

15-38-201. Creation of account in trust and legacy fund.
15-38-202. Investment of resource indemnity trust account — expenditure — minimum balance.
15-38-203. Purpose of fund usage.

Part 1
General Provisions

15-38-101. Short title. This chapter shall be known and may be cited as "The Montana Resource Indemnity Trust Act".
History: En. 84-7001 by Sec. 1, Ch. 497, L. 1973; R.C.M. 1947, 84-7001.

15-38-102. Legislative policy. It is the policy of this state to provide security against loss or damage to our environment from the extraction of nonrenewable natural resources. Recognizing that the total environment consists of our air, water, soil, flora, fauna, and also of those social, economic, and cultural conditions that influence our communities and the lives of our individual citizens, it is necessary that this state be indemnified for the extraction of those resources. Therefore, it is the purpose of this chapter to provide for the creation of a resource indemnity trust in order that the people and resources of Montana may long endure.
History: En. 84-7002 by Sec. 2, Ch. 497, L. 1973; R.C.M. 1947, 84-7002.

15-38-103. Definitions. As used in this chapter, the following definitions apply:
(1) "Department" means department of revenue.
(2) "Gross value of product" means the market value of any merchantable mineral extracted or produced during the taxable year.
(3) "Mineral" means any precious stones or gems, gold, silver, copper, coal, lead, petroleum, natural gas, oil, uranium, or other nonrenewable merchantable products extracted from the surface or subsurface of the state of Montana.
(4) "Total environment" means air, water, soil, flora, and fauna and the social, economic, and cultural conditions that influence communities and individual citizens.
History: En. 84-7003 by Sec. 3, Ch. 497, L. 1973; amd. Sec. 23, Ch. 52, L. 1977; R.C.M. 1947, 84-7003.

15-38-104. Tax on mineral production. The annual tax to be paid by the person engaged in or carrying on the business of mining, extracting, or producing a mineral shall be \$25, together with an additional sum or amount computed on the gross value of product which may have been derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 1/2 of 1% of the amount of gross value of product at the time of extraction from the ground, if in excess of \$5,000. Unless otherwise provided in a contract or lease, the pro rata share

of any royalty owner or owners may be deducted from a settlement and the least lease... of proceeds...
History: En. 84-7006 by Sec. 6, Ch. 497, L. 1973; amd. Sec. 1, Ch. 493, L. 1977; R.C.M. 1984-7006.

15-38-105. Report of gross yield from mines. A person who engages in or carries on the business of mining, extracting, or producing mineral from any quartz vein or lode, placer claim, dump or tailings, or other place or source shall on or before March 31 of each year make out a statement of gross yield of the mineral from each mine owned or worked by that person during the year preceding January 1 of the year in which the statement is made and the value thereof. This form shall be in the form prescribed by the department and shall be signed by the person or the manager, superintendent, agent, president, or vice-president of the corporation, association, or partnership, if any, and shall be delivered to the department on or before March 31. The statement shall show the following:

- (1) the name and address of the owner or lessee or operator of the mine
- (2) the description and location of the mine;
- (3) the quantity of minerals extracted, produced, and treated or sold at the mine during the period covered by the statement;
- (4) the amount and character of the mineral and the total yield of mineral from the mine in constituents of commercial value; that is to say, the number of ounces of gold or silver, pounds of copper or lead, tons of barrels of petroleum or other crude or mineral oil, cubic feet of natural gas, or other commercially valuable constituents of the ores or mineral products or deposits yielded to the person engaged in mining measured by standard units of measurement;
- (5) the gross yield or value in dollars and cents.

History: En. 84-7005 by Sec. 5, Ch. 497, L. 1973; R.C.M. 1947, 84-7005; amd. Sec. 3, Ch. 5, L. 1981.

Compiler's Comments
1981 Amendment: Substituted "signed by the person" for "verified by the oath of the person" in the second sentence.

15-38-106. Payment of tax — records — collection of taxes refunds. (1) The tax imposed by this chapter shall be paid by each person to which the tax applies, on or before March 31, on the value of product the year preceding January 1 of the year in which the tax is paid. The tax shall be paid to the department at the time that the statement of yield is filed with the department.
(2) The department shall deposit the proceeds of the tax in the resource indemnity trust account of the trust and legacy fund. Every person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(3) The department shall examine each of the statements and compute the taxes thereon, and the amount computed by the department shall be the taxes imposed, assessed against, and payable by the taxpayer making the statement for the year for which the statement is filed. If the tax found

a majority of the electors voting thereon. The state shall create to cover deficits incurred because appropriations exceeded anticipated revenue.

