

HOUSE BILL NO. 670

INTRODUCED BY IVERSON

BY REQUEST OF THE DEPARTMENT OF STATE LANDS

IN THE HOUSE

February 5, 1985	Introduced and referred to Committee on Natural Resources.
February 6, 1985	Fiscal Note requested.
February 12, 1985	Fiscal Note returned.
February 22, 1985	Committee recommend bill do pass. Report adopted.
	Statement of Intent attached.
	Bill printed and placed on members' desks.
February 23, 1985	Second reading, do pass.
	Considered correctly engrossed.
February 26, 1985	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

March 4, 1985	Introduced and referred to Committee on Natural Resources.
March 29, 1985	Committee recommend bill be concurrent in. Report adopted.
March 30, 1985	Second reading, concurred in.
April 1, 1985	Third reading, concurred in. Ayes, 48; Noes, 0.
	Returned to House.

IN THE HOUSE

April 2, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 670

INTRODUCED BY                     

BY REQUEST OF THE DEPARTMENT OF STATE LANDS

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE RECLAMATION OF LAND DISTURBED BY HARD-ROCK TAILING, WASTE ROCK, OR ORE PROCESSING OPERATIONS; AMENDING SECTIONS 82-4-303, 82-4-304, 82-4-335 THROUGH 82-4-337, 82-4-340, 82-4-351, AND 90-6-302, 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) "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, tailings, waste materials, 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.

(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.

(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, concentration, refinement, smelting, manufacturing, or other subsequent use or processing or for stockpiling for future use, refinement, or smelting.

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

1        (B) "Ore processing" means milling, heap leaching,  
 2        flotation, vat leaching, or other standard hard-rock mineral  
 3        concentration processes.

4        ~~(8)~~(9) "Person" means any person, corporation, firm,  
 5        association, partnership, or other legal entity engaged in  
 6        exploration for ~~or-development~~ or mining of minerals on or  
 7        below the surface of the earth, reprocessing of tailings or  
 8        waste materials, or operation of a hard-rock mill.

9        ~~(9)~~(10) "Reclamation plan" means the operator's written  
 10       proposal, as required and approved by the board, for  
 11       reclamation of the land that will be disturbed, which  
 12       proposal shall include, to the extent practical at the time  
 13       of application for an operating permit:

14       (a) a statement of the proposed subsequent use of the  
 15       land after reclamation;

16       (b) plans for surface gradient restoration to a  
 17       surface suitable for the proposed subsequent use of the land  
 18       after reclamation is completed and the proposed method of  
 19       accomplishment;

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

22       (d) procedures proposed to avoid foreseeable  
 23       situations of public nuisance, endangerment of public  
 24       safety, damage to human life or property, or unnecessary  
 25       damage to flora and fauna in or adjacent to the area;

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

2       (f) the method of diverting surface waters around the  
 3       disturbed areas where necessary to prevent pollution of  
 4       those waters or unnecessary erosion;

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

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

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

11       ~~(10)~~(11) (a) "Small miner" means a person, firm, or  
 12       corporation that engages in the business of mining, or  
 13       reprocessing of tailings or waste materials that does not  
 14       remove from the earth during any calendar year material in  
 15       excess of 36,500 tons in the aggregate, that holds no  
 16       operating permit under 82-4-335, and that conducts:

17       (i) operations resulting in not more than 5 acres of  
 18       the earth's surface being disturbed and unreclaimed; or

19       (ii) two operations which disturb and leave unreclaimed  
 20       less than 5 acres per operation if the respective mining  
 21       properties are:

22       (A) the only operations engaged in by the person,  
 23       firm, or corporation;

24       (B) at least 1 mile apart at their closest point; and

25       (C) not operated simultaneously except during seasonal

1 transitional periods not to exceed 30 days.

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

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

22 ~~(12)~~(13) "Underground mining" means all methods of  
23 mining other than surface mining.

24 ~~(13)~~(14) "Unit of surface-mined area" means that area  
25 of land and surface water included within an operating

1 permit actually disturbed by surface mining during each  
2 12-month period of time, beginning at the date of the  
3 issuance of the permit, and it comprises and includes the  
4 area from which overburden or minerals have been removed,  
5 the area covered by mining debris, and all additional areas  
6 used in surface mining or underground mining operations  
7 which by virtue of such use are thereafter susceptible to  
8 erosion in excess of the surrounding undisturbed portions of  
9 land.

