15 days~~ beyond the next regular meeting of
10 the board.

11 (4) If notice is required by the chapter and the
12 Montana Administrative Procedure Act does not apply, the
13 notice shall be made by publication in one or more issues of
14 a newspaper in general circulation in Helena and a newspaper
15 of general circulation in the county where the land or some
16 part thereon is situated, and the board may also cause
17 publication to be made in a trade journal or bulletin of
18 general circulation in the oil and gas industry in the
19 state.

20 (5) Proof of service by publication under subsection
21 (4) shall be made by the affidavit of the printer or
22 publisher of the newspaper, trade journal, or bulletin in
23 which the notice is published or by a foreman or principal
24 clerk of the newspaper, bulletin, or trade journal.

25 (6) Except as provided otherwise in this chapter, the

1 board may act upon its own motion or upon the petition of an
2 interested person. On the filing of a petition concerning a
3 matter within the jurisdiction of the board, the board shall
4 promptly fix a date for a hearing thereon and shall cause
5 notice of the hearing to be given. The hearing shall be held
6 without undue delay after the filing of the petition. The
7 board shall enter its order within 30 days after the
8 hearing."

9 Section 6. Section 82-11-142, MCA, is amended to read:
10 "82-11-142. Subpoena power -- civil actions. (1) If
11 the Montana Administrative Procedure Act does not apply, the
12 board may subpoena witnesses, administer oaths, and require
13 the production of records, books, and documents for
14 examination at any hearing or investigation conducted by it.
15 Witnesses subpoenaed under this subsection shall be paid the
16 same per diem and mileage as is provided to be paid to
17 witnesses attending the district courts of this state.

18 (2) This chapter, a suit by or against the board, a
19 violation charged or asserted against a person under this
20 chapter, or a rule or order issued under this chapter does
21 not impair, abridge, or delay a cause of action for damages
22 or other civil remedy which a person may have or assert
23 against a person violating this chapter or a rule or order
24 issued under it. A person so aggrieved by the violation may
25 sue for and recover such damages or relief as he otherwise

1 may be entitled to receive.

2 (3) A person, association, corporation, or agency of
 3 the state or federal government may apply to the board
 4 protesting a violation or a threatened violation of this
 5 chapter. The board shall make an investigation and make a
 6 written report to the person, association, corporation, or
 7 agency that made the protest. If a violation is established
 8 by the investigation of the board, the board shall take
 9 appropriate enforcement action. If the board fails to take
 10 appropriate enforcement action or to bring suit to enjoin a
 11 violation--or threatened violation of this chapter or a rule
 12 or order of the board within 10 days after receipt of
 13 written request to do so by a person who is or will be
 14 adversely affected by the violation, the person making the
 15 request may bring the suit in his own behalf to restrain the
 16 violation--or threatened violation in a court in which the
 17 board might have brought suit. The board shall be made a
 18 party defendant in the suit in addition to the person
 19 violating--or threatening to violate this chapter or a rule
 20 or order of the board, and the action shall proceed and
 21 injunctive relief may be granted without bond in the same
 22 manner as if suit had been brought by the board.

23 (3)(4) If a person fails or refuses to comply with the
 24 subpoena issued by the board or if a witness refuses to
 25 testify as to any material matter regarding which he may be

1 interrogated, any district court in the state, upon good
 2 cause shown by the application of the board, may issue a
 3 warrant of attachment for the person and, if after hearing
 4 the court finds his failure or refusal to be unjustified,
 5 compel him to comply with the subpoena and to attend before
 6 the board and produce any subpoenaed records, books, and
 7 documents for examination and to give his testimony. The
 8 court may punish for contempt as in the case of disobedience
 9 to a like subpoena issued by the court or for refusal to
 10 testify therein."

11 NEW SECTION. Section 7. Prohibited activity. (1) No
 12 person may:

13 (a) cause pollution of any state waters or place or
 14 cause to be placed any liquid, gaseous, solid, or other
 15 substance in a location where the substance is likely to
 16 cause pollution of any state waters;

17 (b) violate any provision set forth in a permit or
 18 stipulation, including but not limited to limitations and
 19 conditions contained in it;

20 (c) violate an order issued pursuant to this chapter;
 21 or

22 (d) violate a provision of this chapter.