Section 9. Balanced budget. Appropriations by the legislature shall not exceed anticipated revenue.

Section 10. Local government debt. The legislature shall by law limit debts of counties, cities, towns, and all other local governmental entities.

Section 11. Use of loan proceeds. All money borrowed by or on behalf of the state or any county, city, town, or other local governmental entity shall be used only for purposes specified in the authorizing law.

Section 12. Strict accountability. The legislature shall by law insure strict accountability of all revenue received and money spent by the state and counties, cities, towns, and all other local governmental entities.

Section 13. Investment of public funds. (1) The legislature shall provide for a unified investment program for public funds and provide rules herefor, including supervision of investment of surplus funds of all counties, cities, towns, and other local governmental entities. Each fund forming a part of the unified investment program shall be separately identified. Except for monies contributed to retirement funds, no public funds shall be invested in private corporate capital stock. The investment program shall be audited at least annually and a report thereof submitted to the governor and legislature.

(2) The public school fund and the permanent funds of the Montana university system and all other state institutions of learning shall be safely and conservatively invested in:

- (a) Public securities of the state, its subdivisions, local government units, and districts within the state, or
- (b) Bonds of the United States or other securities fully guaranteed as to principal and interest by the United States, or
- (c) Such other safe investments bearing a fixed rate of interest as may be provided by law.

Section 14. Prohibited payments. Except for interest on the public debt, no money shall be paid out of the treasury unless upon an appropriation made by law and a warrant drawn by the proper officer in pursuance hereof.

ARTICLE IX

ENVIRONMENT AND NATURAL RESOURCES

- 1. Protection and improvement.
- 2. Reclamation.
- 3. Water rights.
- 4. Cultural resources.
- 5. Severance tax on coal — trust fund.

Section 1. Protection and improvement. (1) The state and each county shall maintain and improve a clean and healthful environment in Montana for present and future generations.

(2) The legislature shall provide for the administration and enforcement of this duty.

(3) The legislature shall provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.

Section 2. Reclamation. (1) All lands disturbed by the taking of natural resources shall be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed.

(2) The legislature shall provide for a fund, to be known as the resource indemnity trust of the state of Montana, to be funded by such taxes on the extraction of natural resources as the legislature may from time to time impose for that purpose.

(3) The principal of the resource indemnity trust shall forever remain inviolate in an amount of one hundred million dollars (\$100,000,000), guaranteed by the state against loss or diversion.

Section 3. Water rights. (1) All existing rights to the use of any waters for any useful or beneficial purpose are hereby recognized and confirmed.

(2) The use of all water that is now or may hereafter be appropriated for sale, rent, distribution, or other beneficial use, the right of way over the lands of others for all ditches, drains, flumes, canals, and aqueducts necessarily used in connection therewith, and the sites for reservoirs necessary for collecting and storing water shall be held to be a public use.

(3) All surface, underground, flood, and atmospheric waters within the boundaries of the state are the property of the state for the use of its people and are subject to appropriation for beneficial uses as provided by law.

(4) The legislature shall provide for the administration, control, and regulation of water rights and shall establish a system of centralized records, in addition to the present system of local records.

Section 4. Cultural resources. The legislature shall provide for the identification, acquisition, restoration, enhancement, preservation, and administration of scenic, historic, archeologic, scientific, cultural, and recreational areas, sites, records and objects, and for their use and enjoyment by the people.

Section 5. Severance tax on coal — trust fund. The legislature shall dedicate not less than one-fourth (¼) of the coal severance tax to a trust fund, the interest and income from which may be appropriated. The principal of the trust shall forever remain inviolate unless appropriated by vote of three-fourths (¾) of the members of each house of the legislature.

Trust and Legacy Fund

15-38-201. Creation of account in trust and legacy fund. For the purpose of carrying out this chapter, there is a resource indemnity trust account in the trust and legacy fund. The resource indemnity account shall be credited with all moneys received as herein provided.

History: En. 84-7004 by Sec. 4, Ch. 497, L. 1973; R.C.M. 1947, 84-7004.

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

(2) Beginning in fiscal year 1982, provided the amount in the resource trust account is greater than \$10 million, 30% of the interest income of the resource indemnity trust account must be allocated to the water development earmarked account created by 85-1-604.

History: En. 84-7009 by Sec. 9, Ch. 497, L. 1973; R.C.M. 1947, 84-7009; amd. Sec. 44, Ch. 505, L. 1981.

Compiler's Comments

1981 Amendment: Added subsection (2).

Severability: Section 51, Ch. 505, L. 1981, was

effective July 1, 1981. Sections 4 [85-1-603], 43 [15-35-108], and 49 [90-2-124] are a severability section.