10 ~~(14)~~(15) "Vegetative cover" means the type of  
11 vegetation, grass, shrubs, trees, or any other form of  
12 natural cover considered suitable at time of reclamation."

13 Section 2. Section 82-4-304, MCA, is amended to read:  
14 "82-4-304. Exemption -- works performed prior to  
15 promulgation of rules. No provision of this part shall be  
16 applicable to any exploration or mining work performed prior  
17 to the date of promulgation of the board's rules pursuant to  
18 82-4-321 relating to exploration and mining. No provision  
19 of this part is applicable to the reprocessing of tailings  
20 or waste rock that occurred prior to the date of  
21 promulgation of the board's rules regarding those  
22 activities. If, after the date of promulgation of rules  
23 applicable to mills not located at a mine site, work is  
24 performed at such a mill that was constructed and operated  
25 before promulgation of those rules, this part applies only

1 to the areas initially disturbed after promulgation of those  
2 rules."

3 Section 3. Section 82-4-335, MCA, is amended to read:

4 "82-4-335. Operating permit. (1) No person shall  
5 engage in mining, ore processing, or reprocessing of  
6 tailings or waste material or construct or operate a  
7 hard-rock mill or disturb land in anticipation of mining  
8 those activities in the state without first obtaining an  
9 operating permit from the board to do so. A separate  
10 operating permit shall be required for each mine complex.  
11 Prior to receiving an operating permit from the board, any  
12 person must pay the basic permit fee of \$25 and must submit  
13 an application on a form provided by the board, which shall  
14 contain the following information and any other pertinent  
15 data required by the rules:

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

20 (b) minerals expected to be mined;

21 (c) a proposed reclamation plan;

22 (d) expected starting date of mining operations;

23 (e) a map showing the specific area to be mined and  
24 the boundaries of the land which will be disturbed,  
25 topographic detail, the location and names of all streams,

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

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

8 (g) a plan ~~of mining~~ which will provide, within limits  
9 of normal operating procedures of the industry, for  
10 completion of ~~mining-and-associated--land--disturbances~~ the  
11 operation.

12 (2) Except as provided in subsection (3), the permit  
13 provided for in subsection (1) for a large-scale mineral  
14 development as defined in 90-6-302 shall be conditioned to  
15 provide that activities under the permit may not commence  
16 until the hard-rock mining impact board approves the impact  
17 plan under 90-6-307 and until the permittee has provided a  
18 written guarantee to the department and to the hard-rock  
19 mining impact board of compliance within the time schedule  
20 with the commitment made in the impact plan approved by the  
21 hard-rock mining impact board, as provided in 90-6-307. If  
22 the permittee does not comply with that commitment within  
23 the time scheduled, the board, upon receipt of written  
24 notice from the hard-rock mining impact board, shall suspend  
25 the permit until it receives written notice from the

1 hard-rock mining impact board that the permittee is in  
2 compliance.

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

6 Section 4. Section 82-4-336, MCA, is amended to read:

7 "82-4-336. Reclamation plan and specific reclamation  
8 requirements. (1) The reclamation plan shall provide that  
9 reclamation activities, particularly those relating to  
10 control of erosion, to the extent feasible, shall be  
11 conducted simultaneously with mining the operation and in  
12 any case shall be initiated promptly after completion or  
13 abandonment of mining the operation on those portions of the  
14 mine complex that will not be subject to further disturbance  
15 ~~by--the--mining-operation~~. In the absence of an order by the  
16 board providing a longer period, the plan shall provide that  
17 reclamation activities shall be completed not more than 2  
18 years after completion or abandonment of mining the  
19 operation on that portion of mine the complex.

20 (2) In the absence of emergency or suddenly threatened  
21 or existing catastrophe, an operator may not depart from an  
22 approved plan without previously obtaining from the  
23 department written approval of his proposed change.

24 (3) Provision shall be made to avoid accumulation of  
25 stagnant water in the mined area which may serve as a host

1 or breeding ground for mosquitoes or other disease-bearing  
2 or noxious insect life.

3 (4) All final grading shall be made with nonnoxious,  
4 nonflammable, noncombustible solids unless approval has been  
5 granted by the board for a supervised sanitary fill.

