

HOUSE BILL NO. 143  
INTRODUCED BY SCHYE, GAGE

IN THE HOUSE

JANUARY 12, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
JANUARY 13, 1989	FIRST READING.
MARCH 18, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 20, 1989	PRINTING REPORT.  ON MOTION, RULES SUSPENDED TO ALLOW PLACE ON SECOND READING THIS DAY  SECOND READING, DO PASS.
MARCH 21, 1989	ENGROSSING REPORT.
MARCH 22, 1989	THIRD READING, PASSED. AYES, 94; NOES, 0.  TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 22, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.  FIRST READING.
MARCH 30, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 31, 1989	SECOND READING, CONCURRED IN.
APRIL 3, 1989	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.  RETURNED TO HOUSE.

IN THE HOUSE

APRIL 3, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 143  
2 INTRODUCED BY DeWayne Ruff  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOCATING A PORTION OF  
5 THE INTEREST INCOME FROM THE RESOURCE INDEMNITY TRUST TAX  
6 FOR THE PLUGGING OF CERTAIN OIL AND GAS WELLS; ESTABLISHING  
7 AN OIL AND GAS PRODUCTION DAMAGE MITIGATION ACCOUNT;  
8 PROVIDING A STATUTORY APPROPRIATION; PROVIDING A LIEN  
9 AGAINST THE PERSON RESPONSIBLE FOR PLUGGING THE WELL;  
10 AMENDING SECTIONS 15-38-202, 17-7-502, 82-10-402, 82-11-111,  
11 AND 82-11-123, MCA; AND PROVIDING AN EFFECTIVE DATE."  
12

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

14 **Section 1.** Section 15-38-202, MCA, is amended to read:

15 "15-38-202. Investment of resource indemnity trust  
16 fund -- expenditure -- minimum balance. (1) All moneys paid  
17 into the resource indemnity trust fund shall be invested at  
18 the discretion of the board of investments. All the net  
19 earnings accruing to the resource indemnity trust fund shall  
20 annually be added thereto until it has reached the sum of  
21 \$10 million. Thereafter, only the net earnings may be  
22 appropriated and expended until the fund reaches \$100  
23 million. Thereafter, all net earnings and all receipts shall  
24 be appropriated by the legislature and expended, provided  
25 that the balance in the fund may never be less than \$100

1 million.

2 (2) (a) At the beginning of each biennium, an amount  
3 not to exceed \$175,000 there is allocated from the interest  
4 income of the resource indemnity trust fund;

5 (i) an amount not to exceed \$175,000 to the  
6 environmental contingency account pursuant to the conditions  
7 of 75-1-1101; and

8 (ii) an amount not to exceed \$250,000 to the oil and  
9 gas production damage mitigation account pursuant to the  
10 conditions of [section 6].

11 (b) The remainder of the interest income is allocated  
12 as follows:

13 (a)(i) Beginning in fiscal year 1982, provided the  
14 amount in the resource indemnity trust fund is greater than  
15 \$10 million, 30% of the interest income of the resource  
16 indemnity trust fund must be allocated to the water  
17 development state special revenue account created by  
18 85-1-604.

19 (b)(ii) Beginning in fiscal year 1988, 12% of the  
20 interest income of the resource indemnity trust fund must be  
21 allocated to the hazardous waste/CERCLA special revenue  
22 account provided for in 75-10-621.

23 (c)(iii) Beginning in fiscal year 1990, 8% of the  
24 interest income from the resource indemnity trust fund must  
25 be allocated to the renewable resource development account

provided for in Title 90, chapter 2.

~~(d)~~(iv) Beginning in fiscal year 1990, 46% of the interest income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.

~~(e)~~(v) Beginning in fiscal year 1990, 4% of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the legislature or the executive branch that proposes to appropriate funds from the resource indemnity trust interest account other than as provided for by the allocations in subsection (2) must specify the amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session."

**Section 2.** Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial

legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136; [section 6]; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying,

1 and securing all bonds, notes, or other obligations, as due,  
 2 that have been authorized and issued pursuant to the laws of  
 3 Montana. Agencies that have entered into agreements  
 4 authorized by the laws of Montana to pay the state  
 5 treasurer, for deposit in accordance with 17-2-101 through  
 6 17-2-107, as determined by the state treasurer, an amount  
 7 sufficient to pay the principal and interest as due on the  
 8 bonds or notes have statutory appropriation authority for  
 9 such payments. (In subsection (3): pursuant to sec. 15, Ch.  
 10 607, L. 1987, the inclusion of 15-65-121 terminates June 30,  
 11 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion  
 12 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.  
 13 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.  
 14 1987, terminates July 1, 1988.)"

15 **Section 3.** Section 82-10-402, MCA, is amended to read:

16 "82-10-402. Inventory of abandoned wells and seismic  
 17 operations -- reclamation procedures. (1) The ~~department-of~~  
 18 ~~natural-resources-and~~ board of oil and gas conservation  
 19 shall maintain a ~~list~~ record of the abandoned oil or gas  
 20 wells, injection wells, sumps, and seismographic shot holes  
 21 in the state which disturb land, water, or wildlife  
 22 resources to a degree not in compliance with plugging,  
 23 pollution prevention, and reclamation rules of the board of  
 24 ~~oil-and-gas-conservation~~. This list shall be compiled from  
 25 petitions or written statements from the owners of surface

1 rights or lessees.

2 (2) The board shall check the ~~list--supplied--by--the~~  
 3 ~~department~~ record compiled under the preceding subsection  
 4 against its drilling records and shall determine the name of  
 5 the person who abandoned the well, sump, or hole, whenever  
 6 this information is available. When a person so listed  
 7 applies to the board for a new drilling permit, the board  
 8 may issue the permit only after approving a plan by which  
 9 the applicant will reclaim the land disturbed by his  
 10 abandoned wells, sumps, or holes within 3 years.

11 (3) When the person who abandoned a well, sump, or  
 12 hole cannot be identified or located under the preceding  
 13 subsection, the board ~~shall-notify-the-department-of-natural~~  
 14 ~~resources--and-conservation--The-department~~ may then reclaim  
 15 the disturbed land with funds available from the ~~resource~~  
 16 ~~indemnity--trust-fund-under-15-38-202~~ oil and gas production  
 17 damage mitigation account established in [section 6], when  
 18 available.

19 (4) As used in subsection (3), "well" includes a class  
 20 II injection well, as defined in 82-11-101, for which a  
 21 drilling permit or a permit authorizing use of a well for  
 22 that purpose was granted by the board after June 30, 1989,  
 23 and water source wells used in connection with enhanced  
 24 recovery projects."

25 **Section 4.** Section 82-11-111, MCA, is amended to read:

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

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

9       (a) require measures to be taken to prevent  
10 contamination of or damage to surrounding land or  
11 underground strata caused by drilling operations and  
12 production, including but not limited to regulating the  
13 disposal or injection of water and disposal of oil field  
14 wastes;

15       (b) classify wells as oil or gas wells or class II  
16 injection wells for purposes material to the interpretation  
17 or enforcement of this chapter;

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

20       (3) The board shall determine and prescribe what  
21 producing wells shall be defined as "stripper wells" and  
22 what wells shall be defined as "wildcat wells" and make such  
23 orders as in its judgment are required to protect those  
24 wells and provide that stripper wells may be produced to  
25 capacity if it is considered necessary in the interest of

1 conservation to do so.

2       (4) With respect to any pool from which gas was being  
3 produced by a gas well on or prior to April 1, 1953, this  
4 chapter does not authorize the board to limit or restrain  
5 the rate (daily or otherwise) of production of gas from that  
6 pool by any well then or thereafter drilled and producing  
7 from that pool to less than the rate at which the well can  
8 be produced without adversely affecting the quantity of gas  
9 ultimately recoverable by the well.