23 (2) No person may drill, construct, convert, or
 24 operate a class II injection well or drill an oil or gas
 25 well or stratigraphic test well or core hole as described

1 under 82-11-134 without a valid permit or order from the
2 board.

3 NEW SECTION. Section 8. Legal assistance. When
4 requested by the board, the attorney general or the county
5 attorneys within their respective counties shall perform
6 legal services and conduct legal proceedings necessary to
7 carry out the purposes of this chapter. The board may also
8 employ legal counsel to enforce this chapter and to conduct
9 proceedings under it.

10 NEW SECTION. Section 9. Emergencies -- notice and
11 hearing. (1) Notwithstanding any other provisions of this
12 chapter, if the administrator or a board member finds that a
13 person is committing or about to commit an act in violation
14 of this chapter or any order or rule issued under it which,
15 if it occurs or continues, will cause substantial pollution,
16 the administrator under order of the board or the board
17 member is authorized to order the person to stop, avoid, or
18 moderate the act, including immediate closure or shutdown of
19 any well. This authority is limited to acts the harmful
20 effects of which will not be remedied immediately after the
21 commission or cessation of the act or will represent an
22 immediate threat to public health, safety, or welfare.

23 (2) When any emergency requiring immediate action is
24 found pursuant to subsection (1), the board is authorized to
25 issue an emergency order without notice or hearing, which is

1 effective upon issuance as provided in 82-11-141(3).

2 (3) The board may have written notice served,
3 personally or by mail, on the alleged violator or his agent.
4 The notice must state the provision alleged to be violated,
5 the facts alleged to constitute the violation, the nature of
6 corrective action the board requires, and the time within
7 which the action is to be taken. For the purposes of this
8 section, service by mail is complete on the date of mailing.

9 (4) The notice must indicate that the order is an
10 emergency order.

11 (5) Pursuant to 82-11-141(3), the board may consider
12 the emergency order at its next regular meeting, without
13 compliance with the notice requirements of this chapter if
14 they cannot be accomplished within the time available, and
15 enter a second emergency order.

16 (6) Upon issuing an order under subsection (2), the
17 board may fix a place and time for a hearing, not later than
18 5 days thereafter unless the person to whom the order is
19 directed requests a later time. The board may deny a request
20 for a later time if it finds that the person to whom the
21 order is directed is not complying with the order. If the
22 board considers it practicable, the hearing must be held in
23 the county where the violation is alleged to have occurred.
24 As soon as practicable after the hearing, the board shall
25 affirm, modify, or set aside the order.

1 (7) If the order of the board is affirmed, it must be
 2 accompanied by a statement specifying the date or dates by
 3 which a violation must cease and may prescribe timetables
 4 for necessary action in preventing, abating, or controlling
 5 the pollution. An action for review of the order of the
 6 board may be initiated in the manner specified in 82-11-144.
 7 The initiation of such an action or taking of an appeal may
 8 not stay the effectiveness of the order unless the court
 9 finds that the board did not have reasonable cause to issue
 10 an order under this section.

11 Section 10. Section 82-11-147, MCA, is amended to
 12 read:

13 "82-11-147. Violations. (1) Whenever---it---appears
 14 Notwithstanding any other provisions of this chapter, if the
 15 board finds upon receipt of evidence:

16 (a) that a person is violating or threatening to
 17 violate this chapter or a rule or order of the board, the
 18 board shall may bring suit against that person in the
 19 district court of any county where the violation occurs or
 20 is threatened to restrain the person from continuing the
 21 violation or from carrying out the threat of violation; or

22 (b) that a person is violating this chapter or a rule
 23 or order of the board in a manner for which the board is
 24 authorized to institute proceedings pursuant to [section
 25 11], the board may issue an order either assessing a civil

1 penalty in the amount prescribed in [section 11], up to a
 2 maximum administrative penalty of \$125,000, or requiring
 3 compliance with this chapter or a rule or order, or both.

4 (2) In the a suit under (1)(a), the court may grant to
 5 the board, without bond or other undertaking, such
 6 prohibitory and mandatory injunctions as the facts may
 7 warrant, including temporary restraining orders."

