

CHAPTER NO. 588

HOUSE BILL NO. 684

INTRODUCED BY HAND, KEYSER, JOHNSTON, GESEK, DOVER,  
HAZELBAKER, PETERSON, HEALY, MANLEY, McCALLUM,  
HURWITZ, THOFT, HEMSTAD, GOULD, STAIGMILLER,  
DAILY, C. SMITH, QUILICI, PAVLOVICH, KROPP

IN THE HOUSE

February 9, 1979	Introduced and referred to Committee on Natural Resources.
February 20, 1979	Committee recommend bill do not pass. Report adopted.  Objection raised to adverse committee report. Bill placed on second reading.
February 23, 1979	Second reading, do pass.  Considered correctly engrossed.  Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Natural Resources.
March 13, 1979	Committee recommend bill be concurrred in. Report adopted.
March 14, 1979	Motion pass consideration.
March 15, 1979	Second reading, concurrred in.
March 17, 1979	Third reading, concurrred in.

IN THE HOUSE

March 19, 1979	Returned from second house. Concurrred in. Sent to enrolling.
March 23, 1979	Correctly enrolled.

March 23, 1979

Signed by President

Signed by Speaker.

March 24, 1979

Delivered to Governor.

March 29, 1979

Returned from Governor with recommended amendments.

March 30, 1979

On motion, Governor's amendments placed on second reading for the 75th Legislative Day.

April 2, 1979

Second reading, amendments adopted.

April 3, 1979

Third reading, amendments adopted. Transmitted to second house.

#### IN THE SENATE

April 4, 1979

Governor's recommendation for amendments submitted to the Senate.

April 5, 1979

Committee of the Whole recommend Senate adopt Governor's amendments.

April 6, 1979

On third reading, Governor's amendments adopted. Transmitted to House.

#### IN THE HOUSE

April 7, 1979

Returned from second house. Sent to enrolling.

Reported correctly enrolled.

1 *House* BILL NO. *684*  
 2 INTRODUCED BY *Hand - Keyser John Lyche*  
 3 *Don Hallstrom Robert Neals Manly*  
 4 *Michael Hurwitz* THE FT  
 5 *Ad* 5 *Stignall Daryl C Smith Gurlan Robert*  
 6 *Kropp* BILL FOR AN ACT ENTITLED: (AN ACT TO GENERALLY REVISE THE  
 7 METAL MINE RECLAMATION LAWS; AMENDING SECTIONS 82-4-303,  
 8 82-4-305, 82-4-331, 82-4-332, 82-4-334, 82-4-335, AND  
 9 82-4-337, MCA; AND REPEALING SECTION 82-4-333, MCA."

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

Section 1. Section 82-4-303, MCA, is amended to read:

"82-4-303. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Abandonment of surface or underground mining" may be presumed when it is shown that continued operation will not resume.

(2) "Board" means the board of land commissioners or such state employee or state agency as may succeed to its powers and duties under this part.

(3) "Department" means the department of state lands.

~~(4) "Development" means operations between exploration and mining.~~

(5) "Disturbed land" means that area of land or surface water disturbed, beginning at the date of the issuance of the permit, and it comprises that area from

1 which the overburden or minerals have been removed and  
 2 tailings ponds, waste dumps, roads, conveyor systems, leach  
 3 dumps, and all similar excavations or covering resulting  
 4 from the operation and which have not been previously  
 5 reclaimed under the reclamation plan. The term does not  
 6 include roads which are required to be built to certain  
 7 specifications by a public agency if the public agency  
 8 notifies the department in writing that it desires to have  
 9 the road remain unreclaimed after mining or exploration  
 10 ceases.

(6) "Exploration" means all activities conducted on or beneath the surface of lands resulting in material disturbance of the surface for the purpose of determining the presence, location, extent, depth, grade, and economic viability of mineralization in those lands, if any, other than mining for production and economic exploitation, as well as all roads made for the purpose of facilitating exploration, except as noted in 82-4-305 and 82-4-310.

(7) "Mineral" means any ore, rock, or substance, other than oil, gas, bentonite, clay, coal, sand, gravel, phosphate rock, or uranium, taken from below the surface or from the surface of the earth for the purpose of milling, concentration, refinement, smelting, manufacturing, or other subsequent use or processing or for stockpiling for future use, refinement, or smelting.

1 ~~(8)(7)~~ "Mining" commences at such time as the operator  
 2 first mines ores or minerals in commercial quantities for  
 3 sale, beneficiation, refining, or other processing or  
 4 disposition or first takes bulk samples for metallurgical  
 5 testing in excess of aggregate of 10,000 short tons.

6 (8) "Noncontiguous" means that a mining claim does not  
 7 have a point on its boundary in common with any point on the  
 8 boundary of any other mining claim.

9 (9) "Person" means any person, corporation, firm,  
 10 association, partnership, or other legal entity engaged in  
 11 exploration for or development or mining of minerals on or  
 12 below the surface of the earth.

13 (10) "Reclamation plan" means the operator's written  
 14 proposal, as required and approved by the board, for  
 15 reclamation of the land that will be disturbed, which  
 16 proposal shall include, to the extent practical at the time  
 17 of application for ~~a developing or an~~ operating permit:

18 (a) a statement of the proposed subsequent use of the  
 19 land after reclamation;

20 (b) plans for surface gradient restoration to a  
 21 surface suitable for the proposed subsequent use of the land  
 22 after reclamation is completed and the proposed method of  
 23 accomplishment;

24 (c) the manner and type of revegetation or other  
 25 surface treatment of disturbed areas;

1 (d) procedures proposed to avoid foreseeable  
 2 situations of public nuisance, endangerment of public  
 3 safety, damage to human life or property, or unnecessary  
 4 damage to flora and fauna in or adjacent to the area;

5 (e) the method of disposal of mining debris;

6 (f) the method of diverting surface waters around the  
 7 disturbed areas where necessary to prevent pollution of  
 8 those waters or unnecessary erosion;

9 (g) the method of reclamation of stream channels and  
 10 stream banks to control erosion, siltation, and pollution;

11 (h) such maps and other supporting documents as may be  
 12 reasonably required by the department; and

13 (i) a time schedule for reclamation that meets the  
 14 requirements of 82-4-336.

15 (11) "Small miner" means a person, firm, or corporation  
 16 engaged ~~that engages~~ in the business of mining; ~~who does not~~  
 17 ~~remove--from--the--earth--during--any--calendar--year--material--in~~  
 18 ~~excess--of--36,500--tons--in--the--aggregate;~~ holds no operatir  
 19 permit under 82-4-335; and conducts:

20 (a) operations resulting in not more than 5 acres of  
 21 the earth's surface being disturbed and unreclaimed; or

22 (b) two operations which disturb and leave unreclaimed  
 23 less than 5 acres per operation if the respective mining  
 24 properties are;

25 (i) the only operations engaged in by the persons;

1 firm, or corporation;

2 (ii) noncontiguous; and

3 (iii) not operated simultaneously except during a  
4 transition period not to exceed 30 days.

5 (12) "Surface mining" means all or any part of the  
6 process involved in mining of minerals by removing the  
7 overburden and mining directly from the mineral deposits  
8 thereby exposed, including but not limited to open-pit  
9 mining of minerals naturally exposed at the surface of the  
10 earth, mining by the auger method, and all similar methods  
11 by which earth or minerals exposed at the surface are  
12 removed in the course of mining. Surface mining does not  
13 include the extraction of oil, gas, bentonite, clay, coal,  
14 sand, gravel, phosphate rock, or uranium or excavation or  
15 grading conducted for on-site farming, on-site road  
16 construction, or other on-site building construction.

17 (13) "Underground mining" means all methods of mining  
18 other than surface mining.

19 (14) "Unit of surface-mined area" means that area of  
20 land and surface water included within an operating permit  
21 actually disturbed by surface mining during each 12-month  
22 period of time, beginning at the date of the issuance of the  
23 permit, and it comprises and includes the area from which  
24 overburden or minerals have been removed, the area covered  
25 by mining debris, and all additional areas used in surface

1 mining or underground mining operations which by virtue of  
2 such use are thereafter susceptible to erosion in excess of  
3 the surrounding undisturbed portions of land.