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

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

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

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

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

24       (i) investigate conditions relating to violations of  
25 permit conditions;

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

(iii) inspect monitoring equipment or methods; and

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

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

(6) The board shall determine, as required in [section 6]:

(a) when the person responsible for an abandoned well, sump, or hole cannot be identified or located, or if the person is identified or located, when the person does not have sufficient financial resources to properly plug the well, sump, or hole; or

(b) when a previously abandoned well, sump, or hole is the cause of potential environmental problems and no responsible party can be identified or located or, if a responsible party can be identified and located, the person does not have sufficient financial resources to correct the problems."

**Section 5.** Section 82-11-123, MCA, is amended to read:

**"82-11-123. Requirements for oil and gas operations.**

Subject to the administrative control of the department under 2-15-121, the board shall require:

(1) identification of ownership of oil or gas wells,

producing properties, and tanks;

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

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

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

(5) the furnishing of a reasonable bond with good and sufficient surety, conditioned for performance of the duty to properly plug each dry or abandoned well, which bond may not be canceled or absolved:

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

3 (i) the board determines the well is properly plugged  
4 and abandoned as provided in the board's rules; or

5 (ii) the requirements of [section 8] are met; or

6 (b) if the well is completed after June 30, 1989,  
7 until the board is notified as required in [section 7] that  
8 the well is producing oil and gas in commercial quantities  
9 and is subject to the provisions of [section 7];

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

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

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

25 NEW SECTION. Section 6. Oil and gas production damage

1 mitigation account -- statutory appropriation. (1) There is  
2 an oil and gas production damage mitigation account within  
3 the state special revenue fund established in 17-2-102. The  
4 oil and gas production damage mitigation account is  
5 controlled by the board.

6 (2) On July 1, 1989, and at the beginning of each  
7 succeeding biennium, there must be allocated to the oil and  
8 gas production damage mitigation account \$250,000 from the  
9 interest income of the resource indemnity trust fund, except  
10 if at the beginning of a biennium the unobligated cash  
11 balance in the oil and gas production damage mitigation  
12 account:

13 (a) equals or exceeds \$500,000, no allocation will be  
14 made; or

15 (b) is less than \$500,000, then an amount less than or  
16 equal to the difference between the unobligated cash balance  
17 and \$500,000, but not more than \$250,000, must be allocated  
18 to the oil and gas production damage mitigation account from  
19 the interest income of the resource indemnity trust fund.

20 (3) If a sufficient balance exists in the account,  
21 funds are statutorily appropriated, as provided in 17-7-502,  
22 from the oil and gas production damage mitigation account,  
23 upon the authorization of the board, to pay the reasonable  
24 costs of properly plugging a well if the board determines  
25 that the well, sump, or hole has been abandoned, oil or gas



1 was not produced in commercial quantities, and the  
2 responsible person cannot be identified or located.

3 (4) Interest from funds in the oil and gas production  
4 damage mitigation account accrues to that account.

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

10 NEW SECTION. Section 7. Release of producing oil or  
11 gas well from drilling bond. Upon application of the owner  
12 in a form prescribed by the board and upon providing proof  
13 that a well completed after June 30, 1989, is producing oil  
14 or gas in commercial quantities and is subject to the tax  
15 under 15-38-104, the board shall release and absolve the  
16 owner of the well from the bond required under 82-11-123.

17 NEW SECTION. Section 8. Landowner's bond on  
18 noncommercial well. If the owner of the surface land upon  
19 which has been drilled a well that fails to produce oil or  
20 gas in commercial quantities acquires the well for domestic  
21 purposes, the board may cancel and absolve the bond required  
22 in 82-11-123 upon its acceptance of surety in the form of a  
23 certificate of deposit, in the amount of \$5,000 for a single  
24 well or in the amount of \$10,000 for more than one well, or  
25 in the form of a property bond of two times the value of the

1 required certificate of deposit. The release of the  
2 certificate of deposit or property bond must be conditioned  
3 on proof provided by the landowner that the well has been  
4 properly plugged.

5 NEW SECTION. Section 9. Lien created -- priority. (1)  
6 The oil and gas production damage mitigation account has a  
7 lien in the amount of the expenditure from the account, as  
8 provided in [section 6(3)], plus interest accrued at the  
9 rate of 10% a year against all real and personal property in  
10 this state owned by:

11 (a) the responsible person, as determined under  
12 [section 4], if that person is subsequently identified or  
13 located; or

14 (b) the responsible person, as determined under  
15 [section 4], if that person is known but cannot or will not  
16 reimburse the oil and gas production damage mitigation  
17 account.

18 (2) The lien created under subsection (1) must be  
19 filed in the office of the secretary of state and has  
20 priority over any other interest, lien, mortgage, or  
21 encumbrance that may attach to the real or personal property  
22 of the person as determined under [section 4].

23 (3) A lien created by this section has the force and  
24 effect of an execution duly levied against all property of  
25 the responsible person as determined under [section 4].

1        NEW SECTION.   **Section 10.**   Extension of authority. Any  
2   existing authority to make rules on the subject of the  
3   provisions of [this act] is extended to the provisions of  
4   [this act].

5        NEW SECTION.   **Section 11.**   Saving clause. [This act]  
6   does not affect rights and duties that matured, penalties  
7   that were incurred, or proceedings that were begun before  
8   [the effective date of this act].

9        NEW SECTION.   **Section 12.**   Codification   instruction.  
10   [Sections 6 through 9] are intended to be codified as an  
11   integral part of Title 82, chapter 11, part 1, and the  
12   provisions of Title 82, chapter 11, part 1, apply to  
13   [sections 6 through 9].

14        NEW SECTION.   **Section 13.**   Effective date. [This act]  
15   is effective July 1, 1989.

-End-

APPROVED BY COMM. ON  
NATURAL RESOURCES

HOUSE BILL NO. 143

INTRODUCED BY SCHYE, GAGE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOCATING A PORTION OF THE INTEREST INCOME FROM THE RESOURCE INDEMNITY TRUST TAX FOR THE PLUGGING OF CERTAIN OIL AND GAS WELLS; ESTABLISHING AN OIL AND GAS PRODUCTION DAMAGE MITIGATION ACCOUNT; PROVIDING A STATUTORY APPROPRIATION; PROVIDING A LIEN AGAINST THE PERSON RESPONSIBLE FOR PLUGGING THE WELL; AMENDING SECTIONS 15-38-202, 17-7-502, 82-10-402, 82-11-101, 82-11-111, AND 82-11-123, MCA; AND PROVIDING AN EFFECTIVE DATE."

## STATEMENT OF INTENT

It is the intent of the legislature to create an oil and gas production damage mitigation account to be administered by the board of oil and gas conservation for the purpose of properly plugging and abandoning oil and gas wells when a responsible person cannot be found or when the responsible person does not have sufficient financial resources. The board shall adopt rules to help it define "sufficient financial resources", shall require a responsible person to pay the costs of plugging and abandoning to the extent of his available resources, and shall pursue full cost recovery for funds spent from the

account through the procedures provided in [section 9] or other lawful means. The board may adopt rules to administer instituting a lien on the person's personal and real property to cover the cost of plugging and abandoning.

The legislature intends that the board use the account for reclamation related to land, water, or wildlife resources disturbed by abandoned oil and gas wells, injection wells, sumps, and seismographic shot holes.

It is also the intent to remove producing wells completed after June 30, 1989, from drilling bonds and to limit the liability of the bond or its equivalent to the period between issuance of the bond and either proper plugging and abandoning of a dry hole or completion of a producing well. The board shall adopt forms for the producer to indicate that a well has been completed and shall, upon receipt of the information and payment required under [section 7], release and absolve the owner of the well from the bond required under 82-11-123.

It is further the intent of the legislature that the board of oil and gas conservation respond promptly to emergency situations that may arise.