8 NEW SECTION. Section 11. Civil penalties. (1) A
 9 person is guilty of a misdemeanor and is subject to a civil
 10 penalty of at least \$5,000 if that person violates any rule
 11 or order of the board or a provision of this chapter. Each
 12 day of violation constitutes a separate violation.

13 (2) Action under this section does not bar enforcement
 14 of this chapter or of rules or orders issued under it by
 15 injunction or other appropriate remedy.

16 (3) The board, or the attorney general upon request of
 17 the board, shall institute and maintain any enforcement
 18 proceedings in the name of the state.

19 Section 12. Section 82-11-148, MCA, is amended to
 20 read:

21 "82-11-148. Penalties Criminal penalties. A person is
 22 guilty of a misdemeanor and shall be subject to a fine of
 23 not more than ~~\$5,000~~ \$10,000 per day of violation or
 24 imprisonment in a county jail for a term not exceeding 6
 25 months or to both the fine and imprisonment if that person

1 willfully violates any lawful rule or order of the board or
 2 if that person, for the purpose of evading this chapter or
 3 any rule or order of the board, knowingly and willfully:

4 (1) makes or causes to be made a false entry or
 5 statement in a report required by this chapter or by a rule
 6 or order of the board or a false entry in a record, account,
 7 or memorandum required by this chapter or by a rule or
 8 order;

9 (2) omits or causes to be omitted from the record,
 10 account, or memorandum full, true, and correct entries as
 11 required by this chapter or by a rule or order; or

12 (3) removes from this state or destroys, mutilates,
 13 alters, or falsifies the record, account, or memorandum."

14 NEW SECTION. Section 13. Class II injection well
 15 operating fee. (1) For the purpose of providing funds for
 16 defraying the expenses of operating and enforcing the class
 17 II injection well regulatory program, as defined by the
 18 federal environmental protection agency or any successor
 19 agency, each operator of a class II injection well ~~shall~~ MAY
 20 BE REQUIRED TO pay an annual operating fee not to exceed
 21 \$300 per injection well.

22 (2) The department shall collect the operating fee at
 23 such time as the board may prescribe by rule. All money
 24 collected under this section must be forwarded to the state
 25 treasurer for deposit in the state special revenue fund and

1 must be used for the purpose prescribed in subsection (1).

2 (3) The board shall, by rule adopted pursuant to the
 3 provisions of the Montana Administrative Procedure Act, fix
 4 the amount of the fee described in subsection (1) and may
 5 from time to time reduce or increase the amount thereof as
 6 the expenses chargeable against the state special revenue
 7 fund may require. However, the assessment fixed by the board
 8 may not exceed the limits prescribed in subsection (1). The
 9 amount of the fee must be expressed in dollars.

10 NEW SECTION. Section 14. Appropriation. There is
 11 appropriated from the state special revenue fund to the
 12 board of oil and gas conservation \$45,000 for fiscal year
 13 1988 and \$280,000 for fiscal year 1989 for purposes of
 14 administering this act.

15 NEW SECTION. Section 15. Extension of authority. Any
 16 existing authority of the board of oil and gas conservation
 17 and the department of revenue to make rules on the subject
 18 of the provisions of this act is extended to the provisions
 19 of this act.

20 NEW SECTION. Section 16. Codification instruction.
 21 Sections 3, 7 through 9, 11, and 13 are intended to be
 22 codified as an integral part of Title 82, chapter 11, part
 23 1, and the provisions of Title 82, chapter 11, part 1, apply
 24 to sections 3, 7 through 9, 11, and 13.

25 NEW SECTION. Section 17. Effective date. This act is

HB 0795/02

1 effective on passage and approval.

-End-

1 HOUSE BILL NO. 795

2 INTRODUCED BY GILBERT, RAMIREZ, IVERSON, SPAETH,

3 MENKE, WEEDING, KOLSTAD, ABRAMS

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THERE ARE NO CHANGES ON
HB-795 AND WILL NOT BE
REPRINTED. PLEASE REFER
TO SECOND READING (YELLOW)
FOR COMPLETE TEXT.

