

HOUSE BILL NO. 472

INTRODUCED BY D. BROWN, ELLISON,
HALLIGAN, FABREGA, IVERSON, SWITZER

BY REQUEST OF THE HARD-ROCK MINING SUBCOMMITTEE

IN THE HOUSE

January 24, 1983	Introduced and referred to House Select Committee on Economic Development.
January 25, 1983	Rereferred to Committee on Natural Resources.
February 11, 1983	Committee recommend bill do pass as amended. Report adopted.
February 12, 1983	Bill printed and placed on members' desks.
February 14, 1983	On motion, pass consideration until the 39th Legislative Day.
February 16, 1983	Second reading, do pass.
February 19, 1983	Considered correctly engrossed.
February 21, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 1, 1983	Introduced and referred to Committee on Natural Resources.
March 15, 1983	Committee recommend bill be concurred in. Report adopted.

March 17, 1983

Statement of Intent attached.

Second reading, concurred in.

March 19, 1983

Third reading, concurred in.
Ayes, 49; Noes, 0.

IN THE HOUSE

March 19, 1983

Returned to House with
Statement of Intent.

March 31, 1983

Second reading, Statement of
Intent concurred in.

April 1, 1983

Third reading, Statement of
Intent concurred in.

Sent to enrolling.

Reported correctly enrolled.

House BILL NO. 472

INTRODUCED BY

BY REQUEST OF THE HARD-ROCK MINING SUBCOMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE
HARD-ROCK MINING IMPACT LAWS; AMENDING SECTIONS 82-4-335,
90-6-305, 90-6-307, AND 90-6-309, MCA."

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

Section 1. Section 82-4-335, MCA, is amended to read:

"82-4-335. Operating permit. (1) No person shall
engage in mining or disturb land in anticipation of mining
in the state without first obtaining an operating permit
from the board to do so. A separate operating permit shall
be required for each mine complex. Prior to receiving an
operating permit from the board, any person must pay the
basic permit fee of \$25 and must submit an application on a
form provided by the board, which shall contain the
following information and any other pertinent data required
by the rules:

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

(b) minerals expected to be mined;

(c) a proposed reclamation plan;

(d) expected starting date of mining;

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

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

(g) a plan of mining which will provide, within limits
of normal operating procedures of the industry, for
completion of mining and associated land disturbances.

(2) Except as provided in subsection (3), the permit
provided for in subsection (1) for a large-scale mineral
development as defined in 90-6-302 shall be conditioned to
provide that mining activities under the permit may not
commence until the hard-rock mining impact board approves
the impact plan under 90-6-307 and until the permittee has
provided a written guarantee to the department and to the
hard-rock mining impact board of compliance within the time
schedule with the commitment made in the impact plan
approved by the hard-rock mining impact board, as provided

1 in 90-6-307. If the permittee does not comply with that
2 commitment within the time scheduled, the board, upon
3 receipt of written notice from the hard-rock mining impact
4 board, shall suspend the permit until it receives written
5 notice from the hard-rock mining impact board that the
6 permittee is in compliance.

7 (3) Compliance with 90-6-307 is not required for
8 exploration and bulk sampling for metallurgical testing when
9 the aggregate samples are less than 10,000 tons."

10 Section 2. Section 90-6-305, MCA, is amended to read:

11 "90-6-305. Hard-rock mining impact board -- general
12 powers. (1) The board may:

13 (a) retain professional staff, consultants, and
14 advisors notwithstanding the provisions of 2-15-121;

15 (b) adopt rules governing its proceedings and
16 administration of this part;

17 (c) award grants to local government units subject to
18 90-6-306;

19 (d) make payments to local government units from money
20 paid to the hard-rock mining impact account as provided in
21 90-6-307;

22 (e) make determinations as provided in 90-6-307; and

23 (f) accept grants and other funds to be used in
24 carrying out this part.

25 (2) The provisions of the Montana Administrative

1 Procedure Act apply to the proceedings and determinations of
2 the board."

3 Section 3. Section 90-6-307, MCA, is amended to read:

4 "90-6-307. Impact plan to be submitted. (1) When After
5 an application for a permit for a large-scale mineral
6 development is made under 82-4-335 and the permit is for a
7 large-scale mineral development, the person seeking the
8 permit shall submit to the affected counties and the board
9 an impact plan describing the economic impact the
10 large-scale mineral development will have on local
11 government units and shall file proof of such submission to
12 the counties with the board. Whenever an environmental
13 impact statement on the permit application is prepared under
14 75-1-201, the lead agency shall cooperate to the fullest
15 extent practicable with the affected local government units
16 to eliminate duplication of effort in data collection. The
17 governing bodies of the affected counties shall publish
18 notice of the submission of an impact plan at least once in
19 a newspaper of general circulation in the county. The
20 impact plan shall include:

21 (a) a timetable for development, including the opening
22 date of the development and the estimated closing date;

23 (b) the estimated number of persons coming into the
24 impacted area as a result of the development;

25 (c) the increased capital and operating cost to local

government units for providing services, including but not limited to police and fire protection, sewage, water treatment, schools, road construction and upkeep, education, and medical care, which can be expected as a result of the development;

(d) the financial or other assistance the developer will give to local government units to meet the increased need for services.

(2) In the impact plan, the developer shall commit itself to pay all of the increased capital and net operating cost to local government units that will be a result of the development, either from tax prepayments, as provided in 90-6-309, special industrial educational impact bonds, as provided in 90-6-310, or other funds obtained from the developer and shall provide a time schedule within which it will do so.

(3) Upon request of the governing body of an affected county, the mineral developer shall provide financial or other assistance as necessary to prepare and evaluate the impact plan. To receive this assistance, the affected county must contract with the developer and provide for any disbursements to be credited against future tax liabilities.

~~(3)(4)~~ An affected local government unit shall, within 90 days after receipt of the impact plan from the developer, notify the board in writing if that local government unit

objects to the impact plan, specifying the reasons why the impact plan is objected to. During the 90-day period, an affected local governmental unit may petition for one 30-day extension by submitting a written request to the board stating the need and justification for the extension. The board shall grant the extension unless it finds there is no reasonable basis for the request. If no objection is received within the 90-day period or any extension thereof, the impact plan shall be approved by the board.