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

**Section 1.** Section 15-38-202, MCA, is amended to read:**"15-38-202.** Investment of resource indemnity trust

1 fund -- expenditure -- minimum balance. (1) All moneys paid  
 2 into the resource indemnity trust fund shall be invested at  
 3 the discretion of the board of investments. All the net  
 4 earnings accruing to the resource indemnity trust fund shall  
 5 annually be added thereto until it has reached the sum of  
 6 \$10 million. Thereafter, only the net earnings may be  
 7 appropriated and expended until the fund reaches \$100  
 8 million. Thereafter, all net earnings and all receipts shall  
 9 be appropriated by the legislature and expended, provided  
 10 that the balance in the fund may never be less than \$100  
 11 million.

12 (2) (a) At the beginning of each biennium, ~~an amount~~  
 13 ~~not-to-exceed-\$175,000~~ there is allocated from the interest  
 14 income of the resource indemnity trust fund:

15 (i) an amount not to exceed \$175,000 to the  
 16 environmental contingency account pursuant to the conditions  
 17 of 75-1-1101; and

18 (ii) BEGINNING IN FISCAL YEAR 1992, an amount not to  
 19 exceed \$250,000 \$50,000 to the oil and gas production damage  
 20 mitigation account pursuant to the conditions of [section  
 21 6].

22 (b) The remainder of the interest income is allocated  
 23 as follows:

24 {a}{i} Beginning in fiscal year 1982, provided the  
 25 amount in the resource indemnity trust fund is greater than

1 \$10 million, 30% of the interest income of the resource  
 2 indemnity trust fund must be allocated to the water  
 3 development state special revenue account created by  
 4 85-1-604.

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 6 interest income of the resource indemnity trust fund must be  
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 10 interest income from the resource indemnity trust fund must  
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 18 interest income of the resource indemnity trust fund must be  
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 22 legislature or the executive branch that proposes to  
 23 appropriate funds from the resource indemnity trust interest  
 24 account other than as provided for by the allocations in  
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1 allocation that is proposed to be diverted and the proposed  
2 use of the diverted funds. A formal budget document includes  
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17 listed in subsection (3).

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19 appropriation must specifically state that a statutory  
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22 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
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24 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101;  
25 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;

1 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;  
2 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;  
3 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111;  
4 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501;  
5 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101;  
6 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136; [section  
7 6]; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306;  
8 90-15-103; section 13, House Bill No. 861, Laws of 1985; and  
9 section 1, Chapter 454, Laws of 1987.

10 (4) There is a statutory appropriation to pay the  
11 principal, interest, premiums, and costs of issuing, paying,  
12 and securing all bonds, notes, or other obligations, as due,  
13 that have been authorized and issued pursuant to the laws of  
14 Montana. Agencies that have entered into agreements  
15 authorized by the laws of Montana to pay the state  
16 treasurer, for deposit in accordance with 17-2-101 through  
17 17-2-107, as determined by the state treasurer, an amount  
18 sufficient to pay the principal and interest as due on the  
19 bonds or notes have statutory appropriation authority for  
20 such payments. (In subsection (3); pursuant to sec. 15, Ch.  
21 607, L. 1987, the inclusion of 15-65-121 terminates June 30,  
22 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion  
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25 1987, terminates July 1, 1988.)"

**Section 3.** Section 82-10-402, MCA, is amended to read:

"82-10-402. Inventory of abandoned wells and seismic operations -- reclamation procedures. (1) The department--of natural--resources--and board of oil and gas conservation shall maintain a list record of the abandoned oil or gas wells, injection wells, sumps, and seismographic shot holes in the state which THAT disturb land, water, or wildlife resources to a degree not in compliance with plugging, pollution prevention, and reclamation rules of the board of oil--and--gas--conservation. This list-shall RECORD MUST be compiled from petitions or written statements from the owners of surface rights or lessees.

(2) The board shall check the list-supplied-by-the department record compiled under the--preceding subsection (1) against its drilling records and shall determine AND LIST the name of the person who abandoned the well, sump, or hole, whenever this information is available. When a person so listed applies to the board for a new drilling permit, the board may issue the permit only after approving a plan by which the applicant will reclaim the land disturbed by his abandoned wells, sumps, or holes within 3 years.

(3) When the person who abandoned a well, sump, or hole cannot be identified or located under-the-preceding subsection OR WHEN THE PERSON DOES NOT HAVE SUFFICIENT FINANCIAL RESOURCES TO PAY FOR COMPLETE RECLAMATION, the

~~board shall-notify-the-department-of-natural--resources--and conservation--The-department~~ may then reclaim the disturbed land with funds available from the ~~resource-indemnity--trust fund---under---15-38-202~~ oil and gas production damage mitigation account ~~established--in---{section---6}---~~ when available IN A MANNER CONSISTENT WITH THE REQUIREMENTS FOR THE USE OF THE ACCOUNT PROVIDED IN [SECTION 6] AND [SECTION 9].

(4) As used in subsection (3), "well" includes a class II injection well, as defined in 82-11-101, for which a drilling permit or a permit authorizing use of a well for that purpose was granted by the board after June 30, 1989, and water source wells used in connection with enhanced recovery projects."

**Section 4.** Section 82-11-111, MCA, is amended to read:

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

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

(a) require measures to be taken to prevent contamination of or damage to surrounding land or

1 underground strata caused by drilling operations and  
 2 production, including but not limited to regulating the  
 3 disposal or injection of water and disposal of oil field  
 4 wastes;

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

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

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

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

25 (5) The board has exclusive jurisdiction over all

1 class II injection wells and all pits and ponds in relation  
 2 to those injection wells. The board may:

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

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

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

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

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

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

18 (iii) inspect monitoring equipment or methods; and

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

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

23 (6) The board shall determine, as required FOR THE  
 24 PURPOSES OF USING THE OIL AND GAS PRODUCTION DAMAGE  
 25 MITIGATION ACCOUNT ESTABLISHED in [section 6]:

(a) when the person responsible for an abandoned well, sump, or hole cannot be identified or located, or if the person is identified or located, when the person does not have sufficient financial resources to properly plug the well, sump, or hole; or

(b) when a previously abandoned well, sump, or hole is the cause of potential environmental problems and no responsible party can be identified or located or, if a responsible party can be identified and located, the person does not have sufficient financial resources to correct the problems."

**Section 5.** Section 82-11-123, MCA, is amended to read:

**"82-11-123. Requirements for oil and gas operations.**

Subject to the administrative control of the department under 2-15-121, the board shall require:

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

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

(3) the drilling, casing, producing, and plugging of

wells and class II injection wells in such manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas stratum, blowouts, cavings, seepages, and fires and the pollution of fresh water supplies by oil, gas, salt, or brackish water;

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

(5) the furnishing of a reasonable bond with good and sufficient surety, conditioned for performance of the duty to properly plug each dry or abandoned well, which bond may not be canceled or absolved:

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

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

(ii) the requirements of [section 8] are met; or

(b) if the well is completed after June 30, 1989, until the OWNER NOTIFIES THE board is notified as required in-[section-7] that the well is producing oil and gas in commercial quantities and is-subject-to-the-provisions MEETS



1 THE REQUIREMENTS of [section 7];

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

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

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

17 NEW SECTION. Section 6. Oil and gas production damage  
18 mitigation account -- statutory appropriation. (1) There is  
19 an oil and gas production damage mitigation account within  
20 the state special revenue fund established in 17-2-102. The  
21 oil and gas production damage mitigation account is  
22 controlled by the board.

23 (2) On July 1, ~~1989~~ 1991, and at the beginning of each  
24 succeeding biennium, there must be allocated to the oil and  
25 gas production damage mitigation account ~~\$250,000~~ \$50,000

1 from the interest income of the resource indemnity trust  
2 fund, except if at the beginning of a biennium the  
3 unobligated cash balance in the oil and gas production  
4 damage mitigation account:

5 (a) equals or exceeds ~~\$500,000~~ \$200,000, no allocation  
6 will be made; or

7 (b) is less than ~~\$500,000~~ \$200,000, then an amount  
8 less than or equal to the difference between the unobligated  
9 cash balance and ~~\$500,000~~ \$200,000, but not more than  
10 ~~\$250,000~~ \$50,000, must be allocated to the oil and gas  
11 production damage mitigation account from the interest  
12 income of the resource indemnity trust fund.