4 (15) "Vegetative cover" means the type of vegetation,  
5 grass, shrubs, trees, or any other form of natural cover  
6 considered suitable at time of reclamation."

7 Section 2. Section 82-4-305, MCA, is amended to read:

8 "82-4-305. Exemption — small miners — written  
9 agreement. (1) No provisions of this part shall apply to any  
10 small miner when the small miner annually agrees in writing:

11 (a) that he shall not pollute or contaminate any  
12 stream;

13 (b) that he shall provide protection for human and  
14 animal life through the installation of bulkheads installed  
15 over safety collars and the installation of doors on tunnel  
16 portals; and

17 (c) ~~he shall not conduct a mining operation which will~~  
18 ~~result in more than 5 acres of the earth's surface being~~  
19 ~~disturbed and unreclaimed and provides~~ provide a map  
20 locating his mining operations. Such map shall be to a size  
21 and scale as determined by the department.

22 (2) Failure to comply with the regulations stipulated  
23 in this section will constitute a misdemeanor, and this  
24 offense will subject the owners or operators of said project  
25 to a fine of not less than \$10 or more than \$100, payable to

1 the department of revenue of the state of Montana or any  
2 board, commission, or person authorized to collect said  
3 fine."

4 Section 3. Section 82-4-331, MCA, is amended to read:

5 "82-4-331. Exploration license ~~or-development-permit~~  
6 required -- employees included. (1) No person shall engage  
7 in exploration ~~or-development~~ in the state without first  
8 obtaining an exploration license ~~or-development-permit~~ from  
9 the board to do so, such license ~~or-permit~~ to be issued for  
10 a period of 1 year from date of issue and to be renewable  
11 from year to year on application therefor filed at any time  
12 within the 30 days next preceding the expiration of the  
13 current license ~~or-permit~~ and payment of like fee as  
14 required for a new license ~~or-permit~~, provided that the  
15 applicant for renewal is not then held by the board to be in  
16 violation of any provision of this law. Such license ~~or~~  
17 ~~permit~~ shall be subject to suspension and revocation as  
18 provided by this part.

19 (2) Employees of persons holding a valid license ~~or~~  
20 ~~permit~~ under this part shall be deemed included in and  
21 covered by such license ~~or-permit~~."

22 Section 4. Section 82-4-332, MCA, is amended to read:

23 "82-4-332. Exploration license. (1) An exploration  
24 license shall be issued to any applicant therefor who shall:

25 (a) pay a fee of \$5 to the board;

1 (b) agree to reclaim any surface area damaged by the  
2 applicant during exploration operations, all as may be  
3 reasonably required by the board;

4 (c) not be in default of any other reclamation  
5 obligation under this law.

6 (2) An application for an exploration license shall be  
7 made in writing, notarized, and submitted to the department  
8 in duplicate upon forms prepared and furnished by it. The  
9 application shall include an exploration map or sketch in  
10 sufficient detail to locate the area to be explored and to  
11 determine whether significant environmental problems would  
12 be encountered. The department shall by rules determine the  
13 precise nature of such exploration map or sketch. The  
14 applicant must state what types of prospecting and  
15 excavation techniques will be employed in disturbing the  
16 land.

17 (3) Upon filing of any certificate of claim location  
18 as permitted by federal and state mining laws or  
19 regulations, the locator shall provide copies of said  
20 certificates to the board.

21 (4) Prior to the issuance of an exploration license,  
22 the applicant shall file with the department a reclamation  
23 and revegetation bond in a form and amount as determined by  
24 the department in accordance with 82-4-338.

25 (5) In the event that the holder of an exploration

1 permit desires to mine ~~or develop~~ the area covered by the  
 2 exploration license and has fulfilled all of the  
 3 requirements for ~~a development or an~~ operating permit, the  
 4 department ~~may~~ shall allow the postponement of the  
 5 reclamation of the acreage explored if that acreage is  
 6 incorporated into the complete reclamation plan submitted  
 7 with the application for ~~a development or an~~ operating  
 8 permit. Any land actually affected by exploration or  
 9 excavation under an exploration license and not covered by  
 10 the ~~development or~~ operating reclamation plan shall be  
 11 reclaimed within 2 years after the completion of exploration  
 12 or abandonment of the site in a manner acceptable to the  
 13 department."

14 Section 5. Section 82-4-334, MCA, is amended to read:  
 15 "82-4-334. Exception — geological phenomena. Upon  
 16 proper application by the holder of an exploration license  
 17 ~~or development permit~~, the board may excuse such holder from  
 18 reclamation obligations with reference to any specified  
 19 openings or excavations exposing geological indications or  
 20 phenomena of especial interest, even though the licensee  
 21 does not apply or have any intention to apply for  
 22 ~~development license or an~~ operating permit for the land in  
 23 which such openings or excavations have been made."

24 Section 6. Section 82-4-335, MCA, is amended to read:  
 25 "82-4-335. Operating permit. ~~Effective 60 days after~~

1 ~~the date on which the board shall first promulgate its~~  
 2 ~~regulations as authorized by 82-4-321, no~~ No person shall  
 3 engage in mining or disturb land in anticipation of mining  
 4 in the state without first obtaining an operating permit  
 5 from the board to do so. A separate operating permit shall  
 6 be required for each mine complex. Prior to receiving an  
 7 operating permit from the board, any person must pay the  
 8 basic permit fee of \$25 and must submit an application on a  
 9 form provided by the board, which shall contain the  
 10 following information and any other pertinent data required  
 11 by the rules:

12 (1) name and address of the operator and, if a  
 13 corporation or other business entity, the name and address  
 14 of its principal officers, partners, and the like and its  
 15 resident agent for service of process, if required by law;

16 (2) minerals expected to be mined;

17 (3) a proposed reclamation plan;

18 (4) expected starting date of mining;

19 (5) a map showing the specific area to be mined and  
 20 the boundaries of the land which will be disturbed,  
 21 topographic detail, the location and names of all streams,  
 22 roads, railroads, and utility lines on or immediately  
 23 adjacent to the area, location of proposed access roads to  
 24 be built and the names and addresses of the surface and  
 25 mineral owners of all lands within the mining area, to the

1 extent known to applicant;

2 (6) types of access roads to be built and manner of  
3 reclamation of road sites on abandonment; and

4 (7) a plan of mining which will provide, within limits  
5 of normal operating procedures of the industry, for  
6 completion of mining and associated land disturbances;

7 ~~(8) a reclamation and revegetation bond in form and  
8 amount to be determined by the department in accordance with  
9 82-4-338.~~

10 Section 7. Section 82-4-337, MCA, is amended to read:

11 "82-4-337. Inspection — issuance of operating permit  
12 —modification. (1) (a) ~~Unless the time period is extended  
13 under the provisions of subsection (1)(b) of this section,  
14 the board shall either issue an operating permit to the  
15 applicant or return any incomplete or inadequate  
16 application along with a description of the deficiencies  
17 within 60 days of receipt of the complete application and  
18 reclamation plan by the board and receipt of the permit fee.~~

19 The board shall cause all applications for operating permits  
20 to be reviewed for completeness within 30 days of receipt.  
21 The board shall notify the applicant concerning completeness  
22 as soon as possible. An application is considered complete  
23 unless the applicant is notified of any deficiencies within  
24 30 days of receipt.

25 (b) Unless the review period is extended as provided

1 in this section, the board shall review the adequacy of the  
2 proposed reclamation plan and plan of mining within 30 days  
3 of the determination that the application is complete or  
4 within 60 days of receipt of the application if the board  
5 does not notify the applicant of any deficiencies in the  
6 application. If the applicant is not notified of  
7 deficiencies or inadequacies in the proposed reclamation  
8 plan and plan of mining within such time period, the  
9 operating permit shall be issued upon receipt of the bond as  
10 required in 82-4-338. The department shall promptly notify  
11 the applicant of the form and amount of bond which will be  
12 required. No permit may be issued until sufficient bond has  
13 been submitted pursuant to 82-4-338.