~~(4)(5)~~ If objections are received from a local government unit, the board shall, within 10 days, promptly notify the developer and forward a copy of the local government unit's objections to the developer. If within 30 days the local government unit and the developer cannot resolve the objection, the board shall conduct a hearing on the validity of the objections which shall be held in the affected county or, if objections are received from local government units in more than one county, shall be held in the county which, in the board's judgment, is more greatly affected. The provisions of the Montana Administrative Procedure Act shall apply to the conduct of the hearing. The impact plan filed by the developer shall carry no presumption of correctness at the hearing.

~~(5)(6)~~ Following the hearing, the board shall, within 60 days, make findings as to those portions of the impact

plan which were objected to and, if appropriate, amend the impact plan accordingly. The findings and impact plan, as amended, shall be served by the board upon all parties. Any local government unit or the developer, if aggrieved by the decision of the board, is entitled to judicial review, as provided by Title 2, chapter 4, part 7, in the district court in and for the judicial district in which the hearing was held.

~~(6)~~(7) The developer shall, within 30 days of receipt of the approved impact plan, provide the board with a written guaranty that the developer will make all the payments to the board required in the approved impact plan and according to the time schedule contained in the approved impact plan.

~~(7)~~(8) The board shall deposit all payments received from the developer into the hard-rock mining impact account established by 90-6-304.

~~(8)~~(9) The board shall notify the department of state lands of its receipt of the written guaranty of payment, of each required payment, and of any failure of the developer to comply with this section.

~~(9)~~(10) Upon receipt of evidence that an affected local government unit identified in the approved impact plan is providing or is preparing to provide an additional service or facility provided for in the approved impact plan, the

board shall pay to that local government unit in one sum or in parts the money from the hard-rock mining impact fund identified in the plan as the increased cost to the local government unit of providing that public service or facility.

~~(10)~~(11) If it is determined that an objection filed by an affected local government unit under subsection (3) is valid and it results in some remedial order by the board or court of competent jurisdiction, the local government unit shall be awarded and the developer shall pay reasonable costs and attorney fees associated with any administrative or judicial appeals filed under this section. Any attorney fees and costs awarded shall be in addition to any amounts paid by the developer under this part."

Section 4. Section 90-6-309, MCA, is amended to read:

"90-6-309. Tax prepayment — large-scale mineral development. (1) After permission to commence operation is granted by the appropriate governmental agency, and upon request of the ~~board of county commissioners~~ governing body of a county in which a facility is to be located, a person intending to construct or locate a large-scale mineral development in this state shall prepay property taxes in an amount equal to at least three times the estimated property tax due the year the large-scale mineral development facility commences operation. This prepayment shall exclude

the 6-mill university levy and may exclude the mandatory county levy for the school foundation program of 40 mills.

(2) The person who is to prepay under this section shall not be obligated to prepay the entire amount established in subsection (1) at one time. Upon request of the governing body of an affected local government unit, the person shall prepay the amount shown to be needed from time to time as determined by the board.

(3) The person who is to prepay shall guarantee to the hard-rock mining impact board, ~~with appropriate bank guarantees through an appropriate financial institution,~~ as may be required by the board, that property tax prepayments will be paid as needed for expenditures created by the impacts of the large-scale mineral development.

(4) When the mineral development facilities are completed and assessed by the department of revenue, they shall be subject during the first 3 years and thereafter to taxation as all other property similarly situated, except that in each year after the start of production, the local government unit that received a property tax prepayment shall provide for repayment of prepaid property taxes in accordance with subsection (5).

(5) A local government unit that received all or a portion of the property tax prepayment under this section shall provide for repayment according to the following

procedure:

(a) In each year after the commencement of mining, the local government shall:

(i) divide its budget by the average mill levy of its jurisdiction during the 3 years immediately preceding commencement of mining operations, to arrive at a taxable valuation needed to fund its budget using the average 3-year mill levy;

(ii) reduce the taxable valuation of property of a person who prepaid property taxes by the excess, if any, of the total taxable value of the taxing jurisdiction including the person's property over the taxable value determined under subsection (5)(a)(i), but in no case by an amount greater than the taxable value of the person's property.

(b) The reduction in taxable value, if any, determined under subsection (5)(a)(ii) times the average mill levy used in subsection (5)(a)(i) equals the property tax prepayment credit allowed for the taxable year for that local government unit. Any local government unit not receiving a payment shall not be affected by this section and no reduction in value shall be used in the computation of taxes due that unit of local government. In no event shall the credit allowed under this part extend more than 10 years beyond the date the prepayment is made under this section.

(c) The procedure established under subsection (5)(a)

shall continue from year to year until the total credit allowed the person who prepaid property taxes equals the total property taxes prepaid."

NEW SECTION. Section 5. Impact plan amendments. (1)

If it becomes apparent that an approved impact plan is materially inaccurate because of errors in assessment or substantial changes in circumstances, then either the mineral developer or the governing body of an affected county may petition the board for an amendment to the plan. 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.

(2) 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 the 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.

(3) 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.

(4) 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.

NEW SECTION. Section 6. Codification instruction.

Section 5 is intended to be codified as an integral part of

LC 2127/01

- 1 Title 90, chapter 6, and the provisions of Title 90, chapter
- 2 6, apply to section 5.

-End-

STATE OF MONTANA

REQUEST NO. 242-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 26, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 472 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 472 generally revises hard-rock mining impact laws.

ASSUMPTIONS:

- 1) For this biennium, the proposed budget for the Hard Rock Board should be adequate to absorb the increased workload. If future bienniums, an increase in costs might occur.

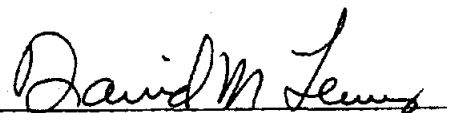
FISCAL IMPACT:

Minimal this biennium.

LOCAL GOVERNMENT IMPACT:

Should enable local governments to obtain adequate impact funding if actual impact costs significantly exceed those projected. Impossible to estimate dollar amounts; cost will be incurred by mineral developer not by state (except for board operations expenses).