13 (3) IN ADDITION TO THE ALLOCATION PROVIDED IN  
14 SUBSECTION (2), THERE MUST BE DEPOSITED IN THE OIL AND GAS  
15 PRODUCTION DAMAGE MITIGATION ACCOUNT:

16 (A) ALL FUNDS RECEIVED BY THE BOARD PURSUANT TO  
17 82-11-136; AND

18 (B) ALL FEES RECEIVED BY THE BOARD FROM OWNERS OF  
19 PRODUCING WELLS PURSUANT TO [SECTION 7].

20 ~~†3†~~4 If a sufficient balance exists in the account,  
21 funds are statutorily appropriated, as provided in 17-7-502,  
22 from the oil and gas production damage mitigation account,  
23 upon the authorization of the board, to pay the reasonable  
24 costs of properly plugging a well if the board determines  
25 that the well, sump, or hole has been abandoned, ~~oil or gas~~

was---not---produced---in---commercial---quantities, and the responsible person cannot be identified or located OR THE RESPONSIBLE PERSON DOES NOT HAVE SUFFICIENT FUNDS TO PAY THE COSTS. THE RESPONSIBLE PERSON SHALL, HOWEVER, PAY COSTS TO THE EXTENT OF HIS AVAILABLE RESOURCES AND IS SUBSEQUENTLY LIABLE TO FULLY REIMBURSE THE ACCOUNT OR IS SUBJECT TO A LIEN ON PROPERTY AS PROVIDED IN [SECTION 9] FOR COSTS EXPENDED FROM THE ACCOUNT TO PROPERLY PLUG THE WELL AND TO MITIGATE ANY DAMAGE CAUSED BY THE WELL.

{4}(5) Interest from funds in the oil and gas production damage mitigation account accrues to that account.

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

NEW SECTION. Section 7. Release of producing oil or gas well from drilling bond -- FEE. Upon application of RECEIPT OF NOTIFICATION BY the owner in ON a form prescribed by the board, PAYMENT BY THE OWNER OF \$125, and upon providing proof FROM THE OWNER that a well completed after June 30, 1989, is producing oil or gas in commercial quantities and is subject to the tax under 15-38-104, the board shall release and absolve the owner of the well from

the bond required under 82-11-123.

NEW SECTION. Section 8. Landowner's bond on noncommercial well. If the owner of the surface land upon which has been drilled a well that fails to produce oil or gas in commercial quantities acquires the well for domestic purposes, the board may cancel and absolve the bond required in 82-11-123 upon its acceptance of surety in the form of a certificate of deposit, in the amount of \$5,000 for a single well or in the amount of \$10,000 for more than one well, or in the form of a property bond of two times the value of the required certificate of deposit. The release of the certificate of deposit or property bond must be conditioned on proof provided by the landowner that the well has been properly plugged.

NEW SECTION. Section 9. Lien created --priority. (1) The oil and gas production damage mitigation account has a lien in the amount of the expenditure from the account, as provided--in--{section--6(3)} UNDER [SECTION 6(4)], plus interest accrued at the rate of 10% a year, against all real and personal property in this state owned by:

(a) the responsible person, as--determined--under {section-4}, if that person is subsequently identified or located; or

(b) the responsible person, as -determined--under {section-4}, if that person is known but cannot or will not

1 FULLY reimburse the oil and gas production damage mitigation  
2 account.

3 (2) The lien created under subsection (1) must be  
4 filed in the office of the secretary of state and has  
5 ~~priority---over---any---other---interest---lien---mortgage---or~~  
6 ~~encumbrance---that---may~~ MUST attach to the ALL real or personal  
7 property of the RESPONSIBLE person ~~as---determined---under~~  
8 ~~{section-4}~~.

9 (3) A lien created by this section ~~has---the---force---and~~  
10 ~~effect---of---an---execution---duly---levied---against---all---property---of~~  
11 ~~the---responsible---person---as---determined---under---{section-4}~~ IS  
12 VALID UNTIL PAID IN FULL OR OTHERWISE DISCHARGED. THE LIEN  
13 MUST BE FORECLOSED IN ACCORDANCE WITH APPLICABLE LAWS  
14 GOVERNING FORECLOSURE OF MORTGAGES AND LIENS.

15 **SECTION 10. SECTION 82-11-101, MCA, IS AMENDED TO**

16 READ:

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

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

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

24 (3) "Class II injection well" means a well, as defined  
25 by the federal environmental protection agency or any

1 successor agency, that injects fluids:

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

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

6 (c) for purposes of storing liquid hydrocarbons.

7 (4) "Department" means the department of natural  
8 resources and conservation provided for in Title 2, chapter  
9 15, part 33.

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

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

25 (7) "Field" means the general area underlaid by one or

1 more pools.

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

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

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

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

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

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

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

19 (16) "Responsible person" means a person who is  
20 determined by the board under 82-10-402 to have abandoned an  
21 oil or gas well, injection well, sump, or seismographic shot  
22 hole and who is:

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

25 (b) if the business organization does not have assets

1 in excess of \$250,000, a natural person with primary  
 2 ownership in the business organization.

3 {16}{17} "State waters" means any body of water, either  
 4 surface or underground.

5 {17}{18} "Waste" means:

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

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

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

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

23 NEW SECTION. Section 11. Extension of authority. Any  
 24 existing authority to make rules on the subject of the  
 25 provisions of [this act] is extended to the provisions of

1 [this act].

2 NEW SECTION. Section 12. Saving clause. [This act]  
 3 does not affect rights and duties that matured, penalties  
 4 that were incurred, or proceedings that were begun before  
 5 [the effective date of this act].

6 NEW SECTION. Section 13. Codification instruction.  
 7 [Sections 6 through 9] are intended to be codified as an  
 8 integral part of Title 82, chapter 11, part 1, and the  
 9 provisions of Title 82, chapter 11, part 1, apply to  
 10 [sections 6 through 9].

11 NEW SECTION. Section 14. Effective date. [This act]  
 12 is effective July 1, 1989.

-End-

## 1 HOUSE BILL NO. 143

2 INTRODUCED BY SCHYE, GAGE

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOCATING A PORTION OF  
5 THE INTEREST INCOME FROM THE RESOURCE INDEMNITY TRUST TAX  
6 FOR THE PLUGGING OF CERTAIN OIL AND GAS WELLS; ESTABLISHING  
7 AN OIL AND GAS PRODUCTION DAMAGE MITIGATION ACCOUNT;  
8 PROVIDING A STATUTORY APPROPRIATION; PROVIDING A LIEN  
9 AGAINST THE PERSON RESPONSIBLE FOR PLUGGING THE WELL;  
10 AMENDING SECTIONS 15-38-202, 17-7-502, 82-10-402, 82-11-101,  
11 82-11-111, AND 82-11-123, MCA; AND PROVIDING AN EFFECTIVE  
12 DATE."

## 14 STATEMENT OF INTENT

15 It is the intent of the legislature to create an oil  
16 and gas production damage mitigation account to be  
17 administered by the board of oil and gas conservation for  
18 the purpose of properly plugging and abandoning oil and gas  
19 wells when a responsible person cannot be found or when the  
20 responsible person does not have sufficient financial  
21 resources. The board shall adopt rules to help it define  
22 "sufficient financial resources", shall require a  
23 responsible person to pay the costs of plugging and  
24 abandoning to the extent of his available resources, and  
25 shall pursue full cost recovery for funds spent from the

1 account through the procedures provided in [section 9] or  
2 other lawful means. The board may adopt rules to administer  
3 instituting a lien on the person's personal and real  
4 property to cover the cost of plugging and abandoning.

5 The legislature intends that the board use the account  
6 for reclamation related to land, water, or wildlife  
7 resources disturbed by abandoned oil and gas wells,  
8 injection wells, sumps, and seismographic shot holes.