14 ~~(b)(c) (i) Prior to issuance of a permit, the~~  
15 ~~department shall inspect the site unless the department has~~  
16 ~~failed to act on the application within the time prescribed~~  
17 ~~in subsection (1)(b). If the site is not accessible due to~~  
18 ~~extended adverse weather conditions, the department may~~  
19 ~~extend the 60-day time period prescribed in subsection~~  
20 ~~(1)(b) by not more than 180 days to allow inspection of the~~  
21 ~~site and reasonable review. The department must serve~~  
22 ~~written notice of extension upon the applicant in person or~~  
23 ~~by certified mail, and any such extension is subject to~~  
24 ~~appeal to the board in accordance with the Montana~~  
25 ~~Administrative Procedure Act.~~



1 (ii) If the department determines that additional time  
 2 is needed to review the application and reclamation plan for  
 3 a major operation, the department and the applicant shall  
 4 negotiate to extend the 60-day period prescribed in  
 5 subsection (1)(b) by not more than 365 days in order to  
 6 permit reasonable review.

7 ~~(iii)~~ Failure of the board to act upon a complete  
 8 application within the extension period ~~prescribed or any~~  
 9 ~~extension thereof~~ constitutes approval of the application,  
 10 and the permit shall be issued promptly thereafter upon  
 11 receipt of the bond as required in 82-4-338.

12 (2) The operating permit shall be granted for the  
 13 period required to mine the land covered by the plan and  
 14 shall be valid until the surface or underground mining  
 15 authorized by the permit is completed or abandoned unless  
 16 the permit is suspended or revoked by the board as provided  
 17 in this part.

18 (3) The operating permit shall provide that the  
 19 reclamation plan may be modified by the board, upon proper  
 20 application of the permittee or department, after timely  
 21 notice and opportunity for hearing, at any time during the  
 22 term of the permit and for any of the following reasons:

23 (a) to modify the requirements so they will not  
 24 conflict with existing laws;

25 (b) when the previously adopted reclamation plan is

1 impossible or impracticable to implement and maintain;

2 (c) when significant environmental problem situations  
 3 are revealed by field inspection."

4 Section 8. Repealer. Section 82-4-333, NCA, is  
 5 repealed.

-End-

1 *House* BILL NO. *684*  
 2 INTRODUCED BY *Hand - Jensen John Leach*  
 3 *Don Halliday Robert Neals Morley*  
 4 *McCallum Hurwitz Thof*  
 5 *Stigum Paul C Smith Suter Carline*  
 6 *Thof*  
 A BILL FOR AN ACT ENTITLED: *AN ACT TO GENERALLY REVISE THE*  
 METAL MINE RECLAMATION LAWS; AMENDING SECTIONS 82-4-303,  
 82-4-305, 82-4-331, 82-4-332, 82-4-334, 82-4-335, AND

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(2) "Board" means the board of land commissioners or such state employee or state agency as may succeed to its powers and duties under this part.

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~~{5}{6}~~ "Disturbed land" means that area of land or surface water disturbed, beginning at the date of the issuance of the permit, and it comprises that area from

1 which the overburden or minerals have been removed and  
 2 tailings ponds, waste dumps, roads, conveyor systems, leach  
 3 dumps, and all similar excavations or covering resulting  
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 6 include roads which are required to be built to certain  
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 14 proposal, as required and approved by the board, for  
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 19 land after reclamation;

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 10 stream banks to control erosion, siltation, and pollution;

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6 process involved in mining of minerals by removing the  
7 overburden and mining directly from the mineral deposits  
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10 earth, mining by the auger method, and all similar methods  
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20 land and surface water included within an operating permit  
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23 permit, and it comprises and includes the area from which  
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25 by mining debris, and all additional areas used in surface

1 mining or underground mining operations which by virtue of  
2 such use are thereafter susceptible to erosion in excess of  
3 the surrounding undisturbed portions of land.

4 (15) "Vegetative cover" means the type of vegetation,  
5 grass, shrubs, trees, or any other form of natural cover  
6 considered suitable at time of reclamation."

7 Section 2. Section 82-4-305, MCA, is amended to read:

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21 and scale as determined by the department.

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24 offense will subject the owners or operators of said project  
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2 applicant during exploration operations, all as may be  
3 reasonably required by the board;

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5 obligation under this law.

6 (2) An application for an exploration license shall be  
7 made in writing, notarized, and submitted to the department  
8 in duplicate upon forms prepared and furnished by it. The  
9 application shall include an exploration map or sketch in  
10 sufficient detail to locate the area to be explored and to  
11 determine whether significant environmental problems would  
12 be encountered. The department shall by rules determine the  
13 precise nature of such exploration map or sketch. The  
14 applicant must state what types of prospecting and  
15 excavation techniques will be employed in disturbing the  
16 land.

17 (3) Upon filing of any certificate of claim location  
18 as permitted by federal and state mining laws and  
19 regulations, the locator shall provide copies of said  
20 certificates to the board.

21 (4) Prior to the issuance of an exploration license,  
22 the applicant shall file with the department a reclamation  
23 and revegetation bond in a form and amount as determined by  
24 the department in accordance with 82-4-338.

25 (5) In the event that the holder of an exploration

1 permit desires to mine ~~or develop~~ the area covered by the  
 2 exploration license and has fulfilled all of the  
 3 requirements for ~~a development or an~~ operating permit, the  
 4 department ~~may~~ shall allow the postponement of the  
 5 reclamation of the acreage explored if that acreage is  
 6 incorporated into the complete reclamation plan submitted  
 7 with the application for ~~a development or an~~ operating  
 8 permit. Any land actually affected by exploration or  
 9 excavation under an exploration license and not covered by  
 10 the ~~development or~~ operating reclamation plan shall be  
 11 reclaimed within 2 years after the completion of exploration  
 12 or abandonment of the site in a manner acceptable to the  
 13 department."

14 Section 5. Section 82-4-334, MCA, is amended to read:

15 "82-4-334. Exception -- geological phenomena. Upon  
 16 proper application by the holder of an exploration license  
 17 ~~or development permit~~, the board may excuse such holder from  
 18 reclamation obligations with reference to any specified  
 19 openings or excavations exposing geological indications or  
 20 phenomena of especial interest, even though the licensee  
 21 does not apply or have any intention to apply for  
 22 ~~development license or an~~ operating permit for the land in  
 23 which such openings or excavations have been made."

24 Section 6. Section 82-4-335, MCA, is amended to read:

25 "82-4-335. Operating permit. ~~Effective 60 days after~~

1 ~~the date on which the board shall first promulgate its~~  
 2 ~~regulations as authorized by 82-4-321, no~~ No person shall  
 3 engage in mining or disturb land in anticipation of mining  
 4 in the state without first obtaining an operating permit  
 5 from the board to do so. A separate operating permit shall  
 6 be required for each mine complex. Prior to receiving an  
 7 operating permit from the board, any person must pay the  
 8 basic permit fee of \$25 and must submit an application on a  
 9 form provided by the board, which shall contain the  
 10 following information and any other pertinent data required  
 11 by the rules:

12 (1) name and address of the operator and, if a  
 13 corporation or other business entity, the name and address  
 14 of its principal officers, partners, and the like and its  
 15 resident agent for service of process, if required by law;

16 (2) minerals expected to be mined;

17 (3) a proposed reclamation plan;

18 (4) expected starting date of mining;

19 (5) a map showing the specific area to be mined and  
 20 the boundaries of the land which will be disturbed,  
 21 topographic detail, the location and names of all streams,  
 22 roads, railroads, and utility lines on or immediately  
 23 adjacent to the area, location of proposed access roads to  
 24 be built and the names and addresses of the surface and  
 25 mineral owners of all lands within the mining area, to the

1 extent known to applicant;

2 (6) types of access roads to be built and manner of  
3 reclamation of road sites on abandonment; and

4 (7) a plan of mining which will provide, within limits  
5 of normal operating procedures of the industry, for  
6 completion of mining and associated land disturbances;

7 ~~{8} a reclamation and revegetation bond in form and  
8 amount to be determined by the department in accordance with  
9 82-4-338.~~

10 Section 7. Section 82-4-337, MCA, is amended to read:  
11 "82-4-337. Inspection — issuance of operating permit  
12 — modification. (1) (a) ~~Unless the time period is extended  
13 under the provisions of subsection (1)(b) of this section,  
14 the board shall either issue an operating permit to the  
15 applicant or return any incomplete or inadequate  
16 application, along with a description of the deficiencies,  
17 within 60 days of receipt of the complete application and  
18 reclamation plan by the board and receipt of the permit fee.~~  
19 The board shall cause all applications for operating permits  
20 to be reviewed for completeness within 30 days of receipt.  
21 The board shall notify the applicant concerning completeness  
22 as soon as possible. An application is considered complete  
23 unless the applicant is notified of any deficiencies within  
24 30 days of receipt.

