

1 House BILL NO. 722  
 2 INTRODUCED BY Sen. Thomas Eugene Leeson  
 3 Lucen J. Humboldt Manuel

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE  
 5 TERMINATION OF CERTAIN DORMANT MINERAL INTERESTS OWNED BY  
 6 PERSONS OTHER THAN THE SURFACE OWNER BY PROVIDING FOR THE  
 7 ABANDONMENT OF CERTAIN MINERAL INTERESTS, THE PRESERVATION  
 8 OF SUCH INTERESTS BY RERECORDATION OR PRODUCTION, THE  
 9 VESTING OF TITLE OF ABANDONED INTERESTS IN THE SURFACE  
 10 OWNER, THE RERECORDATION OF CERTAIN MINERAL INTERESTS, THE  
 11 INSTITUTION OF A QUIET TITLE ACTION, AND THE GIVING OF  
 12 ADEQUATE NOTICE."

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

15 Section 1. Definitions. As used in this act, unless  
 16 the context clearly indicates otherwise, the following  
 17 definitions apply:

- 18 (1) "Mineral" means oil, gas, coal, uranium, or other  
 19 minerals.
- 20 (2) "Person" means an individual or a private  
 21 corporation, association, partnership, joint venture, or  
 22 other legal entity.

23 Section 2. Scope of act. This act applies to mineral  
 24 interests, whether royalty, operating, or otherwise and  
 25 whether granted or obtained by deed, lease, or other

1 document or form of transfer, in lands where the ownership  
 2 of the surface and subsurface estates was at some time held  
 3 concurrently by the same person or persons or by the state  
 4 of Montana or its political subdivisions.

5 Section 3. Abandonment of mineral interests. (1) Any  
 6 mineral interest held by any person other than the owner of  
 7 the surface of a tract of land which mineral interest has  
 8 not been devised, sold, leased, mortgaged, or transferred  
 9 for a period of 25 years by an instrument recorded in the  
 10 office of the county clerk and recorder of the county where  
 11 the land is located is considered to be of no value and  
 12 abandoned unless:

- 13 (a) there is actual production of minerals from the  
 14 tract of land in question or from a larger tract resulting  
 15 from a pooling or unitization which includes the tract in  
 16 question; or
- 17 (b) the mineral interest is recorded or rerecorded  
 18 prior to the later of:
  - 19 (i) 3 years after [the effective date of this act];
  - 20 (ii) 25 years after the latest recorded devise, sale,  
 21 lease, mortgage, or transfer of the interest;
  - 22 (iii) 25 years after the latest date of actual  
 23 production from the tract; or
  - 24 (iv) 25 years after the latest date of actual  
 25 production from a larger tract resulting from a pooling or

1 unitization which includes the tract in question.

2 (2) Any mineral interest which is considered abandoned  
3 under subsection (1) vests in the owner of the surface of  
4 the tract of land.

5 Section 4. Rerecordation of mineral interests. (1) Any  
6 mineral interest may be rerecorded by filing a verified,  
7 written notice in the office of the county clerk and  
8 recorder of the county where the interest is located. The  
9 notice shall describe the land and the nature of the claimed  
10 mineral interest, give the name and address of the person  
11 claiming the interest, and state that the claimant intends  
12 to preserve and not to abandon the mineral interest.

13 (2) The filing of this notice preserves the mineral  
14 interest from abandonment under [section 3 of this act] for  
15 a period of 25 years.

16 (3) A notice of intent not to abandon a mineral  
17 interest may be filed as frequently as desired by the  
18 claimant.

19 (4) A fee of \$10 for each filing of a notice under  
20 this section shall be charged by the county clerk and  
21 recorder. The fee shall be paid regardless of the quality  
22 and quantity of the mineral interest being claimed.

23 Section 5. Rerecordation not to revive lost interests.  
24 Rerecordation under [section 4] serves only to preserve a  
25 mineral interest from abandonment under the provisions of

1 [section 3]. A lease or other transfer which has expired,  
2 lapsed, or otherwise been lost by its own terms or by  
3 operation of law may not be revived by rerecordation under  
4 [section 4].

5 Section 6. Quiet title action for mineral interests.  
6 The owner of the surface of a tract of land may institute a  
7 quiet title action to all or any of the mineral interests  
8 associated with the tract that are subject to this act. No  
9 person other than the surface owner may bring an action  
10 under this section. The procedure of the Montana rules of  
11 civil procedure and Title 93, chapter 62, shall be employed  
12 in a quiet title action under this section.

13 Section 7. Notice requirements. (1) In order to  
14 provide notice of the contents and implications of this act  
15 to holders of mineral interests which are subject to  
16 abandonment under this act, the following program shall be  
17 instituted.

18 (2) The department of state lands shall prepare a  
19 pamphlet. The pamphlet shall contain a copy of [sections 1  
20 through 6] and a brief discussion of the implications of the  
21 act and the procedures to rerecord a mineral interest. The  
22 pamphlet should be as brief as possible. Sufficient copies  
23 of the pamphlet shall be made available to the county clerk  
24 and recorder of each county so that compliance with  
25 subsection (4) is possible.

1           (3) The department shall arrange to have the contents  
 2 of the pamphlet published in several of the trade  
 3 periodicals and publications of the mineral industry at  
 4 12-month intervals for the 3 years following [the effective  
 5 date of this act] and thereafter once every 10 years. The  
 6 department shall also arrange for publication in several  
 7 newspapers of national and regional circulation, including  
 8 the New York Times and the Wall Street Journal, at periodic  
 9 intervals and at least once within the 12 months following  
 10 [the effective date of this act].