1 STATEMENT OF INTENT

2 HOUSE BILL 795

3 House Natural Resources Committee

4

5 It is the intent of the legislature that the board of
6 oil and gas conservation adopt rules necessary to regulate
7 class II injection wells under the provisions of this act.
8 These rules must establish an enforceable program meeting
9 the requirements of the environmental protection agency for
10 state administration of an underground injection control
11 program and ensuring compliance with state water quality
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INTRODUCED BY GILBERT, RAMIREZ, IVERSON, SPAETH,
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(2)(4) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

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

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

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

1 (8) "FLUID" MEANS ANY MATERIAL OR SUBSTANCE THAT FLOWS
 2 OR MOVES, WHETHER IN A SEMISOLID, LIQUID, SLUDGE, GAS, OR
 3 ANY OTHER FORM OR STATE.

4 (6)(8)(9) "Gas" means all natural gases and all other
 5 fluid hydrocarbons as produced at the wellhead and not
 6 defined as oil in subsection (7) (9) (10) of this section.

7 (7)(9)(10) "Oil" means crude petroleum oil and other
 8 hydrocarbons regardless of gravity which are produced at the
 9 wellhead in liquid form by ordinary production methods and
 10 which are not the result of condensation of gas before or
 11 after it leaves the reservoir.

12 (8)(10)(11) "Owner" means the person who has the right
 13 to drill into and produce from a pool and to appropriate the
 14 oil or gas he produces therefrom either for himself or
 15 others or for himself and others, and the term includes all
 16 persons holding such authority by or through him.

17 (9)(11)(12) "Person" means any natural person,
 18 corporation, association, partnership, receiver, trustee,
 19 executor, administrator, guardian, fiduciary, or other
 20 representative of any kind and includes any agency or
 21 instrumentality of the state or any governmental subdivision
 22 thereof.

23 (12)(13) "Pollution" means contamination or other
 24 alteration of the physical, chemical, or biological
 25 properties of any state waters that exceeds that permitted

1 by STATE WATER QUALITY STANDARDS OR standards adopted by the
 2 board, including but not limited to the disposal, discharge,
 3 seepage, drainage, infiltration, flow, or injection of any
 4 liquid, gaseous, solid, or other substance into any state
 5 waters that will or is likely to create a nuisance or render
 6 the waters harmful, detrimental, or injurious to public
 7 health, recreation, safety, welfare, livestock, wild
 8 animals, birds, fish, or other wildlife. A disposal,
 9 discharge, seepage, drainage, infiltration, flow, or
 10 injection of fluid that is authorized under a rule, permit,
 11 or order of the board is not pollution under this chapter.

12 (10)(13)(14) "Pool" means an underground reservoir
 13 containing a common accumulation of oil or gas or both; each
 14 zone of a structure which is completely separated from any
 15 other zone in the same structure is a pool, as that term is
 16 used in this chapter.

17 (11)(14)(15) "Producer" means the owner of a well or
 18 wells capable of producing oil or gas or both.

19 (15)(16) "State waters" means any body of water, either
 20 surface or underground.

21 (12)(16)(17) "Waste" means:

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

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

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

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

14 Section 2. Section 82-11-111, MCA, is amended to read:

15 "82-11-111. Powers and duties of board. (1) The board
16 shall make such investigations as it considers proper to
17 determine whether waste exists or is imminent or whether
18 other facts exist which justify any action by the board
19 under the authority granted by this chapter with respect
20 thereto.

21 (2) Subject to the administrative control of the
22 department under 2-15-121, the board shall:

23 (a) require measures to be taken to prevent
24 contamination of or damage to surrounding land or
25 underground strata caused by drilling operations and

1 production, including but not limited to regulating the
2 disposal or injection of salt water and disposal of oil
3 field wastes;

4 (b) classify wells as oil or gas wells or class II
5 injection wells for purposes material to the interpretation
6 or enforcement of this chapter;

7 (c) adopt and enforce rules and orders to effectuate
8 the purposes and the intent of this chapter.

9 (3) The board shall determine and prescribe what
10 producing wells shall be defined as "stripper wells" and
11 what wells shall be defined as "wildcat wells" and make such
12 orders as in its judgment are required to protect those
13 wells and provide that stripper wells may be produced to
14 capacity if it is considered necessary in the interest of
15 conservation to do so.

