

SENATE BILL NO. 277

INTRODUCED BY E. SMITH, CONOVER, ETCHART, COLBERG

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 81-902, R.C.M. 1947, TO PROVIDE CERTAIN CONDITIONS WHICH MUST BE MET BEFORE THE STATE OR ITS LESSEES MAY ENTER UPON LANDS WHEREIN THE MINERALS ARE OWNED BY THE STATE AND THE SURFACE THEREOF IS OWNED BY ANOTHER."

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

Section 1. Section 81-902, R.C.M. 1947, is amended to read as follows:

"81-902. Mineral reservations in state lands. All coal, oil, oil shale, gas, phosphate, sodium, and other mineral deposits, except sand, gravel, building stone, and brick clay, in state lands, which were not reserved by the United States before July 1, 1927, are reserved to the state. All those deposits are reserved from sale except upon a rental and royalty basis as provided by law. A purchaser of state lands acquires no right, title, or interest in or to any of those deposits. The state also reserves for itself and its lessees the right, subject to the limitations hereinafter set forth, to enter upon these lands to prospect for, develop, mine, and remove those deposits and to occupy and use so much of the surface of the lands as may be

required for all purposes reasonably extending to the exploring for, mining, and removal of the deposits therefrom, but provided, however, that neither the state, nor its lessees, nor anyone claiming under them, shall have the right, after the effective date of this act, to enter upon or occupy such lands without having first secured the written consent of the owner of the surface of such lands to do so upon such conditions as said surface owner may require, including, but not limited to, a condition that the lessee shall make just payment to the purchaser for all damage done by reason of such entry upon the land and the use and occupancy of the surface thereof."

Section 2. This act shall be effective upon its passage and approval.

-End-

Approved by Committee
on Natural Resources

Approved by Comm.
on Fish and Game

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(1) THAT THE LESSEE SHALL PROVIDE A PLAN FOR LOCATION OF ALL FACILITIES;

(2) THAT THE LESSEE AND THE SURFACE OWNER SHALL AGREE UPON THE LOCATION OF ACCESS ROADS;

(3) THAT the lessee shall make just payment to the purchaser for all damage done by reason of such entry upon the land and the use and occupancy of the surface thereof. FOR PURPOSES OF THIS SUBSECTION, DAMAGES SHALL INCLUDE:

(A) LOSS OF INCOME TO THE SURFACE OWNER DURING THE PROCESS OF PROSPECTING, DEVELOPING, MINING, AND REMOVAL OF MINERAL DEPOSITS;

(B) COST TO THE SURFACE OWNER FOR RELOCATION AND DISLOCATION DURING THE PROCESS;

(C) COST TO THE SURFACE OWNER FOR LOSS OF LIVESTOCK, CROPS, WATER, OR OTHER IMPROVEMENTS;

1 (D) ANY OTHER DAMAGE TO THE SURFACE REASONABLY
2 ANTICIPATED TO BE CAUSED BY THE EXTRACTION AND RECLAMATION
3 OPERATION."

4 SECTION 2. THERE IS A NEW R.C.M. SECTION THAT READS AS
5 FOLLOWS:

6 Surface owner defined. For purposes of section 81-902,
7 "surface owner" means a person:

8 (1) who holds legal or equitable title to the land
9 surface; and

10 (2) whose principal place of residence is on the land,
11 or who personally conducts farming or ranching operations
12 upon a farm or ranch unit to be directly affected by mining
13 operations, or who receives directly a significant portion
14 of income, if any, from such farming or ranching operations.

15 Section 3. This act shall be effective upon its
16 passage and approval.

-End-

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16 brick clay, in state lands, which were not reserved by the
17 United States before July 1, 1927, are reserved to the
18 state. All those deposits are reserved from sale except upon
19 a rental and royalty basis as provided by law. A purchaser
20 of state lands acquires no right, title, or interest in or
21 to any of those deposits. The state also reserves for
22 itself and its lessees the right, subject to the limitations
23 hereinafter set forth, to enter upon these lands to prospect
24 for, develop, mine, and remove those deposits and to occupy
25 and use so much of the surface of the lands as may be

1 required for all purposes reasonably extending to the
2 exploring for, mining, and removal of the deposits
3 therefrom, but provided, however, that neither the state,
4 nor its lessees, nor anyone claiming under them, shall have
5 the right, after the effective date of this act, to enter
6 upon or occupy such lands without having first secured the
7 written consent of the owner of the surface of such lands.
8 to-do-so upon UPON such THE FOLLOWING conditions SUCH
9 CONSENT CANNOT BE WITHHELD: as--said--surface--owner--may
10 require7-including7-but-not-limited-to7-a-condition-that

11 (1) THAT THE LESSEE SHALL PROVIDE A PLAN FOR LOCATION
12 OF ALL FACILITIES;13 (2) THAT THE LESSEE AND THE SURFACE OWNER SHALL AGREE
14 UPON THE LOCATION OF ACCESS ROADS;15 (3) THAT the lessee shall make just payment to the
16 purchaser for all damage done by reason of such entry upon
17 the land and the use and occupancy of the surface thereof.
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21 MINERAL DEPOSITS;22 (B) COST TO THE SURFACE OWNER FOR RELOCATION AND
23 DISLOCATION DURING THE PROCESS;24 (C) COST TO THE SURFACE OWNER FOR LOSS OF LIVESTOCK,
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THIRD READING

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14 of income, if any, from such farming or ranching operations.

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16 passage and approval.

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COMMITTEE ON NATURAL RESOURCES AMENDMENTS TO SENATE BILL NO. 277

Be amended in the third reading copy as follows:

1. Amend page 2, section 1, line 8.

Following: "UPON"

Insert: "fulfillment of"

2. Amend page 2, section 1, line 9.

Following: "CONSENT"

Strike: "CANNOT"

Insert: "may not"

3. Amend page 3, following line 14.

Insert: Two new sections, section 3 and section 4, and renumber the subsequent section.

"Section 3. There is a new R.C.M. section that reads as follows:

Arbitration board--costs. (1) If the parties fail to agree

on the conditions set forth in section 81-902, an arbitration board

may be convened at the request of either party to settle the dispute.

All parties may be subject to the decision of the arbitration board.

The decision of the arbitration board is binding on only those parties

who agree in writing, prior to the appointment of the arbitration board,

that the decision will be binding upon them. Notwithstanding title 93,

chapter 201, the arbitration board shall consist of three (3) members:

one (1) appointed by the surface owner and one (1) appointed by the

lessee; the third member shall be a resident of the county or counties

in which the land in question is located and upon whom the first two (2)

members agree. This board shall sit for only that period of time neces-

sary to settle the dispute before it.

(2) Cost of the arbitration panel, computed as for jurors'

fees under section 25-401, shall be borne by the contesting party or

parties; all other parties shall bear their own costs.

Section 4. There is a new R.C.M. section that reads as follows:

Application to existing leases. The provisions of this act shall not apply to any state lands presently being leased unless such lease is renewed after the effective date of this act; provided, however, that the surface owner of the land which is under lease as of the effective date of this act may bring himself within the provisions of this act by notifying the state's lessee and the state commissioner of lands in writing by certified mail; the lessee and the surface owner shall immediately begin negotiations to settle the terms of the consent required by section 81-902; if agreement upon the terms of the same cannot be reached, then the parties may settle their differences through the arbitration procedure provided in section 3 of this act."

AS SO AMENDED

BE CONCURRED IN