FISCAL NOTE 9:F/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-31-83

Rereferred and

Approved by Committee
on Natural Resources

HOUSE BILL NO. 472

INTRODUCED BY D. BROWN, ELLISON,

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from the board to do so. A separate operating permit shall
be required for each mine complex. Prior to receiving an
operating permit from the board, any person must pay the
basic permit fee of \$25 and must submit an application on a
form provided by the board, which shall contain the
following information and any other pertinent data required
by the rules:

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

(b) minerals expected to be mined;

(c) a proposed reclamation plan;

(d) expected starting date of mining;

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

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

(g) a plan of mining which will provide, within limits
of normal operating procedures of the industry, for
completion of mining and associated land disturbances.

(2) Except as provided in subsection (3), the permit
provided for in subsection (1) for a large-scale mineral
development as defined in 90-6-302 shall be conditioned to
provide that mining activities under the permit may not
commence until the hard-rock mining impact board approves
the impact plan under 90-6-307 and until the permittee has
provided a written guarantee to the department and to the
hard-rock mining impact board of compliance within the time
schedule with the commitment made in the impact plan

approved by the hard-rock mining impact board, as provided in 90-6-307. If the permittee does not comply with that commitment within the time scheduled, the board, upon receipt of written notice from the hard-rock mining impact board, shall suspend the permit until it receives written notice from the hard-rock mining impact board that the permittee is in compliance.

(3) Compliance with 90-6-307 is not required for exploration and bulk sampling for metallurgical testing when the aggregate samples are less than 10,000 tons."

Section 2. Section 90-6-305, MCA, is amended to read:

"90-6-305. Hard-rock mining impact board -- general powers. (1) The board may:

(a) retain professional staff, consultants, and advisors notwithstanding the provisions of 2-15-121;

(b) adopt rules governing its proceedings and administration of this part;

(c) award grants to local government units subject to 90-6-306;

(d) make payments to local government units from money paid to the hard-rock mining impact account as provided in 90-6-307;

(e) make determinations as provided in 90-6-307; and

(f) accept grants and other funds to be used in carrying out this part.

(2) The provisions of the Montana Administrative Procedure Act apply to the proceedings and determinations of the board."

Section 3. Section 90-6-307, MCA, is amended to read:

"90-6-307. Impact plan to be submitted. (1) When after an application for a permit ~~for a large-scale mineral development~~ is made under 82-4-335 and the permit is for a ~~large-scale mineral development~~, the person seeking the permit shall submit to the affected counties and the board an impact plan describing the economic impact the large-scale mineral development will have on local government units and shall file proof of such submission to the counties with the board. ~~Whenever an environmental impact statement on the permit application is prepared under 75-1-201, the lead agency shall cooperate to the fullest extent practicable with the affected local government units to eliminate duplication of effort in data collection.~~ The governing bodies of the affected counties shall publish notice of the submission of an impact plan at least once in a newspaper of general circulation in the county. The impact plan shall include:

(a) a timetable for development, including the opening date of the development and the estimated closing date;

(b) the estimated number of persons coming into the impacted area as a result of the development;

1 (c) the increased capital and operating cost to local
2 government units for providing services, including but not
3 limited to police and fire protection, sewage, water
4 treatment, schools, road construction and upkeep, education,
5 and medical care, which can be expected as a result of the
6 development;

7 (d) the financial or other assistance the developer
8 will give to local government units to meet the increased
9 need for services.

10 (2) In the impact plan, the developer shall commit
11 itself to pay all of the increased capital and net operating
12 cost to local government units that will be a result of the
13 development, either from tax prepayments, as provided in
14 90-6-309, special industrial educational impact bonds, as
15 provided in 90-6-310, or other funds obtained from the
16 developer and shall provide a time schedule within which it
17 will do so.

18 ~~(3) Upon request of the governing body of an affected~~
19 ~~county UNIT OF LOCAL GOVERNMENT, the mineral developer,~~
20 ~~PRIOR TO COMMENCEMENT OF THE 90-DAY REVIEW PERIOD, shall~~
21 ~~provide financial or other assistance as necessary to~~
22 ~~prepare FOR and evaluate the impact plan. For receive this~~
23 ~~assistance, the THE GOVERNING BODY OF THE affected county~~
24 ~~must contract with the developer and provide for any TO~~
25 ~~OBTAIN THE REQUESTED FINANCIAL ASSISTANCE FOR EACH UNIT OF~~

1 ~~LOCAL GOVERNMENT WITHIN THE COUNTY. ANY disbursements to A~~
2 ~~UNIT OF LOCAL GOVERNMENT UNDER THIS SUBSECTION SHALL be~~
3 ~~credited against future tax liabilities, IE ANY.~~

4 ~~(3)(4) An affected local government unit shall, within~~
5 ~~90 days after receipt of the impact plan from the developer,~~
6 ~~notify the board in writing if that local government unit~~
7 ~~objects to the impact plan, specifying the reasons why the~~
8 ~~impact plan is objected to. During the 90-day period, an~~
9 ~~affected local governmental unit may petition for one 30-day~~
10 ~~extension by submitting a written request to the board~~
11 ~~stating the need and justification for the extension. The~~
12 ~~board shall grant the extension unless it finds there is no~~
13 ~~reasonable basis for the request. If no objection is~~
14 ~~received within the 90-day period or any extension thereof,~~
15 ~~the impact plan shall be approved by the board.~~

16 ~~(4)(5) If objections are received from a local~~
17 ~~government unit, the board shall, within 10 days, promptly~~
18 ~~notify the developer and forward a copy of the local~~
19 ~~government unit's objections to the developer. If within 30~~
20 ~~days the local government unit and the developer cannot~~
21 ~~resolve the objection, the board shall conduct a hearing on~~
22 ~~the validity of the objections which shall be held in the~~
23 ~~affected county or, if objections are received from local~~
24 ~~government units in more than one county, shall be held in~~
25 ~~the county which, in the board's judgment, is more greatly~~

1 affected. The provisions of the Montana Administrative
2 Procedure Act shall apply to the conduct of the hearing. The
3 impact plan filed by the developer shall carry no
4 presumption of correctness at the hearing.

5 (5)(6) Following the hearing, the board shall, within
6 60 days, make findings as to those portions of the impact
7 plan which were objected to and, if appropriate, amend the
8 impact plan accordingly. The findings and impact plan, as
9 amended, shall be served by the board upon all parties. Any
10 local government unit or the developer, if aggrieved by the
11 decision of the board, is entitled to judicial review, as
12 provided by Title 2, chapter 4, part 7, in the district
13 court in and for the judicial district in which the hearing
14 was held.