6 (5) Where mining has left an open pit exceeding 2  
7 acres of surface area and the composition of the floor or  
8 walls of the pit are likely to cause formation of acid,  
9 toxic, or otherwise pollutive solutions (hereinafter  
10 "objectionable effluents") on exposure to moisture, the  
11 reclamation plan shall include provisions which adequately  
12 provide for:

13 (a) insulation of all faces from moisture or water  
14 contact by covering to a depth of 2 feet or more with  
15 material or fill not susceptible itself to generation of  
16 objectionable effluents;

17 (b) processing of any objectionable effluents in the  
18 pit before their being allowed to flow or be pumped out of  
19 it to reduce toxic or other objectionable ratios to a level  
20 considered safe to humans and the environment by the board;

21 (c) drainage of any objectionable effluents to  
22 settling or treatment basins when the objectionable  
23 effluents must be reduced to levels considered safe by the  
24 board before release from the settling basin; or

25 (d) absorption or evaporation of objectionable

1 effluents in the open pit itself; and

2 (e) prevention of entrance into the open pit by  
3 persons or livestock lawfully upon adjacent lands by  
4 fencing, warning signs, and such other devices as may  
5 reasonably be required by the board.

6 (6) Provisions for vegetative cover shall be required  
7 in the reclamation plan if appropriate to the future use of  
8 the land as specified in the reclamation plan.

9 (7) The reclamation plan shall provide for the  
10 reclamation of all disturbed land. Proposed reclamation need  
11 not reclaim the areas to a better condition or different use  
12 than that which existed prior to development or mining.

13 (8) A reclamation plan shall be approved by the board  
14 if it adequately provides for the accomplishment of the  
15 activities specified in this section."

16 Section 5. Section 82-4-337, MCA, is amended to read:

17 "82-4-337. Inspection -- issuance of operating permit  
18 -- modification. (1) (a) The board shall cause all  
19 applications for operating permits to be reviewed for  
20 completeness within 30 days of receipt. The board shall  
21 notify the applicant concerning completeness as soon as  
22 possible. An application is considered complete unless the  
23 applicant is notified of any deficiencies within 30 days of  
24 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 operation  
3 within 30 days of the determination that the application is  
4 complete or within 60 days of receipt of the application if  
5 the board does not notify the applicant of any deficiencies  
6 in the application. If the applicant is not notified of  
7 deficiencies or inadequacies in the proposed reclamation  
8 plan and plan of mining operation within such time period,  
9 the operating permit shall be issued upon receipt of the  
10 bond as required in 82-4-338. The department shall promptly  
11 notify the applicant of the form and amount of bond which  
12 will be required. No permit may be issued until sufficient  
13 bond has been submitted pursuant to 82-4-338.

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



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

(iii) Failure of the board to act upon a complete application within the extension period constitutes approval of the application, and the permit shall be issued promptly upon receipt of the bond as required in 82-4-338.

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

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

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

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

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

Section 6. Section 82-4-340, MCA, is amended to read:

"82-4-340. Successor operator. When one operator succeeds to the interest of another in any uncompleted mining operation by sale, assignment, lease, or otherwise, the board may release the first operator from the duties imposed upon him by this part as to such operation, provided that both operators have complied with the requirements of this part and the successor operator assumes the duty of the former operator to complete the reclamation of the land, in which case the board shall transfer the permit to the successor operator upon approval of the successor operator's bond as required under this part."

Section 7. Section 82-4-351, MCA, is amended to read:

"82-4-351. Reasons for denial of permit. (1) A permit may be denied for any of the following reasons:

(a) the plan of ~~development--mining~~ operation or reclamation conflicts with Title 75, chapter 2, as amended, Title 75, chapter 5, as amended, Title 75, chapter 6, as amended, or rules adopted pursuant to these laws;

(b) the reclamation plan does not provide an acceptable method for accomplishment of reclamation as required by this part.

(2) A denial of a permit shall be in writing and state

1 the reasons therefor."

2 Section 8. Section 90-6-302, MCA, is amended to read:

3 "90-6-302. Definitions. In this part the following  
4 definitions apply:

5 (1) "Board" means the hard-rock mining impact board  
6 established in 2-15-1822.