11           (4) The county clerk and recorder of each county shall  
 12 arrange to have the contents of the pamphlet prepared  
 13 pursuant to subsection (2) printed in each newspaper  
 14 published in the county at 6-month intervals for the 3 years  
 15 following [the effective date of this act], with the first  
 16 publication within 1 month of [the effective date of this  
 17 act], and thereafter once every 10 years. The county clerk  
 18 and recorder of each county shall send a copy of the  
 19 pamphlet prepared pursuant to subsection (2) to the holder  
 20 of each mineral interest subject to abandonment under  
 21 [section 3] at the latest recorded address for all such  
 22 interests recorded within 50 years prior to [the effective  
 23 date of this act]. All pamphlets shall be sent by certified  
 24 mail, and the mailing shall be completed within 1 year of  
 25 [the effective date of this act].

1           Section 8. Reimbursement to county and to state. (1)  
 2 The state shall reimburse each county for expenses incurred  
 3 due to the provisions of this act.

4           (2) The state, for money provided the county under  
 5 subsection (1), shall be reimbursed from the money received  
 6 for filing fees of notices of rerecording provided for by  
 7 [subsection (4) of section 4], in excess of the actual costs  
 8 of recording the notice.

-End-

STATE OF MONTANA

REQUEST NO. 489-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 16, 19 77, there is hereby submitted a Fiscal Note for House Bill 722 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 722 provides for the termination of certain dormant mineral interests owned by persons other than the surface owner by providing for the abandonment of certain mineral interests.

ASSUMPTION:

State mineral interests are not subject to the provisions of this act.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Additional cost of proposed legislation (advertising, printing and mailing costs)	<u>\$5,250</u>	<u>\$5,000</u>

LOCAL IMPACT:

No estimate of the impact on counties is provided due to lack of data.

*Richard L. Tracy for*

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-17-77

Approved by Committee  
on Natural Resources

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2 INTRODUCED BY HIRSCH, ESTENSON, AAGESON, LIEN,

3 J. GUNDERSON, MANUEL

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4 document or form of transfer, in lands where the ownership  
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6 concurrently by the same person or persons or by the state  
7 of Montana or its political subdivisions.

8 Section 3. Abandonment of mineral interests. (1) Any  
9 mineral interest held by any person other than the owner of  
10 the surface of a tract of land which mineral interest has  
11 not been devised, sold, leased, mortgaged, or transferred  
12 for a period of 25 years by an instrument recorded in the  
13 office of the county clerk and recorder of the county where  
14 the land is located is considered to be of no value and  
15 abandoned unless:

16 (a) there is actual production of minerals from the  
17 tract of land in question or from a larger tract resulting  
18 from a pooling or unitization which includes the tract in  
19 question; or

20 (b) the mineral interest is recorded or rerecorded  
21 prior to the later of:

22 (i) 3 years after [the effective date of this act];

23 (ii) 25 years after the latest recorded devise, sale,  
24 lease, mortgage, or transfer of the interest;

25 (iii) 25 years after the latest date of actual

1 production from the tract; or  
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 16 (2) The filing of this notice preserves the mineral  
 17 interest from abandonment under [section 3 of this act] for  
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 23 this section shall be charged by the county clerk and  
 24 recorder. The fee shall be paid regardless of the quality  
 25 and quantity of the mineral interest being claimed.

1 Section 5. Rerecording not to revive lost interests.  
 2 Rerecording under [section 4] serves only to preserve a  
 3 mineral interest from abandonment under the provisions of  
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 6 operation of law may not be revived by rerecording under  
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 8 Section 6. Quiet title action for mineral interests ==  
 9 REVIVAL OF ABANDONED RIGHTS. (1) The owner of the surface of  
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 12 are subject to this act. No person other than the surface  
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 14 of the Montana rules of civil procedure and Title 93,  
 15 chapter 62, shall be employed in a quiet title action under  
 16 this section.  
 17 (2) IN ADDITION TO SERVING A SUMMONS UPON A DEFENDANT  
 18 IN THE QUIET TITLE ACTION, THE SURFACE OWNER SHALL PROVIDE A  
 19 COPY OF THE PAMPHLET PREPARED BY THE DEPARTMENT OF STATE  
 20 LANDS PURSUANT TO [SECTION 7].  
 21 (3) THE COUNTY CLERK AND RECORDER SHALL PROVIDE THE  
 22 CLERK OF THE DISTRICT COURT WITH SUFFICIENT COPIES OF THE  
 23 PAMPHLET TO ENABLE PLAINTIFF TO COMPLY WITH SUBSECTION (2).  
 24 (4) ANY HOLDER OF A MINERAL INTEREST CONSIDERED  
 25 ABANDONED UNDER THE PROVISIONS OF [SECTION 3] WHO IS CLASSIFIED

1 ~~AS A DEFENDANT, WHETHER NAMED OR UNNAMED, IN AN ACTION UNDER~~  
 2 ~~THIS SECTION MAY REVIVE HIS INTEREST BY RECORDING OR~~  
 3 ~~RECORDING THE INTEREST WITHIN 3 YEARS OF THE DATE OF~~  
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 5 ~~SUBJECT TO THE LIMITATIONS OF [SECTION 5]. THE REVIVED~~  
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H. 0722/02

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HB 0722/03

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-End-