16 (4) With respect to any pool from which gas was being
17 produced by a gas well on or prior to April 1, 1953, this
18 chapter does not authorize the board to limit or restrain
19 the rate (daily or otherwise) of production of gas from that
20 pool by any well then or thereafter drilled and producing
21 from that pool to less than the rate at which the well can
22 be produced without adversely affecting the quantity of gas
23 ultimately recoverable by the well.

24 (5) The board has exclusive jurisdiction over all
25 class II injection wells and all pits and ponds in relation

1 to those injection wells. The board may:

2 (a) issue, suspend, revoke, modify, or deny permits to
3 operate class II injection wells, consistent with rules made
4 by it;

5 (b) examine plans and other information needed to
6 determine whether a permit should be issued or require
7 changes in plans as a condition to the issuance of a permit;

8 (c) clearly specify in a permit any limitations
9 imposed as to the volume and characteristics of the fluids
10 to be injected and the operation of the well;

11 (d) authorize its staff to enter upon any public or
12 private property at reasonable times to:

13 (i) investigate conditions relating to violations of
14 permit conditions;

15 (ii) have access to and copy records required under
16 this chapter;

17 (iii) inspect monitoring equipment or methods; and

18 (iv) sample fluids which the operator is required to
19 sample; and

20 (e) adopt standards for the design, construction,
21 testing, and operation of class II injection wells."

22 NEW SECTION. Section 3. Confidentiality of records.

23 (1) Any information that is furnished to the board or the
24 board's staff or that is obtained by either of them is a
25 matter of public record and open to public use. However, any

1 information unique to the owner or operator that would, if
2 disclosed, reveal methods or processes entitled to
3 protection as trade secrets must be maintained as
4 confidential if so determined by the board.

5 (2) If an owner or operator disagrees with a
6 determination by the board that certain material will not be
7 maintained as confidential, the owner or operator may file a
8 declaratory judgment action in a court of competent
9 jurisdiction to establish the existence of a trade secret if
10 he wishes such information to enjoy confidential status. The
11 department must be served in any such action and may
12 intervene as a party.

13 (3) Any information not intended to be public when
14 submitted to the board or the board's staff must be
15 submitted in writing and clearly marked as confidential.

16 (4) Data describing physical and chemical
17 characteristics of a liquid, gaseous, solid, or other
18 substance injected or discharged into state waters may not
19 be considered confidential.

20 (5) The board may use any information in compiling or
21 publishing analyses or summaries relating to water pollution
22 if such analyses or summaries do not identify the owner or
23 operator or reveal any information that is otherwise made
24 confidential by this section.

25 Section 4. Section 82-11-123, MCA, is amended to read:

1 "82-11-123. Requirements for oil and gas operations.
2 Subject to the administrative control of the department
3 under 2-15-121, the board shall require:

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

6 (2) the making and filing of acceptable well logs,
7 including bottom-hole temperatures, to facilitate the
8 discovery of potential geothermal energy sources, reports on
9 well locations, and the filing of directional surveys, if
10 made; however, logs of exploratory or wildcat wells need not
11 be filed for a period of 6 months following completion of
12 those wells;

13 (3) the drilling, casing, producing, and plugging of
14 wells and class II injection wells in such manner as to
15 prevent the escape of oil or gas out of one stratum into
16 another, the intrusion of water into oil or gas stratum,
17 blowouts, cavings, seepages, and fires and the pollution of
18 fresh water supplies by oil, gas, salt, or brackish water;

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

1 (5) the furnishing of a reasonable bond with good and
2 sufficient surety, conditioned for performance of the duty
3 to properly plug each dry or abandoned well;

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

7 (7) that every person who produces, transports, or
8 stores oil or gas or injects or disposes of salt water in
9 this state shall make available within this state for a
10 period of 5 years complete and accurate records of the
11 quantities thereof, which records shall be available for
12 examination by the board or its employees at all reasonable
13 times, and that that person file with the board such reports
14 as it may prescribe with respect to quantities,
15 transportations, and storages of the oil or gas or salt
16 water; and

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

20 Section 5. Section 82-11-141, MCA, is amended to read:
21 "82-11-141. Administrative procedure. (1) Unless
22 otherwise provided, the Montana Administrative Procedure Act
23 applies to this chapter.