7 (2) "Bonds" include bonds, notes, warrants,  
8 debentures, certificates of indebtedness, temporary bonds,  
9 temporary notes, interim receipts, interim certificates, and  
10 all instruments or obligations evidencing or representing  
11 indebtedness or evidencing or representing the borrowing of  
12 money or evidencing or representing a charge, lien, or  
13 encumbrance on specific revenues, special assessments,  
14 income, or property of a political subdivision, including  
15 all instruments or obligations payable from a special fund.

16 (3) "Local government unit" means a political  
17 subdivision of this state, including a county, city, town,  
18 school district, or other special district that provides any  
19 of the services referred to in subsection (1)(c) of  
20 90-6-307.

21 (4) "Large-scale mineral development" means the  
22 construction or operation of a hard-rock mine and the  
23 associated milling facility that will:

24 (a) employ at any given time at least 100 people; or

25 (b) cause, or be expected to cause, an increase in

1 estimated population of at least 15% in a local government  
2 unit when measured against the average population of the  
3 local government unit in the 3-year period immediately  
4 preceding the commencement of the construction of the mining  
5 facility. A mining operation that would qualify as a  
6 large-scale mineral development under this subsection is not  
7 a large-scale mineral development if the mine owner and  
8 operator are small miners as defined in 82-4-303(i)(i)."

9 NEW SECTION. Section 9. Extension of authority. Any  
10 existing authority of the board of land commissioners or  
11 department of state lands to make rules on the subject of  
12 the provisions of this act is extended to the provisions of  
13 this act.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN 343-85

Form BD-15

In compliance with a written request received February 6, 19 85, there is hereby submitted a Fiscal Note for House Bill 670 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). 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 670 requires the reclamation of land disturbed by hard rock tailing, waste rock, or ore processing operations.

ASSUMPTIONS:

1. The additional workload of filing permits, inspections and review of plans will require .50 FTE.
2. No additional expenditures are required by the Hardrock Mining Board.

FISCAL IMPACT:

Expenditures:

	FY 86		FY 87		Total Biennium	
	Current Law	Proposed Law	Current Law	Proposed Law	Current Law	Proposed Law
Personal Services	-0-	\$12,526	-0-	\$12,526	-0-	\$25,052
Operations	-0-	1,000	-0-	1,000	-0-	2,000
INCREASE	-0-	\$13,526	-0-	\$13,526	-0-	\$27,052
General Fund Cost:		\$13,526		\$13,526		\$27,052

AFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

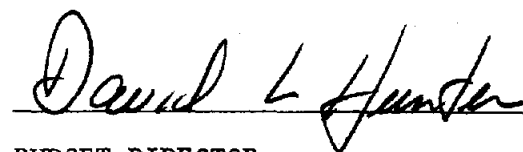
N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

N/A



BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Feb 12, 1985

HB 670

APPROVED BY COMM. ON  
NATURAL RESOURCES

STATEMENT OF INTENT

HOUSE BILL 670

House Natural Resources Committee

1  
2  
3  
4  
5       The purpose of the extension of the rulemaking  
6 authority of the department of state lands and board of land  
7 commissioners is to allow the existing rules to be amended  
8 to include ore processing and reprocessing and extraction of  
9 old tailings and waste rock. In addition, the board and  
10 department may provide special rules eliminating application  
11 and performance standards irrelevant to reprocessing  
12 operations or milling operations.

## HOUSE BILL NO. 670

INTRODUCED BY IVERSON

BY REQUEST OF THE DEPARTMENT OF STATE LANDS

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE RECLAMATION OF LAND DISTURBED BY HARD-ROCK TAILING, WASTE ROCK, OR ORE PROCESSING OPERATIONS; AMENDING SECTIONS 82-4-303, 82-4-304, 82-4-335 THROUGH 82-4-337, 82-4-340, 82-4-351, AND 90-6-302, MCA."

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15 earth, mining by the auger method, and all similar methods  
16 by which earth or minerals exposed at the surface are  
17 removed in the course of mining. Surface mining does not  
18 include the extraction of oil, gas, bentonite, clay, coal,  
19 sand, gravel, phosphate rock, or uranium or excavation or  
20 grading conducted for on-site farming, on-site road  
21 construction, or other on-site building construction.

22 ~~(12)~~(13) "Underground mining" means all methods of  
23 mining other than surface mining.