25 (b) Unless the review period is extended as provided

1 in this section, the board shall review the adequacy of the  
2 proposed reclamation plan and plan of mining within 30 days  
3 of the determination that the application is complete or  
4 within 60 days of receipt of the application if the board  
5 does not notify the applicant of any deficiencies in the  
6 application. If the applicant is not notified of  
7 deficiencies or inadequacies in the proposed reclamation  
8 plan and plan of mining within such time period, the  
9 operating permit shall be issued upon receipt of the bond as  
10 required in 82-4-338. The department shall promptly notify  
11 the applicant of the form and amount of bond which will be  
12 required. No permit may be issued until sufficient bond has  
13 been submitted pursuant to 82-4-338.

14 (b)(c) (i) Prior to issuance of a permit, the  
15 department shall inspect the site unless the department has  
16 failed to act on the application within the time prescribed  
17 in subsection (1)(b). If the site is not accessible due to  
18 extended adverse weather conditions, the department may  
19 extend the 60-day time period prescribed in subsection  
20 (1)(b) by not more than 180 days to allow inspection of the  
21 site and reasonable review. The department must serve  
22 written notice of extension upon the applicant in person or  
23 by certified mail, and any such extension is subject to  
24 appeal to the board in accordance with the Montana  
25 Administrative Procedure Act.

1 (ii) If the department determines that additional time  
 2 is needed to review the application and reclamation plan for  
 3 a major operation, the department and the applicant shall  
 4 negotiate to extend the ~~60-day~~ period prescribed in  
 5 subsection (1)(b) by not more than 365 days in order to  
 6 permit reasonable review.

7 ~~(c)(iii)~~ Failure of the board to act upon a complete  
 8 application within the extension period ~~prescribed or any~~  
 9 ~~extension thereof~~ constitutes approval of the application,  
 10 and the permit shall be issued promptly ~~thereafter~~ upon  
 11 receipt of the bond as required in 82-4-338.

12 (2) The operating permit shall be granted for the  
 13 period required to mine the land covered by the plan and  
 14 shall be valid until the surface or underground mining  
 15 authorized by the permit is completed or abandoned unless  
 16 the permit is suspended or revoked by the board as provided  
 17 in this part.

18 (3) The operating permit shall provide that the  
 19 reclamation plan may be modified by the board, upon proper  
 20 application of the permittee or department, after timely  
 21 notice and opportunity for hearing, at any time during the  
 22 term of the permit and for any of the following reasons:

- 23 (a) to modify the requirements so they will not
- 24 conflict with existing laws;
- 25 (b) when the previously adopted reclamation plan is

1 impossible or impracticable to implement and maintain;  
 2 (c) when significant environmental problem situations  
 3 are revealed by field inspection."  
 4 Section 8. Repealer. Section 82-4-333, MCA, is  
 5 repealed.

-End-

HB 684



## HOUSE BILL NO. 684

INTRODUCED BY HAND, KEYSER, JOHNSTON, GESEK, DOVER,  
 HAZELBAKER, PETERSON, HEALY, MANLEY, McCALLUM,  
 HURWITZ, THOFT, HEMSTAD, GOULD, STAIGMILLER,  
 DAILY, C. SMITH, QUILICI, PAVLOVICH, KROPP

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
 METAL MINE RECLAMATION LAWS; AMENDING SECTIONS 82-4-303,  
 82-4-305, 82-4-331, 82-4-332, 82-4-334, 82-4-335, AND  
 82-4-337, MCA; AND REPEALING SECTION 82-4-333, MCA."

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

Section 1. Section 82-4-303, MCA, is amended to read:

"82-4-303. Definitions. As used in this part, unless  
 the context indicates otherwise, the following definitions  
 apply:

(1) "Abandonment of surface or underground mining" may  
 be presumed when it is shown that continued operation will  
 not resume.

(2) "Board" means the board of land commissioners or  
 such state employee or state agency as may succeed to its  
 powers and duties under this part.

(3) "Department" means the department of state lands.

~~{4}--"Development"--means--all--operations--between  
 exploration-and-mining~~

~~{5}{4} "Disturbed land" means that area of land or  
 surface water disturbed, beginning at the date of the  
 issuance of the permit, and it comprises that area from  
 which the overburden or minerals have been removed and  
 tailings ponds, waste dumps, roads, conveyor systems, leach  
 dumps, and all similar excavations or covering resulting  
 from the operation and which have not been previously  
 reclaimed under the reclamation plan. The term does not  
 include roads which are required to be built to certain  
 specifications by a public agency if the public agency  
 notifies the department in writing that it desires to have  
 the road remain unreclaimed after mining or exploration  
 ceases.~~

~~{6}{5} "Exploration" means all activities conducted on  
 or beneath the surface of lands resulting in material  
 disturbance of the surface for the purpose of determining  
 the presence, location, extent, depth, grade, and economic  
 viability of mineralization in those lands, if any, other  
 than mining for production and economic exploitation, as  
 well as all roads made for the purpose of facilitating  
 exploration, except as noted in 82-4-305 and 82-4-310.~~

~~{7}{6} "Mineral" means any ore, rock, or substance,  
 other than oil, gas, bentonite, clay, coal, sand, gravel,  
 phosphate rock, or uranium, taken from below the surface or  
 from the surface of the earth for the purpose of milling.~~

1 concentration, refinement, smelting, manufacturing, or other  
2 subsequent use or processing or for stockpiling for future  
3 use, refinement, or smelting.

4 ~~(8)(1)~~ "Mining" commences at such time as the operator  
5 first mines ores or minerals in commercial quantities for  
6 sale, beneficiation, refining, or other processing or  
7 disposition or first takes bulk samples for metallurgical  
8 testing in excess of aggregate of 10,000 short tons.

9 (8) "Noncontiguous" means that a mining claim does not  
10 have a point on its boundary in common with any point on the  
11 boundary of any other mining claim.

12 (9) "Person" means any person, corporation, firm,  
13 association, partnership, or other legal entity engaged in  
14 exploration for or development or mining of minerals on or  
15 below the surface of the earth.

16 (10) "Reclamation plan" means the operator's written  
17 proposal, as required and approved by the board, for  
18 reclamation of the land that will be disturbed, which  
19 proposal shall include, to the extent practical at the time  
20 of application for a developing or an operating permit:

21 (a) a statement of the proposed subsequent use of the  
22 land after reclamation;

23 (b) plans for surface gradient restoration to a  
24 surface suitable for the proposed subsequent use of the land  
25 after reclamation is completed and the proposed method of

1 accomplishment;

2 (c) the manner and type of revegetation or other  
3 surface treatment of disturbed areas;

4 (d) procedures proposed to avoid foreseeable  
5 situations of public nuisance, endangerment of public  
6 safety, damage to human life or property, or unnecessary  
7 damage to flora and fauna in or adjacent to the area;

8 (e) the method of disposal of mining debris;

9 (f) the method of diverting surface waters around the  
10 disturbed areas where necessary to prevent pollution of  
11 those waters or unnecessary erosion;

12 (g) the method of reclamation of stream channels and  
13 stream banks to control erosion, siltation, and pollution;

14 (h) such maps and other supporting documents as may be  
15 reasonably required by the department; and

16 (i) a time schedule for reclamation that meets the  
17 requirements of 82-4-336.