24 (2) An order or amendment thereof, except in an
25 emergency, may not be made by the board without a public

1 hearing upon at least 10 days' notice. The public hearing
2 shall be held at such time and place as may be prescribed by
3 the board, and any interested person is entitled to be
4 heard.

5 (3) When an emergency requiring immediate action is
6 found to exist, the board may issue an emergency order
7 without advance notice or hearing which shall be effective
8 upon promulgation. An emergency order may not remain in
9 effect more-than-15-days beyond the next regular meeting of
10 the board.

11 (4) If notice is required by the chapter and the
12 Montana Administrative Procedure Act does not apply, the
13 notice shall be made by publication in one or more issues of
14 a newspaper in general circulation in Helena and a newspaper
15 of general circulation in the county where the land or some
16 part thereon is situated, and the board may also cause
17 publication to be made in a trade journal or bulletin of
18 general circulation in the oil and gas industry in the
19 state.

20 (5) Proof of service by publication under subsection
21 (4) shall be made by the affidavit of the printer or
22 publisher of the newspaper, trade journal, or bulletin in
23 which the notice is published or by a foreman or principal
24 clerk of the newspaper, bulletin, or trade journal.

25 (6) Except as provided otherwise in this chapter, the

1 board may act upon its own motion or upon the petition of an
2 interested person. On the filing of a petition concerning a
3 matter within the jurisdiction of the board, the board shall
4 promptly fix a date for a hearing thereon and shall cause
5 notice of the hearing to be given. The hearing shall be held
6 without undue delay after the filing of the petition. The
7 board shall enter its order within 30 days after the
8 hearing."

9 Section 6. Section 82-11-142, MCA, is amended to read:

10 "82-11-142. Subpoena power -- civil actions. (1) If
11 the Montana Administrative Procedure Act does not apply, the
12 board may subpoena witnesses, administer oaths, and require
13 the production of records, books, and documents for
14 examination at any hearing or investigation conducted by it.
15 Witnesses subpoenaed under this subsection shall be paid the
16 same per diem and mileage as is provided to be paid to
17 witnesses attending the district courts of this state.

18 (2) This chapter, a suit by or against the board, a
19 violation charged or asserted against a person under this
20 chapter, or a rule or order issued under this chapter does
21 not impair, abridge, or delay a cause of action for damages
22 or other civil remedy which a person may have or assert
23 against a person violating this chapter or a rule or order
24 issued under it. A person so aggrieved by the violation may
25 sue for and recover such damages or relief as he otherwise

1 may be entitled to receive.

2 (3) A person, association, corporation, or agency of
 3 the state or federal government may apply to the board
 4 protesting a violation or a threatened violation of this
 5 chapter. The board shall make an investigation and make a
 6 written report to the person, association, corporation, or
 7 agency that made the protest. If a violation is established
 8 by the investigation of the board, the board shall take
 9 appropriate enforcement action. If the board fails to take
 10 appropriate enforcement action or to bring suit to enjoin a
 11 violation--or threatened violation of this chapter or a rule
 12 or order of the board within 10 days after receipt of
 13 written request to do so by a person who is or will be
 14 adversely affected by the violation, the person making the
 15 request may bring the suit in his own behalf to restrain the
 16 violation--or threatened violation in a court in which the
 17 board might have brought suit. The board shall be made a
 18 party defendant in the suit in addition to the person
 19 violating--or threatening to violate this chapter or a rule
 20 or order of the board, and the action shall proceed and
 21 injunctive relief may be granted without bond in the same
 22 manner as if suit had been brought by the board.

23 (3)(4) If a person fails or refuses to comply with the
 24 subpoena issued by the board or if a witness refuses to
 25 testify as to any material matter regarding which he may be

1 interrogated, any district court in the state, upon good
 2 cause shown by the application of the board, may issue a
 3 warrant of attachment for the person and, if after hearing
 4 the court finds his failure or refusal to be unjustified,
 5 compel him to comply with the subpoena and to attend before
 6 the board and produce any subpoenaed records, books, and
 7 documents for examination and to give his testimony. The
 8 court may punish for contempt as in the case of disobedience
 9 to a like subpoena issued by the court or for refusal to
 10 testify therein."