15 (6)(7) The developer shall, within 30 days of receipt
16 of the approved impact plan, provide the board with a
17 written guaranty that the developer will make all the
18 payments to the board required in the approved impact plan
19 and according to the time schedule contained in the approved
20 impact plan.

21 (7)(8) The board shall deposit all payments received
22 from the developer into the hard-rock mining impact account
23 established by 90-6-304.

24 (8)(9) The board shall notify the department of state
25 lands of its receipt of the written guaranty of payment, of

1 each required payment, and of any failure of the developer
2 to comply with this section.

3 (9)(10) Upon receipt of evidence that an affected local
4 government unit identified in the approved impact plan is
5 providing or is preparing to provide an additional service
6 or facility provided for in the approved impact plan, the
7 board shall pay to that local government unit in one sum or
8 in parts the money from the hard-rock mining impact fund
9 identified in the plan as the increased cost to the local
10 government unit of providing that public service or
11 facility.

12 (10)(11) If it is determined that an objection filed by
13 an affected local government unit under subsection (3) is
14 valid ~~and it results in some remedial order by the board or~~
15 ~~court of competent jurisdiction,~~ the local government unit
16 shall be awarded and the developer shall pay reasonable
17 costs and attorney fees associated with any ~~administrative~~
18 ~~or judicial~~ appeals filed under this section. Any attorney
19 fees and costs awarded shall be in addition to any amounts
20 paid by the developer under this part."

21 Section 4. Section 90-6-309, MCA, is amended to read:

22 "90-6-309. Tax prepayment -- large-scale mineral
23 development. (1) After permission to commence operation is
24 granted by the appropriate governmental agency, and upon
25 request of the ~~board-of-county-commissioners governing body~~

1 of a county in which a facility is to be located, a person
 2 intending to construct or locate a large-scale mineral
 3 development in this state shall prepay property taxes in an
 4 amount equal to at least three times the estimated property
 5 tax due the year the large-scale mineral development
 6 facility commences operation. This prepayment shall exclude
 7 the 5-mill university levy and may exclude the mandatory
 8 county levy for the school foundation program of 40 mills.

9 (2) The person who is to prepay under this section
 10 shall not be obligated to prepay the entire amount
 11 established in subsection (1) at one time. Upon request of
 12 the governing body of an affected local government unit, the
 13 person shall prepay the amount shown to be needed from time
 14 to time as determined by the board.

15 (3) The person who is to prepay shall guarantee to the
 16 hard-rock mining impact board, ~~with--appropriate--bank~~
 17 ~~guaranties through an appropriate financial institution,~~ as
 18 may be required by the board, that property tax prepayments
 19 will be paid as needed for expenditures created by the
 20 impacts of the large-scale mineral development.

21 (4) When the mineral development facilities are
 22 completed and assessed by the department of revenue, they
 23 shall be subject during the first 3 years and thereafter to
 24 taxation as all other property similarly situated, except
 25 that in each year after the start of production, the local

1 government unit that received a property tax prepayment
 2 shall provide for repayment of prepaid property taxes in
 3 accordance with subsection (5).

4 (5) A local government unit that received all or a
 5 portion of the property tax prepayment under this section
 6 shall provide for repayment according to the following
 7 procedure:

8 (a) In each year after the commencement of mining, the
 9 local government shall:

10 (i) divide its budget by the average mill levy of its
 11 jurisdiction during the 3 years immediately preceding
 12 commencement of mining operations, to arrive at a taxable
 13 valuation needed to fund its budget using the average 3-year
 14 mill levy;

15 (ii) reduce the taxable valuation of property of a
 16 person who prepaid property taxes by the excess, if any, of
 17 the total taxable value of the taxing jurisdiction including
 18 the person's property over the taxable value determined
 19 under subsection (5)(a)(i), but in no case by an amount
 20 greater than the taxable value of the person's property.

21 (b) The reduction in taxable value, if any, determined
 22 under subsection (5)(a)(ii) times the average mill levy used
 23 in subsection (5)(a)(i) equals the property tax prepayment
 24 credit allowed for the taxable year for that local
 25 government unit. Any local government unit not receiving a

payment shall not be affected by this section and no reduction in value shall be used in the computation of taxes due that unit of local government. In no event shall the credit allowed under this part extend more than 10 years beyond the date the prepayment is made under this section.

(c) The procedure established under subsection (5)(a) shall continue from year to year until the total credit allowed the person who prepaid property taxes equals the total property taxes prepaid."

~~NEW SECTION. Section 5. Impact plan amendments. (1) If it becomes apparent that an approved impact plan is materially inaccurate because of errors in assessment or substantial changes in circumstances, then either the mineral developer or the governing body of an affected county may petition the board for an amendment to the plan.~~ THE IMPACT PLAN MAY PROVIDE FOR AMENDMENT UNDER DEFINITE CONDITIONS. ALSO, 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 the petitioner,

1 specifying the reasons why the impact plan should not be
 2 amended as proposed. If no objection is received within the
 3 60-day period, the impact plan must be amended by the board
 4 as proposed by the petitioner.

5 ~~(3)(4)~~ If an objection is received, within 10 days of
 6 its receipt, the board shall notify the petitioner and
 7 include a copy of all objections received by the board. If
 8 the objecting party and the petitioner cannot resolve the
 9 objections within 30 days after the expiration of the 60-day
 10 period, the board shall conduct a hearing on the validity of
 11 the objections within 30 days after the failure of the
 12 parties to resolve the objections. The hearing must be held
 13 in the affected county or, if objections are received from
 14 local government units in more than one county, must be held
 15 in the county which in the board's judgment is more greatly
 16 affected. The provisions of the Montana Administrative
 17 Procedure Act apply to the conduct of the hearing.

18 ~~(4)(5)~~ Following the hearing, the board shall make
 19 findings as to those portions of the amendments which were
 20 objected to and, if appropriate, amend the impact plan
 21 accordingly. The board shall cause the findings and impact
 22 plan, as amended, to be served on all parties. Any local
 23 government unit or the developer is entitled to judicial
 24 review, as provided by Title 2, chapter 4, part 7, in the
 25 district court for the judicial district in which the

1 hearing was held.