24 ~~(13)~~(14) "Unit of surface-mined area" means that area  
25 of land and surface water included within an operating

1 permit actually disturbed by surface mining during each  
2 12-month period of time, beginning at the date of the  
3 issuance of the permit, and it comprises and includes the  
4 area from which overburden or minerals have been removed,  
5 the area covered by mining debris, and all additional areas  
6 used in surface mining or underground mining operations  
7 which by virtue of such use are thereafter susceptible to  
8 erosion in excess of the surrounding undisturbed portions of  
9 land.

10 ~~(14)~~(15) "Vegetative cover" means the type of  
11 vegetation, grass, shrubs, trees, or any other form of  
12 natural cover considered suitable at time of reclamation."

13 Section 2. Section 82-4-304, MCA, is amended to read:

14 "82-4-304. Exemption -- works performed prior to  
15 promulgation of rules. No provision of this part shall be  
16 applicable to any exploration or mining work performed prior  
17 to the date of promulgation of the board's rules pursuant to  
18 82-4-321- relating to exploration and mining. No provision  
19 of this part is applicable to the reprocessing of tailings  
20 or waste rock that occurred prior to the date of  
21 promulgation of the board's rules regarding those  
22 activities. If, after the date of promulgation of rules  
23 applicable to mills not located at a mine site, work is  
24 performed at such a mill that was constructed and operated  
25 before promulgation of those rules, this part applies only

1 to the areas initially disturbed after promulgation of those  
 2 rules."

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 5 engage in mining, ore processing, or reprocessing of  
 6 tailings or waste material or construct or operate a  
 7 hard-rock mill or disturb land in anticipation of mining  
 8 those activities in the state without first obtaining an  
 9 operating permit from the board to do so. A separate  
 10 operating permit shall be required for each mine complex.  
 11 Prior to receiving an operating permit from the board, any  
 12 person must pay the basic permit fee of \$25 and must submit  
 13 an application on a form provided by the board, which shall  
 14 contain the following information and any other pertinent  
 15 data required by the rules:

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

20 (b) minerals expected to be mined;

21 (c) a proposed reclamation plan;

22 (d) expected starting date of mining operations;

23 (e) a map showing the specific area to be mined and  
 24 the boundaries of the land which will be disturbed,  
 25 topographic detail, the location and names of all streams,

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

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

8 (g) a plan ~~of mining~~ which will provide, within limits  
 9 of normal operating procedures of the industry, for  
 10 completion of ~~mining-and-associated--land--disturbances~~ the  
 11 operation.

12 (2) Except as provided in subsection (3), the permit  
 13 provided for in subsection (1) for a large-scale mineral  
 14 development as defined in 90-6-302 shall be conditioned to  
 15 provide that activities under the permit may not commence  
 16 until the hard-rock mining impact board approves the impact  
 17 plan under 90-6-307 and until the permittee has provided a  
 18 written guarantee to the department and to the hard-rock  
 19 mining impact board of compliance within the time schedule  
 20 with the commitment made in the impact plan approved by the  
 21 hard-rock mining impact board, as provided in 90-6-307. If  
 22 the permittee does not comply with that commitment within  
 23 the time scheduled, the board, upon receipt of written  
 24 notice from the hard-rock mining impact board, shall suspend  
 25 the permit until it receives written notice from the



1 hard-rock mining impact board that the permittee is in  
2 compliance.

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

6 Section 4. Section 82-4-336, MCA, is amended to read:

7 "82-4-336. Reclamation plan and specific reclamation  
8 requirements. (1) The reclamation plan shall provide that  
9 reclamation activities, particularly those relating to  
10 control of erosion, to the extent feasible, shall be  
11 conducted simultaneously with mining the operation and in  
12 any case shall be initiated promptly after completion or  
13 abandonment of mining the operation on those portions of the  
14 mine complex that will not be subject to further disturbance  
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16 board providing a longer period, the plan shall provide that  
17 reclamation activities shall be completed not more than 2  
18 years after completion or abandonment of mining the  
19 operation on that portion of ~~mine~~ the complex.

20 (2) In the absence of emergency or suddenly threatened  
21 or existing catastrophe, an operator may not depart from an  
22 approved plan without previously obtaining from the  
23 department written approval of his proposed change.

24 (3) Provision shall be made to avoid accumulation of  
25 stagnant water in the mined area which may serve as a host

1 or breeding ground for mosquitoes or other disease-bearing  
2 or noxious insect life.