11 NEW SECTION. Section 7. Prohibited activity. (1) No
 12 person may:

13 (a) cause pollution of any state waters or place or
 14 cause to be placed any liquid, gaseous, solid, or other
 15 substance in a location where the substance is likely to
 16 cause pollution of any state waters;

17 (b) violate any provision set forth in a permit or
 18 stipulation, including but not limited to limitations and
 19 conditions contained in it;

20 (c) violate an order issued pursuant to this chapter;
 21 or

22 (d) violate a provision of this chapter.

23 (2) No person may drill, construct, convert, or
 24 operate a class II injection well or drill an oil or gas
 25 well or stratigraphic test well or core hole as described

1 under 82-11-134 without a valid permit or order from the
2 board.

3 NEW SECTION. Section 8. Legal assistance. When
4 requested by the board, the attorney general or the county
5 attorneys within their respective counties shall perform
6 legal services and conduct legal proceedings necessary to
7 carry out the purposes of this chapter. The board may also
8 employ legal counsel to enforce this chapter and to conduct
9 proceedings under it.

10 NEW SECTION. Section 9. Emergencies -- notice and
11 hearing. (1) Notwithstanding any other provisions of this
12 chapter, if the administrator or a board member finds that a
13 person is committing or about to commit an act in violation
14 of this chapter or any order or rule issued under it which,
15 if it occurs or continues, will cause substantial pollution,
16 the administrator under order of the board or the board
17 member is authorized to order the person to stop, avoid, or
18 moderate the act, including immediate closure or shutdown of
19 any well. This authority is limited to acts the harmful
20 effects of which will not be remedied immediately after the
21 commission or cessation of the act or will represent an
22 immediate threat to public health, safety, or welfare.

23 (2) When any emergency requiring immediate action is
24 found pursuant to subsection (1), the board is authorized to
25 issue an emergency order without notice or hearing, which is

1 effective upon issuance as provided in 82-11-141(3).

2 (3) The board may have written notice served,
3 personally or by mail, on the alleged violator or his agent.
4 The notice must state the provision alleged to be violated,
5 the facts alleged to constitute the violation, the nature of
6 corrective action the board requires, and the time within
7 which the action is to be taken. For the purposes of this
8 section, service by mail is complete on the date of mailing.

9 (4) The notice must indicate that the order is an
10 emergency order.

11 (5) Pursuant to 82-11-141(3), the board may consider
12 the emergency order at its next regular meeting, without
13 compliance with the notice requirements of this chapter if
14 they cannot be accomplished within the time available, and
15 enter a second emergency order.

16 (6) Upon issuing an order under subsection (2), the
17 board may fix a place and time for a hearing, not later than
18 5 days thereafter unless the person to whom the order is
19 directed requests a later time. The board may deny a request
20 for a later time if it finds that the person to whom the
21 order is directed is not complying with the order. If the
22 board considers it practicable, the hearing must be held in
23 the county where the violation is alleged to have occurred.
24 As soon as practicable after the hearing, the board shall
25 affirm, modify, or set aside the order.

1 (7) If the order of the board is affirmed, it must be
 2 accompanied by a statement specifying the date or dates by
 3 which a violation must cease and may prescribe timetables
 4 for necessary action in preventing, abating, or controlling
 5 the pollution. An action for review of the order of the
 6 board may be initiated in the manner specified in 82-11-144.
 7 The initiation of such an action or taking of an appeal may
 8 not stay the effectiveness of the order unless the court
 9 finds that the board did not have reasonable cause to issue
 10 an order under this section.

11 Section 10. Section 82-11-147, MCA, is amended to
 12 read:

13 "82-11-147. Violations. (1) ~~Whenever it appears~~
 14 Notwithstanding any other provisions of this chapter, if the
 15 board finds upon receipt of evidence:

16 (a) that a person is violating or threatening to
 17 violate this chapter or a rule or order of the board, the
 18 board shall may bring suit against that person in the
 19 district court of any county where the violation occurs or
 20 is threatened to restrain the person from continuing the
 21 violation or from carrying out the threat of violation; or

22 (b) that a person is violating this chapter or a rule
 23 or order of the board in a manner for which the board is
 24 authorized to institute proceedings pursuant to [section
 25 11], the board may issue an order either assessing a civil

1 penalty in the amount prescribed in [section 11], up to a
 2 maximum administrative penalty of \$125,000, or requiring
 3 compliance with this chapter or a rule or order, or both.