2 **NEW_SECTION.** Section 6. Codification instruction.
 3 Section 5 is intended to be codified as an integral part of
 4 Title 90, chapter 6, and the provisions of Title 90, chapter
 5 6, apply to section 5.

-End-

1 HOUSE BILL NO. 472

2 INTRODUCED BY D. BROWN, ELLISON,

3 HALLIGAN, FABREGA, IVERSON, SWITZER

4 BY REQUEST OF THE HARD-ROCK MINING SUBCOMMITTEE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE
7 HARD-ROCK MINING IMPACT LAWS; AMENDING SECTIONS 82-4-335,
8 90-6-305, 90-6-307, AND 90-6-309, MCA."
9

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

11 Section 1. Section 82-4-335, MCA, is amended to read:

12 "82-4-335. Operating permit. (1) No person shall
13 engage in mining or disturb land in anticipation of mining
14 in the state without first obtaining an operating permit
15 from the board to do so. A separate operating permit shall
16 be required for each mine complex. Prior to receiving an
17 operating permit from the board, any person must pay the
18 basic permit fee of \$25 and must submit an application on a
19 form provided by the board, which shall contain the
20 following information and any other pertinent data required
21 by the rules:

22 (a) name and address of the operator and, if a
23 corporation or other business entity, the name and address
24 of its principal officers, partners, and the like and its
25 resident agent for service of process, if required by law;

1 (b) minerals expected to be mined;

2 (c) a proposed reclamation plan;

3 (d) expected starting date of mining;

4 (e) a map showing the specific area to be mined and
5 the boundaries of the land which will be disturbed,
6 topographic detail, the location and names of all streams,
7 roads, railroads, and utility lines on or immediately
8 adjacent to the area, location of proposed access roads to
9 be built and the names and addresses of the surface and
10 mineral owners of all lands within the mining area, to the
11 extent known to applicant;

12 (f) types of access roads to be built and manner of
13 reclamation of road sites on abandonment; and

14 (g) a plan of mining which will provide, within limits
15 of normal operating procedures of the industry, for
16 completion of mining and associated land disturbances.

17 (2) Except as provided in subsection (3), the permit
18 provided for in subsection (1) for a large-scale mineral
19 development as defined in 90-6-302 shall be conditioned to
20 provide that mining activities under the permit may not
21 commence until the hard-rock mining impact board approves
22 the impact plan under 90-6-307 and until the permittee has
23 provided a written guarantee to the department and to the
24 hard-rock mining impact board of compliance within the time
25 schedule with the commitment made in the impact plan

1 approved by the hard-rock mining impact board, as provided
 2 in 90-6-307. If the permittee does not comply with that
 3 commitment within the time scheduled, the board, upon
 4 receipt of written notice from the hard-rock mining impact
 5 board, shall suspend the permit until it receives written
 6 notice from the hard-rock mining impact board that the
 7 permittee is in compliance.

8 (3) Compliance with 90-6-307 is not required for
 9 exploration and bulk sampling for metallurgical testing when
 10 the aggregate samples are less than 10,000 tons."

11 Section 2. Section 90-6-305, MCA, is amended to read:
 12 "90-6-305. Hard-rock mining impact board -- general
 13 powers. (1) The board may:

14 (a) retain professional staff, consultants, and
 15 advisors notwithstanding the provisions of 2-15-121;

16 (b) adopt rules governing its proceedings and
 17 administration of this part;

18 (c) award grants to local government units subject to
 19 90-6-306;

20 (d) make payments to local government units from money
 21 paid to the hard-rock mining impact account as provided in
 22 90-6-307;

23 (e) make determinations as provided in 90-6-307; and

24 (f) accept grants and other funds to be used in
 25 carrying out this part.

1 (2) The provisions of the Montana Administrative
 2 Procedure Act apply to the proceedings and determinations of
 3 the board."

4 Section 3. Section 90-6-307, MCA, is amended to read:

5 "90-6-307. Impact plan to be submitted. (1) When After
 6 an application for a permit for ~~a large-scale mineral~~
 7 ~~development~~ is made under 82-4-335 and the permit is for a
 8 ~~large-scale mineral development~~, the person seeking the
 9 permit shall submit to the affected counties and the board
 10 an impact plan describing the economic impact the
 11 large-scale mineral development will have on local
 12 government units and shall file proof of such submission to
 13 the counties with the board. ~~Whenever an environmental~~
 14 ~~impact statement on the permit application is prepared under~~
 15 ~~75-1-201, the lead agency shall cooperate to the fullest~~
 16 ~~extent practicable with the affected local government units~~
 17 ~~to eliminate duplication of effort in data collection.~~ The
 18 governing bodies of the affected counties shall publish
 19 notice of the submission of an impact plan at least once in
 20 a newspaper of general circulation in the county. The
 21 impact plan shall include:

22 (a) a timetable for development, including the opening
 23 date of the development and the estimated closing date;

24 (b) the estimated number of persons coming into the
 25 impacted area as a result of the development;

(c) the increased capital and operating cost to local government units for providing services, including but not limited to police and fire protection, sewage, water treatment, schools, road construction and upkeep, education, and medical care, which can be expected as a result of the development;

(d) the financial or other assistance the developer will give to local government units to meet the increased need for services.

(2) In the impact plan, the developer shall commit itself to pay all of the increased capital and net operating cost to local government units that will be a result of the development, either from tax prepayments, as provided in 90-6-309, special industrial educational impact bonds, as provided in 90-6-310, or other funds obtained from the developer and shall provide a time schedule within which it will do so.

~~(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, the THE GOVERNING BODY OF THE affected county must contract with the developer and provide for any TO OBTAIN THE REQUESTED FINANCIAL ASSISTANCE FOR EACH UNIT OF~~

~~LOCAL GOVERNMENT WITHIN THE COUNTY. ANY disbursements to A UNIT OF LOCAL GOVERNMENT UNDER THIS SUBSECTION SHALL be credited against future tax liabilities, IF ANY.~~

~~(3)(4) An affected local government unit shall, within 90 days after receipt of the impact plan from the developer, notify the board in writing if that local government unit objects to the impact plan, specifying the reasons why the impact plan is objected to. During the 90-day period, an affected local governmental unit may petition for one 30-day extension by submitting a written request to the board stating the need and justification for the extension. The board shall grant the extension unless it finds there is no reasonable basis for the request. If no objection is received within the 90-day period or any extension thereof, the impact plan shall be approved by the board.~~

~~(4)(5) If objections are received from a local government unit, the board shall, within 10 days, promptly notify the developer and forward a copy of the local government unit's objections to the developer. If within 30 days the local government unit and the developer cannot resolve the objection, the board shall conduct a hearing on the validity of the objections which shall be held in the affected county or, if objections are received from local government units in more than one county, shall be held in the county which, in the board's judgment, is more greatly~~

1 affected. The provisions of the Montana Administrative
2 Procedure Act shall apply to the conduct of the hearing. The
3 impact plan filed by the developer shall carry no
4 presumption of correctness at the hearing.