3 (4) All final grading shall be made with nonnoxious,  
4 nonflammable, noncombustible solids unless approval has been  
5 granted by the board for a supervised sanitary fill.

6 (5) Where mining has left an open pit exceeding 2  
7 acres of surface area and the composition of the floor or  
8 walls of the pit are likely to cause formation of acid,  
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11 reclamation plan shall include provisions which adequately  
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13 (a) insulation of all faces from moisture or water  
14 contact by covering to a depth of 2 feet or more with  
15 material or fill not susceptible itself to generation of  
16 objectionable effluents;

17 (b) processing of any objectionable effluents in the  
18 pit before their being allowed to flow or be pumped out of  
19 it to reduce toxic or other objectionable ratios to a level  
20 considered safe to humans and the environment by the board;

21 (c) drainage of any objectionable effluents to  
22 settling or treatment basins when the objectionable  
23 effluents must be reduced to levels considered safe by the  
24 board before release from the settling basin; or

25 (d) absorption or evaporation of objectionable

1 effluents in the open pit itself; and

2 (e) prevention of entrance into the open pit by  
3 persons or livestock lawfully upon adjacent lands by  
4 fencing, warning signs, and such other devices as may  
5 reasonably be required by the board.

6 (6) Provisions for vegetative cover shall be required  
7 in the reclamation plan if appropriate to the future use of  
8 the land as specified in the reclamation plan.

9 (7) The reclamation plan shall provide for the  
10 reclamation of all disturbed land. Proposed reclamation need  
11 not reclaim the areas to a better condition or different use  
12 than that which existed prior to development or mining.

13 (8) A reclamation plan shall be approved by the board  
14 if it adequately provides for the accomplishment of the  
15 activities specified in this section."

16 Section 5. Section 82-4-337, MCA, is amended to read:

17 "82-4-337. Inspection -- issuance of operating permit  
18 -- modification. (1) (a) The board shall cause all  
19 applications for operating permits to be reviewed for  
20 completeness within 30 days of receipt. The board shall  
21 notify the applicant concerning completeness as soon as  
22 possible. An application is considered complete unless the  
23 applicant is notified of any deficiencies within 30 days of  
24 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 operation  
3 within 30 days of the determination that the application is  
4 complete or within 60 days of receipt of the application if  
5 the board does not notify the applicant of any deficiencies  
6 in the application. If the applicant is not notified of  
7 deficiencies or inadequacies in the proposed reclamation  
8 plan and plan of mining operation within such time period,  
9 the operating permit shall be issued upon receipt of the  
10 bond as required in 82-4-338. The department shall promptly  
11 notify the applicant of the form and amount of bond which  
12 will be required. No permit may be issued until sufficient  
13 bond has been submitted pursuant to 82-4-338.

14 (c) (i) Prior to issuance of a permit, the department  
15 shall inspect the site unless the department has failed to  
16 act on the application within the time prescribed in  
17 subsection (1)(b). If the site is not accessible due to  
18 extended adverse weather conditions, the department may  
19 extend the time period prescribed in subsection (1)(b) by  
20 not more than 180 days to allow inspection of the site and  
21 reasonable review. The department must serve written notice  
22 of extension upon the applicant in person or by certified  
23 mail, and any such extension is subject to appeal to the  
24 board in accordance with the Montana Administrative  
25 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 period prescribed in subsection  
5 (1)(b) by not more than 365 days in order to permit  
6 reasonable review.

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

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

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

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

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

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

3 Section 6. Section 82-4-340, MCA, is amended to read:

4 "82-4-340. Successor operator. When one operator  
5 succeeds to the interest of another in any uncompleted  
6 mining operation by sale, assignment, lease, or otherwise,  
7 the board may release the first operator from the duties  
8 imposed upon him by this part as to such operation, provided  
9 that both operators have complied with the requirements of  
10 this part and the successor operator assumes the duty of the  
11 former operator to complete the reclamation of the land, in  
12 which case the board shall transfer the permit to the  
13 successor operator upon approval of the successor operator's  
14 bond as required under this part."