Effective Date: Section 54, Ch. 505, L. 1981, provided: "This act, except for sections 4, 43, and 49, is effective July 1, 1981. Sections 4

[85-1-603], 43 [15-35-108], and 49 [90-2-124] are effective July 1, 1983."

15-38-203. Purpose of fund usage. Any funds made available under this chapter shall be used and expended to improve the total environment and rectify damage thereto.

History: En. 84-7010 by Sec. 10, Ch. 497, L. 1973; R.C.M. 1947, 84-7010.

CHAPTERS 39 THROUGH 49

RESERVED

CHAPTER 50

PUBLIC CONTRACTOR'S LICENSE AND TAX

Part 1 — General Provisions

Section	Definitions.
15-50-101.	Administrative powers of department.
15-50-102.	Rules.
15-50-103.	Records.
15-50-104.	

aid, all taxes shall be paid by the taxpayer. If the tax imposed is more than the amount paid, the difference must be applied as a tax credit for subsequent years or refunded if requested by the taxpayer.

History: En. 84-7007, 84-7008 by Secs. 7, 8, Ch. 497, L. 1973; R.C.M. 1947, 84-7007, 84-7008; L. 1979.

38-107. Procedure in case of failure to file statement. (1) If a person fails, refuses, or neglects to make and file a statement and return in the time prescribed, the department shall immediately after such return has expired determine, as nearly as may be possible from any returns or reports filed with the state or from any other information which the department may be able to obtain, the total gross value of product of such person during the calendar year immediately preceding the year in which the tax is to be paid and shall fix the amount of the tax on such person for such calendar year and shall add to the amount of such tax a penalty of 10% thereof plus interest at the rate of a month or fraction thereof computed on the total amount of tax and interest shall be computed from the date the tax was due to the taxpayer.

The department shall mail to the person required to file an annual return and pay any tax a letter setting forth the amount of tax, penalty, and interest due. The letter shall advise that if payment is not received, a warrant for distraint may be filed.

The 10% penalty may be waived by the department if reasonable cause for the failure and neglect to file the statement required by 15-38-105 is shown to the department.

History: En. 84-7012 by Sec. 12, Ch. 497, L. 1973; amd. Sec. 1, Ch. 301, L. 1975; amd. Sec. 11, L. 1977; R.C.M. 1947, 84-7012(1) thru (3); amd. Sec. 21, Ch. 439, L. 1981.

Compiler's Comments: The taxpayer shall pay the amount of tax due within 15 days of receiving the letter.

Amendment: Substituted the last sentence of (2) for a provision that the taxpayer

38-108. Warrant for distraint. If all or part of the tax imposed by this chapter is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien shall have precedence over any other claim, lien, or demand thereafter filed and recorded.

History: En. 84-7012 by Sec. 12, Ch. 497, L. 1973; amd. Sec. 1, Ch. 301, L. 1975; amd. Sec. 11, L. 1977; R.C.M. 1947, 84-7012(4); amd. Sec. 22, Ch. 439, L. 1981.

Compiler's Comments

Amendment: Substituted the first sentence of the section providing that the lien may be enforced in the same manner as judgment liens are enforced.

38-109. Restricted access to records. The information furnished by a producer to the department for the purpose of this chapter shall be confidential as provided in 15-31-507.

History: En. Sec. 13, Ch. 497, L. 1973; R.C.M. 1947, 84-7013.

Ream
Exhibit 2

HOUSE JOINT RESOLUTION 12
PROPOSED AMENDMENTS

1. Page 1, line 13: delete "states"
Insert: "and the National Forest Management Act of 1976 state"
2. Page 2, delete: lines 23-25
Insert: "except as provided in existing land-use planning statutes."
3. Page 3, delete: lines 5-6
Insert: "financially burdensome, outdated, nonessential facilities."

Exhibit 3

Jim Richards, Andrew Epple,
NAME Ward Shanahan, and Les Darling BILL NO. HB 472
ADDRESS P.O. Box 1715, Helena, MT 59624 DATE 013183
WHOM DO YOU REPRESENT Stillwater PGM Resources and
Stillwater and Sweet Grass Planners
SUPPORT _____ OPPOSE _____ AMEND XXX

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Amend New Section 5, page 11, of the introduced bill as follows:

1. Delete all language on page 11, lines 4 through 25, and page 12, lines 1 through 23, and insert in lieu thereof the following:

"NEW SECTION. Section 5. Impact plan amendments.