18 (11) "Small miner" means a person, firm, or corporation  
19 engaged ~~that engages~~ in the business of mining, who does not  
20 remove--from--the--earth--during--any--calendar--year--material--in  
21 excess of 36,500 tons in the aggregate, holds no operating  
22 permit under 82-4-335, and conducts:

23 (a) operations resulting in not more than 5 acres of  
24 the earth's surface being disturbed and unreclaimed; or

25 (b) two operations which disturb and leave unreclaimed

1 less than 5 acres per operation if the respective mining  
 2 properties are:

3 (i) the only operations engaged in by the person,  
 4 firm, or corporation;

5 (ii) noncontiguous; and

6 (iii) not operated simultaneously except during a  
 7 transition period not to exceed 30 days.

8 (12) "Surface mining" means all or any part of the  
 9 process involved in mining of minerals by removing the  
 10 overburden and mining directly from the mineral deposits  
 11 thereby exposed, including but not limited to open-pit  
 12 mining of minerals naturally exposed at the surface of the  
 13 earth, mining by the auger method, and all similar methods  
 14 by which earth or minerals exposed at the surface are  
 15 removed in the course of mining. Surface mining does not  
 16 include the extraction of oil, gas, bentonite, clay, coal,  
 17 sand, gravel, phosphate rock, or uranium or excavation or  
 18 grading conducted for on-site farming, on-site road  
 19 construction, or other on-site building construction.

20 (13) "Underground mining" means all methods of mining  
 21 other than surface mining.

22 (14) "Unit of surface-mined area" means that area of  
 23 land and surface water included within an operating permit  
 24 actually disturbed by surface mining during each 12-month  
 25 period of time, beginning at the date of the issuance of the

1 permit, and it comprises and includes the area from which  
 2 overburden or minerals have been removed, the area covered  
 3 by mining debris, and all additional areas used in surface  
 4 mining or underground mining operations which by virtue of  
 5 such use are thereafter susceptible to erosion in excess of  
 6 the surrounding undisturbed portions of land.

7 (15) "Vegetative cover" means the type of vegetation,  
 8 grass, shrubs, trees, or any other form of natural cover  
 9 considered suitable at time of reclamation."

10 Section 2. Section 82-4-305, MCA, is amended to read:

11 "82-4-305. Exemption -- small miners -- written  
 12 agreement. (1) No provisions of this part shall apply to any  
 13 small miner when the small miner annually agrees in writing:

14 (a) that he shall not pollute or contaminate any  
 15 stream;

16 (b) that he shall provide protection for human and  
 17 animal life through the installation of bulkheads installed  
 18 over safety collars and the installation of doors on tunnel  
 19 portals; and

20 (c) ~~he shall not conduct a mining operation which will~~  
 21 ~~result in more than 5 acres of the earth's surface being~~  
 22 ~~disturbed and unreclaimed and provides~~ provide a map  
 23 locating his mining operations. Such map shall be to a size  
 24 and scale as determined by the department.

25 (2) Failure to comply with the regulations stipulated

1 in this section will constitute a misdemeanor, and this  
 2 offense will subject the owners or operators of said project  
 3 to a fine of not less than \$10 or more than \$100, payable to  
 4 the department of revenue of the state of Montana or any  
 5 board, commission, or person authorized to collect said  
 6 fine."

7 Section 3. Section 82-4-331, MCA, is amended to read:

8 "82-4-331. Exploration license or-development-permit  
 9 required -- employees included. (1) No person shall engage  
 10 in exploration or--development in the state without first  
 11 obtaining an exploration license or-development-permit from  
 12 the board to do so, such license or-permit to be issued for  
 13 a period of 1 year from date of issue and to be renewable  
 14 from year to year on application therefor filed at any time  
 15 within the 30 days next preceding the expiration of the  
 16 current license or--permit and payment of like fee as  
 17 required for a new license or--permit, provided that the  
 18 applicant for renewal is not then held by the board to be in  
 19 violation of any provision of this law. Such license or  
 20 permit shall be subject to suspension and revocation as  
 21 provided by this part.

22 (2) Employees of persons holding a valid license or  
 23 permit under this part shall be deemed included in and  
 24 covered by such license or-permit."

25 Section 4. Section 32-4-332, MCA, is amended to read:

1 "82-4-332. Exploration license. (1) An exploration  
 2 license shall be issued to any applicant therefor who shall:

3 (a) pay a fee of \$5 to the board;

4 (b) agree to reclaim any surface area damaged by the  
 5 applicant during exploration operations, all as may be  
 6 reasonably required by the board;

7 (c) not be in default of any other reclamation  
 8 obligation under this law.

9 (2) An application for an exploration license shall be  
 10 made in writing, notarized, and submitted to the department  
 11 in duplicate upon forms prepared and furnished by it. The  
 12 application shall include an exploration map or sketch in  
 13 sufficient detail to locate the area to be explored and to  
 14 determine whether significant environmental problems would  
 15 be encountered. The department shall by rules determine the  
 16 precise nature of such exploration map or sketch. The  
 17 applicant must state what types of prospecting and  
 18 excavation techniques will be employed in disturbing the  
 19 lands.

20 (3) Upon filing of any certificate of claim location  
 21 as permitted by federal and state mining laws and  
 22 regulations, the locator shall provide copies of said  
 23 certificates to the board.

24 (4) Prior to the issuance of an exploration license,  
 25 the applicant shall file with the department a reclamation

1 and revegetation bond in a form and amount as determined by  
2 the department in accordance with 82-4-338.

3 (5) In the event that the holder of an exploration  
4 permit desires to mine ~~or develop~~ the area covered by the  
5 exploration license and has fulfilled all of the  
6 requirements for ~~a development or an~~ operating permit, the  
7 department may ~~may~~ shall allow the postponement of the  
8 reclamation of the acreage explored if that acreage is  
9 incorporated into the complete reclamation plan submitted  
10 with the application for ~~a development or an~~ operating  
11 permit. Any land actually affected by exploration or  
12 excavation under an exploration license and not covered by  
13 the ~~development or~~ operating reclamation plan shall be  
14 reclaimed within 2 years after the completion of exploration  
15 or abandonment of the site in a manner acceptable to the  
16 department."

17 Section 5. Section 82-4-334, MCA, is amended to read:

18 "82-4-334. Exception -- geological phenomena. Upon  
19 proper application by the holder of an exploration license  
20 ~~or development permit~~, the board may excuse such holder from  
21 reclamation obligations with reference to any specified  
22 openings or excavations exposing geological indications or  
23 phenomena of especial interest, even though the licensee  
24 does not apply or have any intention to apply for  
25 ~~development license or an~~ operating permit for the land in

1 which such openings or excavations have been made."

2 Section 6. Section 82-4-335, MCA, is amended to read:

3 "82-4-335. Operating permit. ~~Effective 60 days after~~  
4 ~~the date on which the board shall first promulgate its~~  
5 ~~regulations as authorized by 82-4-321, no~~ No person shall  
6 engage in mining or disturb land in anticipation of mining  
7 in the state without first obtaining an operating permit  
8 from the board to do so. A separate operating permit shall  
9 be required for each mine complex. Prior to receiving an  
10 operating permit from the board, any person must pay the  
11 basic permit fee of \$25 and must submit an application on a  
12 form provided by the board, which shall contain the  
13 following information and any other pertinent data required  
14 by the rules:

15 (1) name and address of the operator and, if a  
16 corporation or other business entity, the name and address  
17 of its principal officers, partners, and the like and its  
18 resident agent for service of process, if required by law;

19 (2) minerals expected to be mined;

20 (3) a proposed reclamation plan;

21 (4) expected starting date of mining;

22 (5) a map showing the specific area to be mined and  
23 the boundaries of the land which will be disturbed,  
24 topographic detail, the location and names of all streams,  
25 roads, railroads, and utility lines on or immediately

1 adjacent to the area; location of proposed access roads to  
 2 be built and the names and addresses of the surface and  
 3 mineral owners of all lands within the mining area, to the  
 4 extent known to applicant;