5 (5)(6) Following the hearing, the board shall, within
6 60 days, make findings as to those portions of the impact
7 plan which were objected to and, if appropriate, amend the
8 impact plan accordingly. The findings and impact plan, as
9 amended, shall be served by the board upon all parties. Any
10 local government unit or the developer, if aggrieved by the
11 decision of the board, is entitled to judicial review, as
12 provided by Title 2, chapter 4, part 7, in the district
13 court in and for the judicial district in which the hearing
14 was held.

15 (6)(7) The developer shall, within 30 days of receipt
16 of the approved impact plan, provide the board with a
17 written guaranty that the developer will make all the
18 payments to the board required in the approved impact plan
19 and according to the time schedule contained in the approved
20 impact plan.

21 (7)(8) The board shall deposit all payments received
22 from the developer into the hard-rock mining impact account
23 established by 90-6-304.

24 (8)(9) The board shall notify the department of state
25 lands of its receipt of the written guaranty of payment, of

1 each required payment, and of any failure of the developer
2 to comply with this section.

3 (9)(10) Upon receipt of evidence that an affected local
4 government unit identified in the approved impact plan is
5 providing or is preparing to provide an additional service
6 or facility provided for in the approved impact plan, the
7 board shall pay to that local government unit in one sum or
8 in parts the money from the hard-rock mining impact fund
9 identified in the plan as the increased cost to the local
10 government unit of providing that public service or
11 facility.

12 (10)(11) If it is determined that an objection filed by
13 an affected local government unit under subsection (3) is
14 valid ~~and it results in some remedial order by the board or~~
15 ~~court of competent jurisdiction,~~ the local government unit
16 shall be awarded and the developer shall pay reasonable
17 costs and attorney fees associated with any ~~administrative~~
18 ~~or judicial~~ appeals filed under this section. Any attorney
19 fees and costs awarded shall be in addition to any amounts
20 paid by the developer under this part."

21 Section 4. Section 90-6-309, MCA, is amended to read:

22 "90-6-309. Tax prepayment -- large-scale mineral
23 development. (1) After permission to commence operation is
24 granted by the appropriate governmental agency, and upon
25 request of the board of county commissioners governing body

1 of a county in which a facility is to be located, a person
 2 intending to construct or locate a large-scale mineral
 3 development in this state shall prepay property taxes in an
 4 amount equal to at least three times the estimated property
 5 tax due the year the large-scale mineral development
 6 facility commences operation. This prepayment shall exclude
 7 the 5-mill university levy and may exclude the mandatory
 8 county levy for the school foundation program of 40 mills.

9 (2) The person who is to prepay under this section
 10 shall not be obligated to prepay the entire amount
 11 established in subsection (1) at one time. Upon request of
 12 the governing body of an affected local government unit, the
 13 person shall prepay the amount shown to be needed from time
 14 to time as determined by the board.

15 (3) The person who is to prepay shall guarantee to the
 16 hard-rock mining impact board, ~~with appropriate bank~~
 17 ~~guarantees through an appropriate financial institution~~ as
 18 may be required by the board, that property tax prepayments
 19 will be paid as needed for expenditures created by the
 20 impacts of the large-scale mineral development.

21 (4) When the mineral development facilities are
 22 completed and assessed by the department of revenue, they
 23 shall be subject during the first 3 years and thereafter to
 24 taxation as all other property similarly situated, except
 25 that in each year after the start of production, the local

1 government unit that received a property tax prepayment
 2 shall provide for repayment of prepaid property taxes in
 3 accordance with subsection (5).

4 (5) A local government unit that received all or a
 5 portion of the property tax prepayment under this section
 6 shall provide for repayment according to the following
 7 procedure:

8 (a) In each year after the commencement of mining, the
 9 local government shall:

10 (i) divide its budget by the average mill levy of its
 11 jurisdiction during the 3 years immediately preceding
 12 commencement of mining operations, to arrive at a taxable
 13 valuation needed to fund its budget using the average 3-year
 14 mill levy;

15 (ii) reduce the taxable valuation of property of a
 16 person who prepaid property taxes by the excess, if any, of
 17 the total taxable value of the taxing jurisdiction including
 18 the person's property over the taxable value determined
 19 under subsection (5)(a)(i), but in no case by an amount
 20 greater than the taxable value of the person's property.

21 (b) The reduction in taxable value, if any, determined
 22 under subsection (5)(a)(ii) times the average mill levy used
 23 in subsection (5)(a)(i) equals the property tax prepayment
 24 credit allowed for the taxable year for that local
 25 government unit. Any local government unit not receiving a

payment shall not be affected by this section and no reduction in value shall be used in the computation of taxes due that unit of local government. In no event shall the credit allowed under this part extend more than 10 years beyond the date the prepayment is made under this section.

(c) The procedure established under subsection (5)(a) shall continue from year to year until the total credit allowed the person who prepaid property taxes equals the total property taxes prepaid."

~~YEM SECTION. Section 5. Impact plan amendments. (1) If it becomes apparent that an approved impact plan is materially inaccurate because of errors in assessment or substantial changes in circumstances, then either the mineral developer or the governing body of an affected county may petition the board for an amendment to the plan.~~
THE IMPACT PLAN MAY PROVIDE FOR AMENDMENT UNDER DEFINITE CONDITIONS. ALSO, 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

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(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 the petitioner.

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 13 in the affected county or, if objections are received from
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 17 Procedure Act apply to the conduct of the hearing.

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 19 findings as to those portions of the amendments which were
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 22 plan, as amended, to be served on all parties. Any local
 23 government unit or the developer is entitled to judicial
 24 review, as provided by Title 2, chapter 4, part 7, in the
 25 district court for the judicial district in which the

1 hearing was held.