9 It is also the intent to remove producing wells  
10 completed after June 30, 1989, from drilling bonds and to  
11 limit the liability of the bond or its equivalent to the  
12 period between issuance of the bond and either proper  
13 plugging and abandoning of a dry hole or completion of a  
14 producing well. The board shall adopt forms for the producer  
15 to indicate that a well has been completed and shall, upon  
16 receipt of the information and payment required under  
17 [section 7], release and absolve the owner of the well from  
18 the bond required under 82-11-123.

19 It is further the intent of the legislature that the  
20 board of oil and gas conservation respond promptly to  
21 emergency situations that may arise.

22  
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24 Section 1. Section 15-38-202, MCA, is amended to read:  
25 "15-38-202. Investment of resource indemnity trust

1 fund -- expenditure -- minimum balance. (1) All moneys paid  
 2 into the resource indemnity trust fund shall be invested at  
 3 the discretion of the board of investments. All the net  
 4 earnings accruing to the resource indemnity trust fund shall  
 5 annually be added thereto until it has reached the sum of  
 6 \$10 million. Thereafter, only the net earnings may be  
 7 appropriated and expended until the fund reaches \$100  
 8 million. Thereafter, all net earnings and all receipts shall  
 9 be appropriated by the legislature and expended, provided  
 10 that the balance in the fund may never be less than \$100  
 11 million.

12 (2) (a) At the beginning of each biennium, an amount  
 13 ~~not to exceed \$175,000~~ there is allocated from the interest  
 14 income of the resource indemnity trust fund:

15 (i) an amount not to exceed \$175,000 to the  
 16 environmental contingency account pursuant to the conditions  
 17 of 75-1-1101; and

18 (ii) BEGINNING IN FISCAL YEAR 1992, an amount not to  
 19 exceed \$250,000 \$50,000 to the oil and gas production damage  
 20 mitigation account pursuant to the conditions of [section  
 21 6].

22 (b) The remainder of the interest income is allocated  
 23 as follows:

24 (a)(i) Beginning in fiscal year 1982, provided the  
 25 amount in the resource indemnity trust fund is greater than

1 \$10 million, 30% of the interest income of the resource  
 2 indemnity trust fund must be allocated to the water  
 3 development state special revenue account created by  
 4 85-1-604.

5 (b)(ii) Beginning in fiscal year 1988, 12% of the  
 6 interest income of the resource indemnity trust fund must be  
 7 allocated to the hazardous waste/CERCLA special revenue  
 8 account provided for in 75-10-621.

9 (c)(iii) Beginning in fiscal year 1990, 8% of the  
 10 interest income from the resource indemnity trust fund must  
 11 be allocated to the renewable resource development account  
 12 provided for in Title 90, chapter 2.

13 (d)(iv) Beginning in fiscal year 1990, 46% of the  
 14 interest income from the resource indemnity trust fund must  
 15 be allocated to the reclamation and development grants  
 16 account provided for in 90-2-1104.

17 (e)(v) Beginning in fiscal year 1990, 4% of the  
 18 interest income of the resource indemnity trust fund must be  
 19 allocated to the environmental quality protection fund  
 20 provided for in 75-10-704.

21 (3) Any formal budget document prepared by the  
 22 legislature or the executive branch that proposes to  
 23 appropriate funds from the resource indemnity trust interest  
 24 account other than as provided for by the allocations in  
 25 subsection (2) must specify the amount of money from each

allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session."

**Section 2.** Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;

17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136; section 6; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3): pursuant to sec. 15, Ch. 607, L. 1987, the inclusion of 15-65-121 terminates June 30, 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991; and pursuant to sec. 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L. 1987, terminates July 1, 1988.)"



**Section 3.** Section 82-10-402, MCA, is amended to read:

**"82-10-402. Inventory of abandoned wells and seismic operations -- reclamation procedures.** (1) The department--of ~~natural--resources--and~~ board of oil and gas conservation shall maintain a ~~list~~ record of the abandoned oil or gas wells, injection wells, sumps, and seismographic shot holes in the state which THAT disturb land, water, or wildlife resources to a degree not in compliance with plugging, pollution prevention, and reclamation rules of the board of ~~oil--and--gas--conservation~~. This ~~list~~ shall RECORD MUST be compiled from petitions or written statements from the owners of surface rights or lessees.

(2) The board shall check the ~~list~~ supplied by the department record compiled under the--preceding subsection (1) against its drilling records and shall determine AND LIST the name of the person who abandoned the well, sump, or hole, whenever this information is available. When a person so listed applies to the board for a new drilling permit, the board may issue the permit only after approving a plan by which the applicant will reclaim the land disturbed by his abandoned wells, sumps, or holes within 3 years.

(3) When the person who abandoned a well, sump, or hole cannot be identified or located under--the--preceding subsection OR WHEN THE PERSON DOES NOT HAVE SUFFICIENT FINANCIAL RESOURCES TO PAY FOR COMPLETE RECLAMATION, the

~~board shall notify the department of natural--resources--and conservation.---The department may then reclaim the disturbed land with funds available from the resource--indemnity--trust fund---under---15-38-202 oil and gas production damage mitigation account established--in---{section---6},---when available~~ IN A MANNER CONSISTENT WITH THE REQUIREMENTS FOR THE USE OF THE ACCOUNT PROVIDED IN [SECTION 6] AND [SECTION 9].

(4) As used in subsection (3), "well" includes a class II injection well, as defined in 82-11-101, for which a drilling permit or a permit authorizing use of a well for that purpose was granted by the board after June 30, 1989, and water source wells used in connection with enhanced recovery projects."

**Section 4.** Section 82-11-111, MCA, is amended to read:

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

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

(a) require measures to be taken to prevent contamination of or damage to surrounding land or

1 underground strata caused by drilling operations and  
2 production, including but not limited to regulating the  
3 disposal or injection of water and disposal of oil field  
4 wastes;

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

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

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

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

25 (5) The board has exclusive jurisdiction over all

1 class II injection wells and all pits and ponds in relation  
2 to those injection wells. The board may:

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

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

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

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

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

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

18 (iii) inspect monitoring equipment or methods; and

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

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

23 (6) The board shall determine, as required FOR THE  
24 PURPOSES OF USING THE OIL AND GAS PRODUCTION DAMAGE  
25 MITIGATION ACCOUNT ESTABLISHED in [section 6]:

1 (a) when the person responsible for an abandoned well,  
 2 sump, or hole cannot be identified or located, or if the  
 3 person is identified or located, when the person does not  
 4 have sufficient financial resources to properly plug the  
 5 well, sump, or hole; or

6 (b) when a previously abandoned well, sump, or hole is  
 7 the cause of potential environmental problems and no  
 8 responsible party can be identified or located or, if a  
 9 responsible party can be identified and located, the person  
 10 does not have sufficient financial resources to correct the  
 11 problems."

12 **Section 5.** Section 82-11-123, MCA, is amended to read:

13 **"82-11-123. Requirements for oil and gas operations.**  
 14 Subject to the administrative control of the department  
 15 under 2-15-121, the board shall require:

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

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

25 (3) the drilling, casing, producing, and plugging of

1 wells and class II injection wells in such manner as to  
 2 prevent the escape of oil or gas out of one stratum into  
 3 another, the intrusion of water into oil or gas stratum,  
 4 blowouts, cavings, seepages, and fires and the pollution of  
 5 fresh water supplies by oil, gas, salt, or brackish water;

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

13 (5) the furnishing of a reasonable bond with good and  
 14 sufficient surety, conditioned for performance of the duty  
 15 to properly plug each dry or abandoned well, which bond may  
 16 not be canceled or absolved:

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

19 (i) the board determines the well is properly plugged  
 20 and abandoned as provided in the board's rules; or

21 (ii) the requirements of [section 8] are met; or

22 (b) if the well is completed after June 30, 1989,  
 23 until the OWNER NOTIFIES THE board is-notified-as-required  
 24 in-[section-7] that the well is producing oil and gas in  
 25 commercial quantities and is-subject-to-the-provisions MEETS

1 THE REQUIREMENTS of [section 7];

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

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

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

17 NEW SECTION. Section 6. Oil and gas production damage  
18 mitigation account -- statutory appropriation. (1) There is  
19 an oil and gas production damage mitigation account within  
20 the state special revenue fund established in 17-2-102. The  
21 oil and gas production damage mitigation account is  
22 controlled by the board.