5 (6) types of access roads to be built and manner of  
 6 reclamation of road sites on abandonment; and

7 (7) a plan of mining which will provide, within limits  
 8 of normal operating procedures of the industry, for  
 9 completion of mining and associated land disturbances;

10 ~~(8) a reclamation and revegetation bond in form and~~  
 11 ~~amount to be determined by the department in accordance with~~  
 12 ~~82-4-338.~~

13 Section 7. Section 82-4-337, MCA, is amended to read:

14 "82-4-337. Inspection -- issuance of operating permit  
 15 --modification. (1) (a) ~~Unless the time period is extended~~  
 16 ~~under the provisions of subsection (1)(b) of this section,~~  
 17 ~~the board shall either issue an operating permit to the~~  
 18 ~~applicant or return any incomplete or inadequate~~  
 19 ~~application along with a description of the deficiencies~~  
 20 ~~within 60 days of receipt of the complete application and~~  
 21 ~~reclamation plan by the board and receipt of the permit fee.~~  
 22 The board shall cause all applications for operating permits  
 23 to be reviewed for completeness within 30 days of receipt.  
 24 The board shall notify the applicant concerning completeness  
 25 as soon as possible. An application is considered complete

1 unless the applicant is notified of any deficiencies within  
 2 30 days of receipt.

3 ~~(b) Unless the review period is extended as provided~~  
 4 ~~in this section, the board shall review the adequacy of the~~  
 5 ~~proposed reclamation plan and plan of mining within 30 days~~  
 6 ~~of the determination that the application is complete or~~  
 7 ~~within 50 days of receipt of the application if the board~~  
 8 ~~does not notify the applicant of any deficiencies in the~~  
 9 ~~application. If the applicant is not notified of~~  
 10 ~~deficiencies or inadequacies in the proposed reclamation~~  
 11 ~~plan and plan of mining within such time period, the~~  
 12 ~~operating permit shall be issued upon receipt of the bond as~~  
 13 ~~required in 82-4-338. The department shall promptly notify~~  
 14 ~~the applicant of the form and amount of bond which will be~~  
 15 ~~required. No permit may be issued until sufficient bond has~~  
 16 ~~been submitted pursuant to 82-4-338.~~

17 ~~(b)(c) (i) Prior to issuance of a permit, the~~  
 18 ~~department shall inspect the site unless the department has~~  
 19 ~~failed to act on the application within the time prescribed~~  
 20 ~~in subsection (1)(b). If the site is not accessible due to~~  
 21 ~~extended adverse weather conditions, the department may~~  
 22 ~~extend the 60-day time period prescribed in subsection~~  
 23 ~~(1)(b) by not more than 180 days to allow inspection of the~~  
 24 ~~site and reasonable review. The department must serve~~  
 25 ~~written notice of extension upon the applicant in person or~~

1 by certified mail, and any such extension is subject to  
 2 appeal to the board in accordance with the Montana  
 3 Administrative Procedure Act.

4 (ii) If the department determines that additional time  
 5 is needed to review the application and reclamation plan for  
 6 a major operation, the department and the applicant shall  
 7 negotiate to extend the 60-day period prescribed in  
 8 subsection 11(b) by not more than 365 days in order to  
 9 permit reasonable review.

10 ~~(c)(iii)~~ Failure of the board to act upon a complete  
 11 application within the extension period prescribed--or--any  
 12 extension--thereof constitutes approval of the application,  
 13 and the permit shall be issued promptly thereafter upon  
 14 receipt of the bond as required in 82-4-338.

15 (2) The operating permit shall be granted for the  
 16 period required to mine the land covered by the plan and  
 17 shall be valid until the surface or underground mining  
 18 authorized by the permit is completed or abandoned unless  
 19 the permit is suspended or revoked by the board as provided  
 20 in this part.

21 (3) The operating permit shall provide that the  
 22 reclamation plan may be modified by the board, upon proper  
 23 application of the permittee or department, after timely  
 24 notice and opportunity for hearing, at any time during the  
 25 term of the permit and for any of the following reasons:

1 (a) to modify the requirements so they will not  
 2 conflict with existing laws;

3 (b) when the previously adopted reclamation plan is  
 4 impossible or impracticable to implement and maintain;

5 (c) when significant environmental problem situations  
 6 are revealed by field inspection."

7 Section 8. Repealer. Section 82-4-333, MCA, is  
 8 repealed.

-End-

HOUSE BILL NO. 684

INTRODUCED BY HAND, KEYSER, JOHNSTON, GESEK, DOVER,  
HAZELBAKER, PETERSON, HEALY, MANLEY, McCALLUM,  
HURWITZ, THOFT, HEMSTAD, GOULD, STAIGHILLER,  
DAILY, C. SMITH, QUILICI, PAVLOVICH, KROPP

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
METAL MINE RECLAMATION LAWS; AMENDING SECTIONS 82-4-303,  
82-4-305, 82-4-331, 82-4-332, 82-4-334, 82-4-335, AND  
82-4-337, MCA; AND REPEALING SECTION 82-4-333, MCA."

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

Section 1. Section 82-4-303, MCA, is amended to read:

"82-4-303. Definitions. As used in this part, unless  
the context indicates otherwise, the following definitions  
apply:

(1) "Abandonment of surface or underground mining" may  
be presumed when it is shown that continued operation will  
not resume.

(2) "Board" means the board of land commissioners or  
such state employee or state agency as may succeed to its  
powers and duties under this part.

(3) "Department" means the department of state lands.

~~(4) "Development" means all operations between  
exploration and mining.~~

~~(5)(4) "Disturbed land" means that area of land or  
surface water disturbed, beginning at the date of the  
issuance of the permit, and it comprises that area from  
which the overburden or minerals have been removed and  
tailings ponds, waste dumps, roads, conveyor systems, leach  
dumps, and all similar excavations or covering resulting  
from the operation and which have not been previously  
reclaimed under the reclamation plan. ~~The term does not  
include roads which are required to be built to certain  
specifications by a public agency if the public agency  
notifies the department in writing that it desires to have  
the road remain unreclaimed after mining or exploration  
ceases.~~~~

~~(6)(5) "Exploration" means all activities conducted on  
or beneath the surface of lands resulting in material  
disturbance of the surface for the purpose of determining  
the presence, location, extent, depth, grade, and economic  
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than mining for production and economic exploitation, as  
well as all roads made for the purpose of facilitating  
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~~(7)(6) "Mineral" means any ore, rock, or substance,  
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phosphate rock, or uranium, taken from below the surface or  
from the surface of the earth for the purpose of milling,~~



1 concentration, refinement, smelting, manufacturing, or other  
 2 subsequent use or processing or for stockpiling for future  
 3 use, refinement, or smelting.

4 ~~(1)(1)~~ "Mining" commences at such time as the operator  
 5 first mines ores or minerals in commercial quantities for  
 6 sale, beneficiation, refining, or other processing or  
 7 disposition or first takes bulk samples for metallurgical  
 8 testing in excess of aggregate of 10,000 short tons.

9 ~~(1) "Contiguous" means that a mining claim does not  
 10 have a point on its boundary in common with any point on the  
 11 boundary of any other mining claim.~~

12 ~~(1)(2)~~ "Person" means any person, corporation, firm,  
 13 association, partnership, or other legal entity engaged in  
 14 exploration for or development or mining of minerals on or  
 15 below the surface of the earth.