15 Section 7. Section 82-4-351, MCA, is amended to read:

16 "82-4-351. Reasons for denial of permit. (1) A permit  
17 may be denied for any of the following reasons:

18 (a) the plan of ~~development~~ mining operation or  
19 reclamation conflicts with Title 75, chapter 2, as amended,  
20 Title 75, chapter 5, as amended, Title 75, chapter 6, as  
21 amended, or rules adopted pursuant to these laws;

22 (b) the reclamation plan does not provide an  
23 acceptable method for accomplishment of reclamation as  
24 required by this part.

25 (2) A denial of a permit shall be in writing and state

1 the reasons therefor."

2 Section 8. Section 90-6-302, MCA, is amended to read:

3 "90-6-302. Definitions. In this part the following  
4 definitions apply:

5 (1) "Board" means the hard-rock mining impact board  
6 established in 2-15-1822.

7 (2) "Bonds" include bonds, notes, warrants,  
8 debentures, certificates of indebtedness, temporary bonds,  
9 temporary notes, interim receipts, interim certificates, and  
10 all instruments or obligations evidencing or representing  
11 indebtedness or evidencing or representing the borrowing of  
12 money or evidencing or representing a charge, lien, or  
13 encumbrance on specific revenues, special assessments,  
14 income, or property of a political subdivision, including  
15 all instruments or obligations payable from a special fund.

16 (3) "Local government unit" means a political  
17 subdivision of this state, including a county, city, town,  
18 school district, or other special district that provides any  
19 of the services referred to in subsection (1)(c) of  
20 90-6-307.

21 (4) "Large-scale mineral development" means the  
22 construction or operation of a hard-rock mine and the  
23 associated milling facility that will:

24 (a) employ at any given time at least 100 people; or

25 (b) cause, or be expected to cause, an increase in

1 estimated population of at least 15% in a local government  
2 unit when measured against the average population of the  
3 local government unit in the 3-year period immediately  
4 preceding the commencement of the construction of the mining  
5 facility. A mining operation that would qualify as a  
6 large-scale mineral development under this subsection is not  
7 a large-scale mineral development if the mine owner and  
8 operator are small miners as defined in 82-4-303(i)(i0)."

9 NEW SECTION. Section 9. Extension of authority. Any  
10 existing authority of the board of land commissioners or  
11 department of state lands to make rules on the subject of  
12 the provisions of this act is extended to the provisions of  
13 this act.

-End-

1                   STATEMENT OF INTENT

2                   HOUSE BILL 670

3                   House Natural Resources Committee

4

5           The purpose of the extension of the rulemaking  
6 authority of the department of state lands and board of land  
7 commissioners is to allow the existing rules to be amended  
8 to include ore processing and reprocessing and extraction of  
9 old tailings and waste rock. In addition, the board and  
10 department may provide special rules eliminating application  
11 and performance standards irrelevant to reprocessing  
12 operations or milling operations.

THIRD READING

HB 670

## 1 HOUSE BILL NO. 670

2 INTRODUCED BY IVERSON

3 BY REQUEST OF THE DEPARTMENT OF STATE LANDS

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE RECLAMATION  
6 OF LAND DISTURBED BY HARD-ROCK TAILING, WASTE ROCK, OR ORE  
7 PROCESSING OPERATIONS; AMENDING SECTIONS 82-4-303, 82-4-304,  
8 82-4-335 THROUGH 82-4-337, 82-4-340, 82-4-351, AND 90-6-302,  
9 MCA."

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

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

13 "82-4-303. Definitions. As used in this part, unless  
14 the context indicates otherwise, the following definitions  
15 apply:

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

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

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

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

1 which the overburden, tailings, waste materials, or minerals  
2 have been removed and tailings ponds, waste dumps, roads,  
3 conveyor systems, leach dumps, and all similar excavations  
4 or covering resulting from the operation and which have not  
5 been previously reclaimed under the reclamation plan.

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

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

21 (7) "Mining" commences at such time as the operator  
22 first mines ores or minerals in commercial quantities for  
23 sale, beneficiation, refining, or other processing or  
24 disposition or first takes bulk samples for metallurgical  
25 testing in excess of aggregate of 10,000 short tons.

1       (8) "Ore processing" means milling, heap leaching,  
2 flotation, vat leaching, or other standard hard-rock mineral  
3 concentration processes.