4 (2) In the a suit under (1)(a), the court may grant to
 5 the board, without bond or other undertaking, such
 6 prohibitory and mandatory injunctions as the facts may
 7 warrant, including temporary restraining orders."

8 NEW SECTION. Section 11. Civil penalties. (1) A
 9 person is guilty of a misdemeanor and is subject to a civil
 10 penalty of at least \$5,000 if that person violates any rule
 11 or order of the board or a provision of this chapter. Each
 12 day of violation constitutes a separate violation.

13 (2) Action under this section does not bar enforcement
 14 of this chapter or of rules or orders issued under it by
 15 injunction or other appropriate remedy.

16 (3) The board, or the attorney general upon request of
 17 the board, shall institute and maintain any enforcement
 18 proceedings in the name of the state.

19 Section 12. Section 82-11-148, MCA, is amended to
 20 read:

21 "82-11-148. Penalties Criminal penalties. A person is
 22 guilty of a misdemeanor and shall be subject to a fine of
 23 not more than ~~\$5,000~~ \$10,000 per day of violation or
 24 imprisonment in a county jail for a term not exceeding 6
 25 months or to both the fine and imprisonment if that person

1 willfully violates any lawful rule or order of the board or
 2 if that person, for the purpose of evading this chapter or
 3 any rule or order of the board, knowingly and willfully:

4 (1) makes or causes to be made a false entry or
 5 statement in a report required by this chapter or by a rule
 6 or order of the board or a false entry in a record, account,
 7 or memorandum required by this chapter or by a rule or
 8 order;

9 (2) omits or causes to be omitted from the record,
 10 account, or memorandum full, true, and correct entries as
 11 required by this chapter or by a rule or order; or

12 (3) removes from this state or destroys, mutilates,
 13 alters, or falsifies the record, account, or memorandum."

14 NEW SECTION. Section 13. Class II injection well
 15 operating fee. (1) For the purpose of providing funds for
 16 defraying the expenses of operating and enforcing the class
 17 II injection well regulatory program, as defined by the
 18 federal environmental protection agency or any successor
 19 agency, each operator of a class II injection well shall MAY
 20 BE REQUIRED TO pay an annual operating fee not to exceed
 21 \$300 per injection well.

22 (2) The department shall collect the operating fee at
 23 such time as the board may prescribe by rule. All money
 24 collected under this section must be forwarded to the state
 25 treasurer for deposit in the state special revenue fund and

1 must be used for the purpose prescribed in subsection (1).

2 (3) The board shall, by rule adopted pursuant to the
 3 provisions of the Montana Administrative Procedure Act, fix
 4 the amount of the fee described in subsection (1) and may
 5 from time to time reduce or increase the amount thereof as
 6 the expenses chargeable against the state special revenue
 7 fund may require. However, the assessment fixed by the board
 8 may not exceed the limits prescribed in subsection (1). The
 9 amount of the fee must be expressed in dollars.

10 NEW SECTION. Section 14. Appropriation. There is
 11 appropriated from the state special revenue fund to the
 12 board of oil and gas conservation \$45,000 for fiscal year
 13 1988 and \$280,000 for fiscal year 1989 for purposes of
 14 administering this act.

15 NEW SECTION. Section 15. Extension of authority. Any
 16 existing authority of the board of oil and gas conservation
 17 and the department of revenue to make rules on the subject
 18 of the provisions of this act is extended to the provisions
 19 of this act.

20 NEW SECTION. Section 16. Codification instruction.
 21 Sections 3, 7 through 9, 11, and 13 are intended to be
 22 codified as an integral part of Title 82, chapter 11, part
 23 1, and the provisions of Title 82, chapter 11, part 1, apply
 24 to sections 3, 7 through 9, 11, and 13.

25 NEW SECTION. Section 17. Effective date. This act is

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1 effective on passage and approval.

-End-