16 ~~(1)(3)~~ "Reclamation plan" means the operator's  
 17 written proposal, as required and approved by the board, for  
 18 reclamation of the land that will be disturbed, which  
 19 proposal shall include, to the extent practical at the time  
 20 of application for ~~a~~ developing or ~~an~~ operating permit:

21 (a) a statement of the proposed subsequent use of the  
 22 land after reclamation;

23 (b) plans for surface gradient restoration to a  
 24 surface suitable for the proposed subsequent use of the land  
 25 after reclamation is completed and the proposed method of

1 accomplishment;

2 (c) the manner and type of revegetation or other  
 3 surface treatment of disturbed areas;

4 (d) procedures proposed to avoid foreseeable  
 5 situations of public nuisance, endangerment of public  
 6 safety, damage to human life or property, or unnecessary  
 7 damage to flora and fauna in or adjacent to the area;

8 (e) the method of disposal of mining debris;

9 (f) the method of diverting surface waters around the  
 10 disturbed areas where necessary to prevent pollution of  
 11 those waters or unnecessary erosion;

12 (g) the method of reclamation of stream channels and  
 13 stream banks to control erosion, siltation, and pollution;

14 (h) such maps and other supporting documents as may be  
 15 reasonably required by the department; and

16 (i) a time schedule for reclamation that meets the  
 17 requirements of 82-4-336.

18 ~~(1)(4) (A) "Small miner" means a person, firm, or  
 19 corporation engaged that engages in the business of mining,  
 20 who does not remove from the earth during any calendar year  
 21 material in excess of 36,500 tons in the aggregate, THAT  
 22 DOES NOT REMOVE FROM THE EARTH DURING ANY CALENDAR YEAR  
 23 MATERIAL IN EXCESS OF 36,500 TONS IN THE AGGREGATE, THAT  
 24 holds no operating permit under 82-4-332, and THAT  
 25 conducts:~~

1 ~~(a)(I) operations resulting in not more than 5 acres~~  
 2 ~~of the earth's surface being disturbed and unreclaimed; or~~  
 3 ~~(b)(II) two operations which disturb and leave~~  
 4 ~~unreclaimed less than 5 acres per operation if the~~  
 5 ~~respective mining properties are:~~

6 ~~+++ (A) the only operations engaged in by the persons~~  
 7 ~~firm, or corporation;~~

8 ~~+++ (B) nonecontiguous AT LEAST 1 MILE APART AT THEIR~~  
 9 ~~CLOSEST POINT; and~~

10 ~~+++ (C) not operated simultaneously except during a~~  
 11 ~~transition--period SEASONAL TRANSITIONAL PERIODS not to~~  
 12 ~~exceed 30 days.~~

13 ~~(B) FOR THE PURPOSE OF THIS DEFINITION ONLY, THE~~  
 14 ~~DEPARTMENT SHALL, IN COMPUTING THE AREA COVERED BY THE~~  
 15 ~~OPERATION, EXCLUDE ACCESS OR MAINTENANCE ROADS THAT ARE REQUIRED~~  
 16 ~~BY A LOCAL, STATE, OR FEDERAL AGENCY HAVING JURISDICTION~~  
 17 ~~OVER THAT ROAD TO BE CONSTRUCTED TO CERTAIN SPECIFICATIONS~~  
 18 ~~IF THAT PUBLIC AGENCY NOTIFIES THE DEPARTMENT IN WRITING~~  
 19 ~~THAT IT DESIRES TO HAVE THE ROAD REMAIN IN USE AND WILL~~  
 20 ~~MAINTAIN IT AFTER MINING OR EXPLORATION CEASES.~~

21 ~~++(11) "Surface mining" means all or any part of the~~  
 22 ~~process involved in mining of minerals by removing the~~  
 23 ~~overburden and mining directly from the mineral deposits~~  
 24 ~~thereby exposed, including but not limited to open-pit~~  
 25 ~~mining of minerals naturally exposed at the surface of the~~

1 earth, mining by the auger method, and all similar methods  
 2 by which earth or minerals exposed at the surface are  
 3 removed in the course of mining. Surface mining does not  
 4 include the extraction of oil, gas, bentonite, clay, coal,  
 5 sand, gravel, phosphate rock, or uranium or excavation or  
 6 grading conducted for on-site farming, on-site road  
 7 construction, or other on-site building construction.

8 ~~++(12) "Underground mining" means all methods of~~  
 9 ~~mining other than surface mining.~~

10 ~~++(13) "Unit of surface-mined area" means that area~~  
 11 ~~of land and surface water included within an operating~~  
 12 ~~permit actually disturbed by surface mining during each~~  
 13 ~~12-month period of time, beginning at the date of the~~  
 14 ~~issuance of the permit, and it comprises and includes the~~  
 15 ~~area from which overburden or minerals have been removed,~~  
 16 ~~the area covered by mining debris, and all additional areas~~  
 17 ~~used in surface mining or underground mining operations~~  
 18 ~~which by virtue of such use are thereafter susceptible to~~  
 19 ~~erosion in excess of the surrounding undisturbed portions of~~  
 20 ~~land.~~

21 ~~++(14) "Vegetative cover" means the type of~~  
 22 ~~vegetation, grass, shrubs, trees, or any other form of~~  
 23 ~~natural cover considered suitable at time of reclamation."~~

24 Section 2. Section 82-4-305, MCA, is amended to read:  
 25 "82-4-305. Exemption -- small miners -- written

1 agreement. (1) No provisions of this part shall apply to any  
2 small miner when the small miner annually agrees in writing:

3 (a) that he shall not pollute or contaminate any  
4 stream;

5 (b) that he shall provide protection for human and  
6 animal life through the installation of bulkheads installed  
7 over safety collars and the installation of doors on tunnel  
8 portals; and

9 (c) ~~he shall not conduct a mining operation which will~~  
10 ~~result in more than 5 acres of the earth's surface being~~  
11 ~~disturbed and unreclaimed and provides~~ provide a map  
12 locating his mining operations. Such map shall be to a size  
13 and scale as determined by the department.

14 (2) Failure to comply with the regulations stipulated  
15 in this section will constitute a misdemeanor, and this  
16 offense will subject the owners or operators of said project  
17 to a fine of not less than \$10 or more than \$100, payable to  
18 the department of revenue of the state of Montana or any  
19 board, commission, or person authorized to collect said  
20 fine."

21 Section 3. Section 82-4-331, MCA, is amended to read:

22 "82-4-331. Exploration license ~~or--development--permit~~  
23 required -- employees included. (1) No person shall engage  
24 in exploration ~~or--development~~ in the state without first  
25 obtaining an exploration license ~~or--development--permit~~ from

1 the board to do so, such license ~~or--permit~~ to be issued for  
2 a period of 1 year from date of issue and to be renewable  
3 from year to year on application therefor filed at any time  
4 within the 30 days next preceding the expiration of the  
5 current license ~~or--permit~~ and payment of like fee as  
6 required for a new license ~~or--permit~~; provided that the  
7 applicant for renewal is not then held by the board to be in  
8 violation of any provision of this law. Such license or  
9 permit shall be subject to suspension and revocation as  
10 provided by this part.

11 (2) Employees of persons holding a valid license or  
12 permit under this part shall be deemed included in and  
13 covered by such license ~~or--permit~~."

14 Section 4. Section 82-4-332, MCA, is amended to read:

15 "82-4-332. Exploration license. (1) An exploration  
16 license shall be issued to any applicant therefor who shall:

17 (a) pay a fee of \$5 to the board;

18 (b) agree to reclaim any surface area damaged by the  
19 applicant during exploration operations, all as may be  
20 reasonably required by the board;

21 (c) not be in default of any other reclamation  
22 obligation under this law.

23 (2) An application for an exploration license shall be  
24 made in writing, notarized, and submitted to the department  
25 in duplicate upon forms prepared and furnished by it. The

1 application shall include an exploration map or sketch in  
 2 sufficient detail to locate the area to be explored and to  
 3 determine whether significant environmental problems would  
 4 be encountered. The department shall by rules determine the  
 5 precise nature of such exploration map or sketch. The  
 6 applicant must state what types of prospecting and  
 7 excavation techniques will be employed in disturbing the  
 8 land.

9 (3) Upon filing of any certificate of claim location  
 10 as permitted by federal and state mining laws and  
 11 regulations, the locator shall provide copies of said  
 12 certificates to the board.

13 (4) Prior to the issuance of an exploration license,  
 14 the applicant shall file with the department a reclamation  
 15 and revegetation bond in a form and amount as determined by  
 16 the department in accordance with 82-4-338.