23 (2) On July 1, ~~1989~~ 1991, and at the beginning of each  
24 succeeding biennium, there must be allocated to the oil and  
25 gas production damage mitigation account ~~\$250,000~~ \$50,000

1 from the interest income of the resource indemnity trust  
2 fund, except if at the beginning of a biennium the  
3 unobligated cash balance in the oil and gas production  
4 damage mitigation account:

5 (a) equals or exceeds ~~\$500,000~~ \$200,000, no allocation  
6 will be made; or

7 (b) is less than ~~\$500,000~~ \$200,000, then an amount  
8 less than or equal to the difference between the unobligated  
9 cash balance and ~~\$500,000~~ \$200,000, but not more than  
10 ~~\$250,000~~ \$50,000, must be allocated to the oil and gas  
11 production damage mitigation account from the interest  
12 income of the resource indemnity trust fund.

13 (3) IN ADDITION TO THE ALLOCATION PROVIDED IN  
14 SUBSECTION (2), THERE MUST BE DEPOSITED IN THE OIL AND GAS  
15 PRODUCTION DAMAGE MITIGATION ACCOUNT:

16 (A) ALL FUNDS RECEIVED BY THE BOARD PURSUANT TO  
17 82-11-136; AND

18 (B) ALL FEES RECEIVED BY THE BOARD FROM OWNERS OF  
19 PRODUCING WELLS PURSUANT TO [SECTION 7].

20 {3}{4} If a sufficient balance exists in the account,  
21 funds are statutorily appropriated, as provided in 17-7-502,  
22 from the oil and gas production damage mitigation account,  
23 upon the authorization of the board, to pay the reasonable  
24 costs of properly plugging a well if the board determines  
25 that the well, sump, or hole has been abandoned; ~~oil or gas~~

was---not---produced---in---commercial---quantities, and the responsible person cannot be identified or located OR THE RESPONSIBLE PERSON DOES NOT HAVE SUFFICIENT FUNDS TO PAY THE COSTS. THE RESPONSIBLE PERSON SHALL, HOWEVER, PAY COSTS TO THE EXTENT OF HIS AVAILABLE RESOURCES AND IS SUBSEQUENTLY LIABLE TO FULLY REIMBURSE THE ACCOUNT OR IS SUBJECT TO A LIEN ON PROPERTY AS PROVIDED IN [SECTION 9] FOR COSTS EXPENDED FROM THE ACCOUNT TO PROPERLY PLUG THE WELL AND TO MITIGATE ANY DAMAGE CAUSED BY THE WELL.

{4}{5} Interest from funds in the oil and gas production damage mitigation account accrues to that account.

{5}{6} The board shall submit to the legislature at the beginning of each regular session a complete financial report on the oil and gas production damage mitigation account, including a description of all expenditures made since the preceding report.

NEW SECTION. Section 7. Release of producing oil or gas well from drilling bond -- FEE. Upon application-of RECEIPT OF NOTIFICATION BY the owner in ON a form prescribed by the board, PAYMENT BY THE OWNER OF \$125, and upon providing proof FROM THE OWNER that a well completed after June 30, 1989, is producing oil or gas in commercial quantities and is subject to the tax under 15-38-104, the board shall release and absolve the owner of the well from

the bond required under 82-11-123.

NEW SECTION. Section 8. Landowner's bond on noncommercial well. If the owner of the surface land upon which has been drilled a well that fails to produce oil or gas in commercial quantities acquires the well for domestic purposes, the board may cancel and absolve the bond required in 82-11-123 upon its acceptance of surety in the form of a certificate of deposit, in the amount of \$5,000 for a single well or in the amount of \$10,000 for more than one well, or in the form of a property bond of two times the value of the required certificate of deposit. The release of the certificate of deposit or property bond must be conditioned on proof provided by the landowner that the well has been properly plugged.

NEW SECTION. Section 9. Lien created --priority. (1) The oil and gas production damage mitigation account has a lien in the amount of the expenditure from the account, as provided--in--{section--6(3)} UNDER [SECTION 6(4)], plus interest accrued at the rate of 10% a year, against all real and personal property in this state owned by:

(a) the responsible person, as--determined--under {section-4}; if that person is subsequently identified or located; or

(b) the responsible person, as--determined--under {section-4}; if that person is known but cannot or will not

1 FULLY reimburse the oil and gas production damage mitigation  
2 account.

3 (2) The lien created under subsection (1) must be  
4 filed in the office of the secretary of state and has  
5 ~~priority---over---any---other---interest,---lien,---mortgage,---or~~  
6 ~~encumbrance-that-may~~ MUST attach to the ALL real or personal  
7 property of the RESPONSIBLE person ~~as--determined--under~~  
8 ~~{section-4}~~.

9 (3) A lien created by this section ~~has-the-force-and~~  
10 ~~effect-of-an-execution-duty-levied-against-all--property--of~~  
11 ~~the--responsible--person--as-determined-under-{section-4}~~ IS  
12 VALID UNTIL PAID IN FULL OR OTHERWISE DISCHARGED. THE LIEN  
13 MUST BE FORECLOSED IN ACCORDANCE WITH APPLICABLE LAWS  
14 GOVERNING FORECLOSURE OF MORTGAGES AND LIENS.

15 SECTION 10. SECTION 82-11-101, MCA, IS AMENDED TO  
16 READ:

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

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

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

24 (3) "Class II injection well" means a well, as defined  
25 by the federal environmental protection agency or any

1 successor agency, that injects fluids:

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

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

6 (c) for purposes of storing liquid hydrocarbons.

7 (4) "Department" means the department of natural  
8 resources and conservation provided for in Title 2, chapter  
9 15, part 33.

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

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

25 (7) "Field" means the general area underlaid by one or

1 more pools.

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

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

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

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

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

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

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

19 (16) "Responsible person" means a person who is  
20 determined by the board under 82-10-402 to have abandoned an  
21 oil or gas well, injection well, sump, or seismographic shot  
22 hole and who is:

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

25 (b) if the business organization does not have assets

1 in excess of \$250,000, a natural person with primary  
2 ownership in the business organization.

3 ~~†16†~~(17) "State waters" means any body of water, either  
4 surface or underground.

5 ~~†17†~~(18) "Waste" means:

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

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

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

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

23 NEW SECTION. Section 11. Extension of authority. Any  
24 existing authority to make rules on the subject of the  
25 provisions of [this act] is extended to the provisions of

1 [this act].

2 NEW SECTION. Section 12. Saving clause. [This act]  
3 does not affect rights and duties that matured, penalties  
4 that were incurred, or proceedings that were begun before  
5 [the effective date of this act].

6 NEW SECTION. Section 13. Codification instruction.  
7 [Sections 6 through 9] are intended to be codified as an  
8 integral part of Title 82, chapter 11, part 1, and the  
9 provisions of Title 82, chapter 11, part 1, apply to  
10 [sections 6 through 9].

11 NEW SECTION. Section 14. Effective date. [This act]  
12 is effective July 1, 1989.

-End-



## 1 HOUSE BILL NO. 143

2 INTRODUCED BY SCHYE, GAGE

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOCATING A PORTION OF  
5 THE INTEREST INCOME FROM THE RESOURCE INDEMNITY TRUST TAX  
6 FOR THE PLUGGING OF CERTAIN OIL AND GAS WELLS; ESTABLISHING  
7 AN OIL AND GAS PRODUCTION DAMAGE MITIGATION ACCOUNT;  
8 PROVIDING A STATUTORY APPROPRIATION; PROVIDING A LIEN  
9 AGAINST THE PERSON RESPONSIBLE FOR PLUGGING THE WELL;  
10 AMENDING SECTIONS 15-38-202, 17-7-502, 82-10-402, 82-11-101,  
11 82-11-111, AND 82-11-123, MCA; AND PROVIDING AN EFFECTIVE  
12 DATE."