2 ~~NEW_SECTION.~~ Section 6. Codification Instruction.
 3 Section 5 is intended to be codified as an integral part of
 4 Title 90, chapter 6, and the provisions of Title 90, chapter
 5 6, apply to section 5.

-End-

March 17, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 472 have Statement of Intent Added:

A statement of intent is required for this bill because it expands the rulemaking authority of the hard-rock mining impact board.

(1) The legislature intends, under Section 2, that the hard-rock mining impact board be authorized to adopt rules under the Montana Administrative Procedure Act that will facilitate and effectuate its role as a Quasi-Judicial Board responsible for administering the Hard-Rock Mining Impact Act. The rules must ensure that implementation of the act is consistent with the purpose of mitigating local government impacts that may result from the commencement of large-scale hard-rock mineral developments in the state.

(2) The legislature intends that the board adopt rules for implementing Section 3 by establishing criteria that the board will use when making decisions on whether or not to grant a requested 30-day extension to an impact review period.

(3) The legislature further intends that the board adopt rules implementing Section 5 that provide:

(a) a procedure for conducting hearings on objections to proposed impact plan amendments that is consistent with the Montana Administrative Procedures Act; and

(b) a list of factors that will be used to determine the validity of objections to the proposed impact plan amendments.

The rulemaking authority granted in this bill is intended to supercede the existing authority that the hard-rock mining impact board has pursuant to chapter 617 of the laws of 1981.

1 STATEMENT OF INTENT

2 HOUSE BILL 472

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5 it expands the rulemaking authority of the hard-rock mining
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HOUSE BILL NO. 472

INTRODUCED BY D. BROWN, ELLISON,

HALLIGAN, FABREGA, IVERSON, SWITZER

BY REQUEST OF THE HARD-ROCK MINING SUBCOMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE
HARD-ROCK MINING IMPACT LAWS; AMENDING SECTIONS 82-4-335,
90-6-305, 90-6-307, AND 90-6-309, MCA."

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

Section 1. Section 82-4-335, MCA, is amended to read:

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engage in mining or disturb land in anticipation of mining
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operating permit from the board, any person must pay the
basic permit fee of \$25 and must submit an application on a
form provided by the board, which shall contain the
following information and any other pertinent data required
by the rules:

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

(b) minerals expected to be mined;

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(f) types of access roads to be built and manner of
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(g) a plan of mining which will provide, within limits
of normal operating procedures of the industry, for
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(2) Except as provided in subsection (3), the permit
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1 approved by the hard-rock mining impact board, as provided
 2 in 90-6-307. If the permittee does not comply with that
 3 commitment within the time scheduled, the board, upon
 4 receipt of written notice from the hard-rock mining impact
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11 itself to pay all of the increased capital and net operating
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22 ~~the validity of the objections which shall be held in the~~
23 ~~affected county or, if objections are received from local~~
24 ~~government units in more than one county, shall be held in~~
25 ~~the county which, in the board's judgment, is more greatly~~

1 affected. The provisions of the Montana Administrative
2 Procedure Act shall apply to the conduct of the hearing. The
3 impact plan filed by the developer shall carry no
4 presumption of correctness at the hearing.

5 ~~(57)(6)~~ Following the hearing, the board shall, within
6 60 days, make findings as to those portions of the impact
7 plan which were objected to and, if appropriate, amend the
8 impact plan accordingly. The findings and impact plan, as
9 amended, shall be served by the board upon all parties. Any
10 local government unit or the developer, if aggrieved by the
11 decision of the board, is entitled to judicial review, as
12 provided by Title 2, chapter 4, part 7, in the district
13 court in and for the judicial district in which the hearing
14 was held.

15 ~~(67)(7)~~ The developer shall, within 30 days of receipt
16 of the approved impact plan, provide the board with a
17 written guaranty that the developer will make all the
18 payments to the board required in the approved impact plan
19 and according to the time schedule contained in the approved
20 impact plan.

21 ~~(77)(8)~~ The board shall deposit all payments received
22 from the developer into the hard-rock mining impact account
23 established by 90-6-304.

24 ~~(87)(9)~~ The board shall notify the department of state
25 lands of its receipt of the written guaranty of payment, of

1 each required payment, and of any failure of the developer
2 to comply with this section.

3 ~~(97)(10)~~ Upon receipt of evidence that an affected local
4 government unit identified in the approved impact plan is
5 providing or is preparing to provide an additional service
6 or facility provided for in the approved impact plan, the
7 board shall pay to that local government unit in one sum or
8 in parts the money from the hard-rock mining impact fund
9 identified in the plan as the increased cost to the local
10 government unit of providing that public service or
11 facility.

12 ~~(107)(11)~~ If it is determined that an objection filed by
13 an affected local government unit under subsection (3) is
14 valid ~~and it results in some remedial order by the board or~~
15 ~~court of competent jurisdiction~~, the local government unit
16 shall be awarded and the developer shall pay reasonable
17 costs and attorney fees associated with any ~~administrative~~
18 ~~or judicial~~ appeals filed under this section. Any attorney
19 fees and costs awarded shall be in addition to any amounts
20 paid by the developer under this part."

21 Section 4. Section 90-6-309, MCA, is amended to read:

22 "90-6-309. Tax prepayment -- large-scale mineral
23 development. (1) After permission to commence operation is
24 granted by the appropriate governmental agency, and upon
25 request of the ~~board of county commissioners governing body~~

1 of a county in which a facility is to be located, a person
 2 intending to construct or locate a large-scale mineral
 3 development in this state shall prepay property taxes in an
 4 amount equal to at least three times the estimated property
 5 tax due the year the large-scale mineral development
 6 facility commences operation. This prepayment shall exclude
 7 the 5-mill university levy and may exclude the mandatory
 8 county levy for the school foundation program of 40 mills.

9 (2) The person who is to prepay under this section
 10 shall not be obligated to prepay the entire amount
 11 established in subsection (1) at one time. Upon request of
 12 the governing body of an affected local government unit, the
 13 person shall prepay the amount shown to be needed from time
 14 to time as determined by the board.