17 (5) In the event that the holder of an exploration  
 18 permit desires to mine or develop the area covered by the  
 19 exploration license and has fulfilled all of the  
 20 requirements for a development or an operating permit, the  
 21 department may shall allow the postponement of the  
 22 reclamation of the acreage explored if that acreage is  
 23 incorporated into the complete reclamation plan submitted  
 24 with the application for a development or an operating  
 25 permit. Any land actually affected by exploration or

1 excavation under an exploration license and not covered by  
 2 the development or operating reclamation plan shall be  
 3 reclaimed within 2 years after the completion of exploration  
 4 or abandonment of the site in a manner acceptable to the  
 5 department."

6 Section 5. Section 82-4-334, MCA, is amended to read:  
 7 "82-4-334. Exception -- geological phenomena. Upon  
 8 proper application by the holder of an exploration license  
 9 or development permit, the board may excuse such holder from  
 10 reclamation obligations with reference to any specified  
 11 openings or excavations exposing geological indications or  
 12 phenomena of especial interest, even though the licensee  
 13 does not apply or have any intention to apply for  
 14 development license or an operating permit for the land in  
 15 which such openings or excavations have been made."

16 Section 6. Section 82-4-335, MCA, is amended to read:  
 17 "82-4-335. Operating permit. Effective 60 days after  
 18 the date on which the board shall first promulgate its  
 19 regulations as authorized by 82-4-321, no person shall  
 20 engage in mining or disturb land in anticipation of mining  
 21 in the state without first obtaining an operating permit  
 22 from the board to do so. A separate operating permit shall  
 23 be required for each mine complex. Prior to receiving an  
 24 operating permit from the board, any person must pay the  
 25 basic permit fee of \$25 and must submit an application on a

1 form provided by the board, which shall contain the  
2 following information and any other pertinent data required  
3 by the rules:

4 (1) name and address of the operator and, if a  
5 corporation or other business entity, the name and address  
6 of its principal officers, partners, and the like and its  
7 resident agent for service of process, if required by law;

8 (2) minerals expected to be mined;

9 (3) a proposed reclamation plan;

10 (4) expected starting date of mining;

11 (5) a map showing the specific area to be mined and  
12 the boundaries of the land which will be disturbed,  
13 topographic detail, the location and names of all streams,  
14 roads, railroads, and utility lines on or immediately  
15 adjacent to the area, location of proposed access roads to  
16 be built and the names and addresses of the surface and  
17 mineral owners of all lands within the mining area, to the  
18 extent known to applicant;

19 (6) types of access roads to be built and manner of  
20 reclamation of road sites on abandonment; and

21 (7) a plan of mining which will provide, within limits  
22 of normal operating procedures of the industry, for  
23 completion of mining and associated land disturbances;

24 ~~(8) a reclamation and revegetation bond in form and~~  
25 ~~amount to be determined by the department in accordance with~~

1 ~~02-4-330\*~~

2 Section 7: Section 02-4-337, MCA, is amended to read:

3 "02-4-337. Inspection -- Issuance of operating permit  
4 -- modification. (i) ~~(a) Unless the time period is extended~~  
5 ~~under the provisions of subsection (1)(b) of this section,~~  
6 ~~the board shall either issue an operating permit to the~~  
7 ~~applicant or return any incomplete or inadequate~~  
8 ~~applications along with a description of the deficiencies~~  
9 ~~within 60 days of receipt of the complete application and~~  
10 ~~reclamation plan by the board and receipt of the permit fee.~~

11 The board shall cause all applications for operating permits  
12 to be reviewed for completeness within 30 days of receipt.  
13 The board shall notify the applicant concerning completeness  
14 as soon as possible. An application is considered complete  
15 unless the applicant is notified of any deficiencies within  
16 30 days of receipt.

17 (b) Unless the review period is extended as provided  
18 in this section, the board shall review the adequacy of the  
19 proposed reclamation plan and plan of mining within 30 days  
20 of the determination that the application is complete or  
21 within 60 days of receipt of the application if the board  
22 does not notify the applicant of any deficiencies in the  
23 application. If the applicant is not notified of  
24 deficiencies or inadequacies in the proposed reclamation  
25 plan and plan of mining within such time period, the

1 operating permit shall be issued upon receipt of the bond as  
 2 required in 82-4-338. The department shall promptly notify  
 3 the applicant of the form and amount of bond which will be  
 4 required. No permit may be issued until sufficient bond has  
 5 been submitted pursuant to 82-4-338.

6 ~~(b)(c)~~ (i) Prior to issuance of a permit, the  
 7 department shall inspect the site unless the department has  
 8 failed to act on the application within the time prescribed  
 9 in subsection (1)(b). If the site is not accessible due to  
 10 extended adverse weather conditions, the department may  
 11 extend the 60-day time period prescribed in subsection  
 12 (1)(b) by not more than 180 days to allow inspection of the  
 13 site and reasonable review. The department must serve  
 14 written notice of extension upon the applicant in person or  
 15 by certified mail, and any such extension is subject to  
 16 appeal to the board in accordance with the Montana  
 17 Administrative Procedure Act.

18 (ii) If the department determines that additional time  
 19 is needed to review the application and reclamation plan for  
 20 a major operation, the department and the applicant shall  
 21 negotiate to extend the 60-day period prescribed in  
 22 subsection (1)(b) by not more than 365 days in order to  
 23 permit reasonable review.

24 ~~(e)(iii)~~ Failure of the board to act upon a complete  
 25 application within the extension period ~~prescribed or any~~

1 ~~extension~~-thereof constitutes approval of the application,  
 2 and the permit shall be issued promptly thereafter ~~upon~~  
 3 receipt of the bond as required in 82-4-338.

4 (2) The operating permit shall be granted for the  
 5 period required to mine the land covered by the plan and  
 6 shall be valid until the surface or underground mining  
 7 authorized by the permit is completed or abandoned unless  
 8 the permit is suspended or revoked by the board as provided  
 9 in this part.

10 (3) The operating permit shall provide that the  
 11 reclamation plan may be modified by the board, upon proper  
 12 application of the permittee or department, after timely  
 13 notice and opportunity for hearing, at any time during the  
 14 term of the permit and for any of the following reasons:

15 (a) to modify the requirements so they will not  
 16 conflict with existing laws;

17 (b) when the previously adopted reclamation plan is  
 18 impossible or impracticable to implement and maintain;

19 (c) when significant environmental problem situations  
 20 are revealed by field inspection."

21 Section 8. Repealer. Section 82-4-333, MCA, is  
 22 repealed.

-End-

PROPOSED GOVERNOR'S AMENDMENTS TO HOUSE BILL NO. 684

1. Page 2, lines 8 through 13.  
Following: "plan."  
Strike: remainder of lines 8 through 13
2. Page 3, lines 9 through 11.  
Strike: lines 9 through 11 in their entirety  
Reletter: subsequent subsections
3. Page 4, line 18.  
Following: "(11)"  
Insert: "(a)"
4. Page 4, line 19.  
Following: "mining"  
Strike: ";"  
Insert: ","
5. Page 4, line 21.  
Following: "~~aggregate~~"  
Insert: "that does not remove from the earth during any calendar year material in excess of 36,500 tons in the aggregate, that"
6. Page 4, line 22.  
Following: "82-4-335"  
Strike: ";"  
Insert: ","  
Following: "and"  
Insert: "that"
7. Page 4, line 23.  
Strike: "(a)"  
Insert: "(i)"  
Reletter: subsequent subsections
8. Page 5, line 5.  
Following: "(ii)"  
Strike: "noncontiguous"  
Insert: "at least 1 mile apart at their closest point"
9. Page 5, lines 6 and 7.  
Following: "during"  
Strike: "a transition period"  
Insert: "seasonal transitional periods"

HB 684            PROPOSED GOVERNOR'S AMENDMENTS  
Page two

10. Page 5.

Following: line 7

Insert: "(b) For the purpose of this definition only, the department shall, in computing the area covered by the operation, exclude access or haulage roads that are required by a local, state, or federal agency having jurisdiction over that road to be constructed to certain specifications if that public agency notifies the department in writing that it desires to have the road remain in use and will maintain it after mining or exploration ceases."