## 14 STATEMENT OF INTENT

15 It is the intent of the legislature to create an oil  
16 and gas production damage mitigation account to be  
17 administered by the board of oil and gas conservation for  
18 the purpose of properly plugging and abandoning oil and gas  
19 wells when a responsible person cannot be found or when the  
20 responsible person does not have sufficient financial  
21 resources. The board shall adopt rules to help it define  
22 "sufficient financial resources", shall require a  
23 responsible person to pay the costs of plugging and  
24 abandoning to the extent of his available resources, and  
25 shall pursue full cost recovery for funds spent from the

1 account through the procedures provided in [section 9] or  
2 other lawful means. The board may adopt rules to administer  
3 instituting a lien on the person's personal and real  
4 property to cover the cost of plugging and abandoning.

5 The legislature intends that the board use the account  
6 for reclamation related to land, water, or wildlife  
7 resources disturbed by abandoned oil and gas wells,  
8 injection wells, sumps, and seismographic shot holes.

9 It is also the intent to remove producing wells  
10 completed after June 30, 1989, from drilling bonds and to  
11 limit the liability of the bond or its equivalent to the  
12 period between issuance of the bond and either proper  
13 plugging and abandoning of a dry hole or completion of a  
14 producing well. The board shall adopt forms for the producer  
15 to indicate that a well has been completed and shall, upon  
16 receipt of the information and payment required under  
17 [section 7], release and absolve the owner of the well from  
18 the bond required under 82-11-123.

19 It is further the intent of the legislature that the  
20 board of oil and gas conservation respond promptly to  
21 emergency situations that may arise.

22  
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24 Section 1. Section 15-38-202, MCA, is amended to read:

25 "15-38-202. Investment of resource indemnity trust

1 fund -- expenditure -- minimum balance. (1) All moneys paid  
 2 into the resource indemnity trust fund shall be invested at  
 3 the discretion of the board of investments. All the net  
 4 earnings accruing to the resource indemnity trust fund shall  
 5 annually be added thereto until it has reached the sum of  
 6 \$10 million. Thereafter, only the net earnings may be  
 7 appropriated and expended until the fund reaches \$100  
 8 million. Thereafter, all net earnings and all receipts shall  
 9 be appropriated by the legislature and expended, provided  
 10 that the balance in the fund may never be less than \$100  
 11 million.

12 (2) (a) At the beginning of each biennium, an amount  
 13 not-to-exceed-\$175,000 there is allocated from the interest  
 14 income of the resource indemnity trust fund;

15 (i) an amount not to exceed \$175,000 to the  
 16 environmental contingency account pursuant to the conditions  
 17 of 75-1-1101; and

18 (ii) BEGINNING IN FISCAL YEAR 1992, an amount not to  
 19 exceed \$250,000 \$50,000 to the oil and gas production damage  
 20 mitigation account pursuant to the conditions of [section  
 21 6].

22 (b) The remainder of the interest income is allocated  
 23 as follows:

24 (a)(i) Beginning in fiscal year 1982, provided the  
 25 amount in the resource indemnity trust fund is greater than

1 \$10 million, 30% of the interest income of the resource  
 2 indemnity trust fund must be allocated to the water  
 3 development state special revenue account created by  
 4 85-1-604.

5 (b)(ii) Beginning in fiscal year 1988, 12% of the  
 6 interest income of the resource indemnity trust fund must be  
 7 allocated to the hazardous waste/CERCLA special revenue  
 8 account provided for in 75-10-621.

9 (c)(iii) Beginning in fiscal year 1990, 8% of the  
 10 interest income from the resource indemnity trust fund must  
 11 be allocated to the renewable resource development account  
 12 provided for in Title 90, chapter 2.

13 (d)(iv) Beginning in fiscal year 1990, 46% of the  
 14 interest income from the resource indemnity trust fund must  
 15 be allocated to the reclamation and development grants  
 16 account provided for in 90-2-1104.

17 (e)(v) Beginning in fiscal year 1990, 4% of the  
 18 interest income of the resource indemnity trust fund must be  
 19 allocated to the environmental quality protection fund  
 20 provided for in 75-10-704.

21 (3) Any formal budget document prepared by the  
 22 legislature or the executive branch that proposes to  
 23 appropriate funds from the resource indemnity trust interest  
 24 account other than as provided for by the allocations in  
 25 subsection (2) must specify the amount of money from each

allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session."

**Section 2.** Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;

17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136; section 6; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3): pursuant to sec. 15, Ch. 607, L. 1987, the inclusion of 15-65-121 terminates June 30, 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991; and pursuant to sec. 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L. 1987, terminates July 1, 1988.)"

**Section 3.** Section 82-10-402, MCA, is amended to read:

"82-10-402. Inventory of abandoned wells and seismic operations -- reclamation procedures. (1) The department--of natural--resources--and board of oil and gas conservation shall maintain a list record of the abandoned oil or gas wells, injection wells, sumps, and seismographic shot holes in the state which THAT disturb land, water, or wildlife resources to a degree not in compliance with plugging, pollution prevention, and reclamation rules of the board of oil--and--gas--conservation. This list-shall RECORD MUST be compiled from petitions or written statements from the owners of surface rights or lessees.

(2) The board shall check the list-supplied-by-the department record compiled under the--preceding subsection (1) against its drilling records and shall determine AND LIST the name of the person who abandoned the well, sump, or hole, whenever this information is available. When a person so listed applies to the board for a new drilling permit, the board may issue the permit only after approving a plan by which the applicant will reclaim the land disturbed by his abandoned wells, sumps, or holes within 3 years.

(3) When the person who abandoned a well, sump, or hole cannot be identified or located under-the-preceding subsection OR WHEN THE PERSON DOES NOT HAVE SUFFICIENT FINANCIAL RESOURCES TO PAY FOR COMPLETE RECLAMATION, the

~~board shall-notify-the-department-of-natural--resources--and conservation--The-department may then reclaim the disturbed land with funds available from the resource-indemnity--trust fund---under---15-38-202 oil and gas production damage mitigation account established--in---{section---6}---when available IN A MANNER CONSISTENT WITH THE REQUIREMENTS FOR THE USE OF THE ACCOUNT PROVIDED IN [SECTION 6] AND [SECTION 9].~~

(4) As used in subsection (3), "well" includes a class II injection well, as defined in 82-11-101, for which a drilling permit or a permit authorizing use of a well for that purpose was granted by the board after June 10, 1989, and water source wells used in connection with enhanced recovery projects."

**Section 4.** Section 82-11-111, MCA, is amended to read:

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

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

(a) require measures to be taken to prevent contamination of or damage to surrounding land or

1 underground strata caused by drilling operations and  
2 production, including but not limited to regulating the  
3 disposal or injection of water and disposal of oil field  
4 wastes;

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

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

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

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

25 (5) The board has exclusive jurisdiction over all

1 class II injection wells and all pits and ponds in relation  
2 to those injection wells. The board may:

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

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

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

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

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

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

18 (iii) inspect monitoring equipment or methods; and

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

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

23 (6) The board shall determine, as required FOR THE  
24 PURPOSES OF USING THE OIL AND GAS PRODUCTION DAMAGE  
25 MITIGATION ACCOUNT ESTABLISHED in [section 6]:

(a) when the person responsible for an abandoned well, sump, or hole cannot be identified or located, or if the person is identified or located, when the person does not have sufficient financial resources to properly plug the well, sump, or hole; or

(b) when a previously abandoned well, sump, or hole is the cause of potential environmental problems and no responsible party can be identified or located or, if a responsible party can be identified and located, the person does not have sufficient financial resources to correct the problems."