(1) The impact plan may provide for amendment under definite conditions, ^{Also the} ~~on the~~ governing body of an affected county or the mineral developer may petition the board for an amendment to an approved impact plan if:

(a) employment at the large-scale mineral development is forecast to increase or decrease by at least 100 people over or under the employment levels contemplated by the approved impact plan; or

(b) changes in the large-scale mineral development cause, or can be expected to cause, an increase in ~~estimated~~ population of at least 15% in a local government unit when measured against the average population of the local government unit in the 3-year period preceding the

commencement of new construction or new operations of the mining facility; or

(c) it becomes apparent that an approved impact plan is materially inaccurate because of errors in assessment and 2 years have not elapsed since the date the facility begins commercial production; or

(d) the governing body of an affected county and the mineral developer join in a petition to amend the impact plan.

(2) Within 10 days of receipt, the board shall publish notice of the petition at least once in a newspaper of general circulation in the affected county. The petition must include:

(a) an explanation of the need for an amendment;

(b) a statement of the facts and circumstances underlying the need for an amendment; and

(c) a description of the corrective measures proposed by the petitioner.

(3) Within 60 days after notice that the petition has been received, an affected local government unit or the mineral developer must notify the board in writing if such person objects to the amendments proposed by petitioner specifying the reasons why the impact plan should not be amended as proposed. If no objection is received within the 60-day period, the impact plan must be amended by the board as proposed by the petitioner.

(4) If an objection is received, within 10 days of its receipt, the board shall notify the petitioner and include a copy of all objections received by the board. If the objecting party and the petitioner cannot resolve the objections within 30 days after the expiration of the 60-day period, the board shall conduct a hearing on the validity of the objections within 30 days after the failure of the parties to resolve the objections. The hearing must be held in the affected county or, if objections are received from local government units in more than one county, must be held in the county which, in the board's judgment, is more greatly affected. The provisions of the Montana Administrative Procedure Act apply to the conduct of the hearing.

(5) Following the hearing, the board shall make findings as to those portions of the amendments which were objected to and, if appropriate, amend the impact plan accordingly. The board shall cause the findings and impact plan, as amended, to be served on all parties. Any local government unit or the developer is entitled to judicial review as provided by Title 2, chapter 4, part 7, in the district court for the judicial district in which the hearing was held."

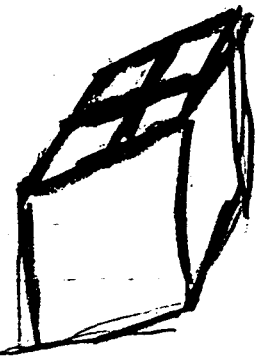
Ex. 4

PROPOSED AMENDMENTS TO HB 472

Submitted by
Stillwater and Sweet Grass Counties
and
Stillwater FGM Resources



Page 5, lines 17 through 22: "(3) Upon request of the governing body of an affected county UNIT OF LOCAL GOVERNMENT, the mineral developer(,) PRIOR TO COMMENCEMENT OF THE 90 DAY REVIEW PERIOD(,) shall provide financial or other assistance as necessary to prepare FOR and evaluate the impact plan. To receive this assistance, (T)he affected county COMMISSIONERS must contract with the developer and provide for TO OBTAIN THE REQUESTED FINANCIAL ASSISTANCE FOR EACH UNIT OF LOCAL GOVERNMENT WITHIN THE COUNTY(.) (A)ny disbursements TO A UNIT OF LOCAL GOVERNMENT UNDER THIS SUBSECTION shall be credited against future tax liabilities, IF ANY.



STANDING COMMITTEE REPORT

February 16,

19

83

MR. **SPEAKER:**

NATURAL RESOURCES

We, your committee on.....

having had under consideration..... **HOUSE** Bill No. **724**.....

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Color

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOCATING 30 PERCENT OF THE INTEREST INCOME FROM THE RESOURCE INDEMNITY TRUST ACCOUNT TO A HARD-ROCK MINING MITIGATION ACCOUNT; PROVIDING FOR THE USE OF THE ACCOUNT; AMENDING SECTIONS 15-38-202, 90-6-304, AND 90-6-305, MCA; AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That..... **HOUSE** Bill No. **724**.....

be amended as follows:

1. Page 3, line 24.

Strike: "effects of a"

Insert: "adverse environmental impacts, not including social and economic impacts, that result following the"

2. Page 3, line 25 through line 1 on page 4.

Strike: "within the local government unit"

3. Page 4, line 4.

Strike: this line in its entirety

Reinsert: following subsections

4. Page 4, line 3.

Following: "funds"

Insert: "from this account and other sources"

XXXXX
DO PASS

AND AS AMENDED
DO PASS