15 (3) The person who is to prepay shall guarantee to the
 16 hard-rock mining impact board, ~~with--appropriate--bank~~
 17 ~~guaranties through an appropriate financial institution,~~ as
 18 may be required by the board, that property tax prepayments
 19 will be paid as needed for expenditures created by the
 20 impacts of the large-scale mineral development.

21 (4) When the mineral development facilities are
 22 completed and assessed by the department of revenue, they
 23 shall be subject during the first 3 years and thereafter to
 24 taxation as all other property similarly situated, except
 25 that in each year after the start of production, the local

1 government unit that received a property tax prepayment
 2 shall provide for repayment of prepaid property taxes in
 3 accordance with subsection (5).

4 (5) A local government unit that received all or a
 5 portion of the property tax prepayment under this section
 6 shall provide for repayment according to the following
 7 procedure:

8 (a) In each year after the commencement of mining, the
 9 local government shall:

10 (i) divide its budget by the average mill levy of its
 11 jurisdiction during the 3 years immediately preceding
 12 commencement of mining operations, to arrive at a taxable
 13 valuation needed to fund its budget using the average 3-year
 14 mill levy;

15 (ii) reduce the taxable valuation of property of a
 16 person who prepaid property taxes by the excess, if any, of
 17 the total taxable value of the taxing jurisdiction including
 18 the person's property over the taxable value determined
 19 under subsection (5)(a)(i), but in no case by an amount
 20 greater than the taxable value of the person's property.

21 (b) The reduction in taxable value, if any, determined
 22 under subsection (5)(a)(ii) times the average mill levy used
 23 in subsection (5)(a)(i) equals the property tax prepayment
 24 credit allowed for the taxable year for that local
 25 government unit. Any local government unit not receiving a

1 payment shall not be affected by this section and no
2 reduction in value shall be used in the computation of taxes
3 due that unit of local government. In no event shall the
4 credit allowed under this part extend more than 10 years
5 beyond the date the prepayment is made under this section.

6 (c) The procedure established under subsection (5)(a)
7 shall continue from year to year until the total credit
8 allowed the person who prepaid property taxes equals the
9 total property taxes prepaid."

10 NEW SECTION. Section 5. Impact plan amendments. (1)
11 if--it--becomes--apparent--that--an--approved--impact--plan--is
12 materially--inaccurate--because--of--errors--in--assessment--or
13 substantial--changes--in--circumstances--then--either--the
14 mineral--developer--or--the--governing--body--of--an--affected
15 county--may--petition--the--board--for--an--amendment--to--the--plan.
16 THE IMPACT PLAN MAY PROVIDE FOR AMENDMENT UNDER DEFINITE
17 CONDITIONS. ALSO, THE GOVERNING BODY OF AN AFFECTED COUNTY
18 OR THE MINERAL DEVELOPER MAY PETITION THE BOARD FOR AN
19 AMENDMENT TO AN APPROVED IMPACT PLAN IF:

20 (A) EMPLOYMENT AT THE LARGE-SCALE MINERAL DEVELOPMENT
21 IS FORECAST TO INCREASE OR DECREASE BY AT LEAST 100 PEOPLE
22 OVER OR UNDER THE EMPLOYMENT LEVELS CONTEMPLATED BY THE
23 APPROVED IMPACT PLAN; OR

24 (B) CHANGES IN THE LARGE-SCALE MINERAL DEVELOPMENT
25 CAUSE, OR CAN BE EXPECTED TO CAUSE, AN INCREASE IN ESTIMATED

1 POPULATION OF AT LEAST 15% IN A LOCAL GOVERNMENT UNIT WHEN
2 MEASURED AGAINST THE AVERAGE POPULATION OF THE LOCAL
3 GOVERNMENT UNIT IN THE 3-YEAR PERIOD PRECEDING THE
4 COMMENCEMENT OF NEW CONSTRUCTION OR NEW OPERATIONS OF THE
5 MINING FACILITY; OR

6 (C) IT BECOMES APPARENT THAT AN APPROVED IMPACT PLAN
7 IS MATERIALLY INACCURATE BECAUSE OF ERRORS IN ASSESSMENT AND
8 2 YEARS HAVE NOT ELAPSED SINCE THE DATE THE FACILITY BEGINS
9 COMMERCIAL PRODUCTIONS OR

10 (D) THE GOVERNING BODY OF AN AFFECTED COUNTY AND THE
11 MINERAL DEVELOPER JOIN IN A PETITION TO AMEND THE IMPACT
12 PLAN.

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

- 17 (a) an explanation of the need for an amendment;
18 (b) a statement of the facts and circumstances
19 underlying the need for an amendment; and
20 (c) a description of the corrective measures proposed
21 by the petitioner.

22 (2)(3) Within 60 days after notice that the petition
23 has been received, an affected local government unit or the
24 mineral developer must notify the board in writing if such
25 person objects to the amendments proposed by the petitioner.

1 specifying the reasons why the impact plan should not be
 2 amended as proposed. If no objection is received within the
 3 60-day period, the impact plan must be amended by the board
 4 as proposed by the petitioner.

5 ~~(3)(4)~~ If an objection is received, within 10 days of
 6 its receipt, the board shall notify the petitioner and
 7 include a copy of all objections received by the board. If
 8 the objecting party and the petitioner cannot resolve the
 9 objections within 30 days after the expiration of the 60-day
 10 period, the board shall conduct a hearing on the validity of
 11 the objections within 30 days after the failure of the
 12 parties to resolve the objections. The hearing must be held
 13 in the affected county or, if objections are received from
 14 local government units in more than one county, must be held
 15 in the county which in the board's judgment is more greatly
 16 affected. The provisions of the Montana Administrative
 17 Procedure Act apply to the conduct of the hearing.

18 ~~(4)(5)~~ Following the hearing, the board shall make
 19 findings as to those portions of the amendments which were
 20 objected to and, if appropriate, amend the impact plan
 21 accordingly. The board shall cause the findings and impact
 22 plan, as amended, to be served on all parties. Any local
 23 government unit or the developer is entitled to judicial
 24 review, as provided by Title 2, chapter 4, part 7, in the
 25 district court for the judicial district in which the

1 hearing was held.

2 ~~NEW SECTION.~~ Section 6. Codification instruction.
 3 Section 5 is intended to be codified as an integral part of
 4 Title 90, chapter 6, and the provisions of Title 90, chapter
 5 6, apply to section 5.

-End-