**Section 5.** Section 82-11-123, MCA, is amended to read:

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

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

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

(3) the drilling, casing, producing, and plugging of

wells and class II injection wells in such manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas stratum, blowouts, cavings, seepages, and fires and the pollution of fresh water supplies by oil, gas, salt, or brackish water;

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

(5) the furnishing of a reasonable bond with good and sufficient surety, conditioned for performance of the duty to properly plug each dry or abandoned well, which bond may not be canceled or absolved:

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

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

(ii) the requirements of [section 8] are met; or

(b) if the well is completed after June 30, 1989, until the OWNER NOTIFIES THE board is notified as required in-[section-7] that the well is producing oil and gas in commercial quantities and is subject to the provisions MEETS

1 THE REQUIREMENTS of [section 7];

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

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

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

17 NEW SECTION. Section 6. Oil and gas production damage  
18 mitigation account -- statutory appropriation. (1) There is  
19 an oil and gas production damage mitigation account within  
20 the state special revenue fund established in 17-2-102. The  
21 oil and gas production damage mitigation account is  
22 controlled by the board.

23 (2) On July 1, ~~1989~~ 1991, and at the beginning of each  
24 succeeding biennium, there must be allocated to the oil and  
25 gas production damage mitigation account ~~\$250,000~~ \$50,000

1 from the interest income of the resource indemnity trust  
2 fund, except if at the beginning of a biennium the  
3 unobligated cash balance in the oil and gas production  
4 damage mitigation account:

5 (a) equals or exceeds ~~\$500,000~~ \$200,000, no allocation  
6 will be made; or

7 (b) is less than ~~\$500,000~~ \$200,000, then an amount  
8 less than or equal to the difference between the unobligated  
9 cash balance and ~~\$500,000~~ \$200,000, but not more than  
10 ~~\$250,000~~ \$50,000, must be allocated to the oil and gas  
11 production damage mitigation account from the interest  
12 income of the resource indemnity trust fund.

13 (3) IN ADDITION TO THE ALLOCATION PROVIDED IN  
14 SUBSECTION (2), THERE MUST BE DEPOSITED IN THE OIL AND GAS  
15 PRODUCTION DAMAGE MITIGATION ACCOUNT:

16 (A) ALL FUNDS RECEIVED BY THE BOARD PURSUANT TO  
17 82-11-136; AND

18 (B) ALL FEES RECEIVED BY THE BOARD FROM OWNERS OF  
19 PRODUCING WELLS PURSUANT TO [SECTION 7].

20 ~~(3)(4)~~ If a sufficient balance exists in the account,  
21 funds are statutorily appropriated, as provided in 17-7-502,  
22 from the oil and gas production damage mitigation account,  
23 upon the authorization of the board, to pay the reasonable  
24 costs of properly plugging a well if the board determines  
25 that the well, sump, or hole has been abandoned, ~~oil or gas~~

was---not---produced---in---commercial---quantities; and the responsible person cannot be identified or located OR THE RESPONSIBLE PERSON DOES NOT HAVE SUFFICIENT FUNDS TO PAY THE COSTS. THE RESPONSIBLE PERSON SHALL, HOWEVER, PAY COSTS TO THE EXTENT OF HIS AVAILABLE RESOURCES AND IS SUBSEQUENTLY LIABLE TO FULLY REIMBURSE THE ACCOUNT OR IS SUBJECT TO A LIEN ON PROPERTY AS PROVIDED IN [SECTION 9] FOR COSTS EXPENDED FROM THE ACCOUNT TO PROPERLY PLUG THE WELL AND TO MITIGATE ANY DAMAGE CAUSED BY THE WELL.

{4}(5) Interest from funds in the oil and gas production damage mitigation account accrues to that account.

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

NEW SECTION. Section 7. Release of producing oil or gas well from drilling bond -- FEE. Upon application of RECEIPT OF NOTIFICATION BY the owner in ON a form prescribed by the board, PAYMENT BY THE OWNER OF \$125, and upon providing proof FROM THE OWNER that a well completed after June 30, 1989, is producing oil or gas in commercial quantities and is subject to the tax under 15-38-104, the board shall release and absolve the owner of the well from

the bond required under 82-11-123.

NEW SECTION. Section 8. Landowner's bond on noncommercial well. If the owner of the surface land upon which has been drilled a well that fails to produce oil or gas in commercial quantities acquires the well for domestic purposes, the board may cancel and absolve the bond required in 82-11-123 upon its acceptance of surety in the form of a certificate of deposit, in the amount of \$5,000 for a single well or in the amount of \$10,000 for more than one well, or in the form of a property bond of two times the value of the required certificate of deposit. The release of the certificate of deposit or property bond must be conditioned on proof provided by the landowner that the well has been properly plugged.

NEW SECTION. Section 9. Lien created --priority. (1) The oil and gas production damage mitigation account has a lien in the amount of the expenditure from the account, ~~as provided in {section--6(3)}~~ UNDER [SECTION 6(4)], plus interest accrued at the rate of 10% a year, against all real and personal property in this state owned by:

(a) the responsible person, ~~as--determined--under {section-4}~~; if that person is subsequently identified or located; or

(b) the responsible person, ~~as--determined--under {section-4}~~; if that person is known but cannot or will not



1 FULLY reimburse the oil and gas production damage mitigation  
2 account.

3 (2) The lien created under subsection (1) must be  
4 filed in the office of the secretary of state and has  
5 priority---over---any---other---interest,---lien,---mortgage,---or  
6 encumbrance---that---may MUST attach to the ALL real or personal  
7 property of the RESPONSIBLE person as---determined---under  
8 {section-4}.

9 (3) A lien created by this section ~~has the force and~~  
10 ~~effect of an execution duty levied against all property of~~  
11 ~~the responsible person as determined under {section-4}~~ IS  
12 VALID UNTIL PAID IN FULL OR OTHERWISE DISCHARGED. THE LIEN  
13 MUST BE FORECLOSED IN ACCORDANCE WITH APPLICABLE LAWS  
14 GOVERNING FORECLOSURE OF MORTGAGES AND LIENS.

15 SECTION 10. SECTION 82-11-101, MCA, IS AMENDED TO  
16 READ:

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

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

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

24 (3) "Class II injection well" means a well, as defined  
25 by the federal environmental protection agency or any

1 successor agency, that injects fluids:

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

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

6 (c) for purposes of storing liquid hydrocarbons.

7 (4) "Department" means the department of natural  
8 resources and conservation provided for in Title 2, chapter  
9 15, part 33.

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

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

25 (7) "Field" means the general area underlaid by one or

1 more pools.

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

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

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

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

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

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

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

19 (16) "Responsible person" means a person who is  
20 determined by the board under 82-10-402 to have abandoned an  
21 oil or gas well, injection well, sump, or seismographic shot  
22 hole and who is:

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

25 (b) if the business organization does not have assets

1 in excess of \$250,000, a natural person with primary  
 2 ownership in the business organization.

3 ~~{16}~~(17) "State waters" means any body of water, either  
 4 surface or underground.

5 ~~{17}~~(18) "Waste" means:

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

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

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

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

23 NEW SECTION. Section 11. Extension of authority. Any  
 24 existing authority to make rules on the subject of the  
 25 provisions of [this act] is extended to the provisions of

1 [this act].

2 NEW SECTION. Section 12. Saving clause. [This act]  
 3 does not affect rights and duties that matured, penalties  
 4 that were incurred, or proceedings that were begun before  
 5 [the effective date of this act].

6 NEW SECTION. Section 13. Codification instruction.  
 7 [Sections 6 through 9] are intended to be codified as an  
 8 integral part of Title 82, chapter 11, part 1, and the  
 9 provisions of Title 82, chapter 11, part 1, apply to  
 10 [sections 6 through 9].

11 NEW SECTION. Section 14. Effective date. [This act]  
 12 is effective July 1, 1989.

-End-