4       ~~(8)~~(9) "Person" means any person, corporation, firm,  
5 association, partnership, or other legal entity engaged in  
6 exploration for ~~or-development~~ or mining of minerals on or  
7 below the surface of the earth, reprocessing of tailings or  
8 waste materials, or operation of a hard-rock mill.

9       ~~(9)~~(10) "Reclamation plan" means the operator's written  
10 proposal, as required and approved by the board, for  
11 reclamation of the land that will be disturbed, which  
12 proposal shall include, to the extent practical at the time  
13 of application for an operating permit:

14       (a) a statement of the proposed subsequent use of the  
15 land after reclamation;

16       (b) plans for surface gradient restoration to a  
17 surface suitable for the proposed subsequent use of the land  
18 after reclamation is completed and the proposed method of  
19 accomplishment;

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

22       (d) procedures proposed to avoid foreseeable  
23 situations of public nuisance, endangerment of public  
24 safety, damage to human life or property, or unnecessary  
25 damage to flora and fauna in or adjacent to the area;

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

2       (f) the method of diverting surface waters around the  
3 disturbed areas where necessary to prevent pollution of  
4 those waters or unnecessary erosion;

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

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

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

11       ~~(10)~~(11) (a) "Small miner" means a person, firm, or  
12 corporation that engages in the business of mining, or  
13 reprocessing of tailings or waste materials that does not  
14 remove from the earth during any calendar year material in  
15 excess of 36,500 tons in the aggregate, that holds no  
16 operating permit under 82-4-335, and that conducts:

17       (i) operations resulting in not more than 5 acres of  
18 the earth's surface being disturbed and unreclaimed; or

19       (ii) two operations which disturb and leave unreclaimed  
20 less than 5 acres per operation if the respective mining  
21 properties are:

22       (A) the only operations engaged in by the person,  
23 firm, or corporation;

24       (B) at least .1 mile apart at their closest point; and

25       (C) not operated simultaneously except during seasonal

1 transitional periods not to exceed 30 days.

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

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

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23 mining other than surface mining.

24 ~~(13)~~(14) "Unit of surface-mined area" means that area  
25 of land and surface water included within an operating

1 permit actually disturbed by surface mining during each  
2 12-month period of time, beginning at the date of the  
3 issuance of the permit, and it comprises and includes the  
4 area from which overburden or minerals have been removed,  
5 the area covered by mining debris, and all additional areas  
6 used in surface mining or underground mining operations  
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8 erosion in excess of the surrounding undisturbed portions of  
9 land.

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12 person must pay the basic permit fee of \$25 and must submit  
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14 contain the following information and any other pertinent  
15 data required by the rules:

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

20 (b) minerals expected to be mined;

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22 (d) expected starting date of mining operations;

23 (e) a map showing the specific area to be mined and  
24 the boundaries of the land which will be disturbed,  
25 topographic detail, the location and names of all streams,

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

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

8 (g) a plan of mining which will provide, within limits  
9 of normal operating procedures of the industry, for  
10 completion of mining-and-associated--land--disturbances the  
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15 provide that activities under the permit may not commence  
16 until the hard-rock mining impact board approves the impact  
17 plan under 90-6-307 and until the permittee has provided a  
18 written guarantee to the department and to the hard-rock  
19 mining impact board of compliance within the time schedule  
20 with the commitment made in the impact plan approved by the  
21 hard-rock mining impact board, as provided in 90-6-307. If  
22 the permittee does not comply with that commitment within  
23 the time scheduled, the board, upon receipt of written  
24 notice from the hard-rock mining impact board, shall suspend  
25 the permit until it receives written notice from the

1 hard-rock mining impact board that the permittee is in  
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3 (3) Compliance with 90-6-307 is not required for  
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16 board providing a longer period, the plan shall provide that  
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21 or existing catastrophe, an operator may not depart from an  
22 approved plan without previously obtaining from the  
23 department written approval of his proposed change.

24 (3) Provision shall be made to avoid accumulation of  
25 stagnant water in the mined area which may serve as a host

1 or breeding ground for mosquitoes or other disease-bearing  
2 or noxious insect life.

3 (4) All final grading shall be made with nonnoxious,  
4 nonflammable, noncombustible solids unless approval has been  
5 granted by the board for a supervised sanitary fill.

6 (5) Where mining has left an open pit exceeding 2  
7 acres of surface area and the composition of the floor or  
8 walls of the pit are likely to cause formation of acid,  
9 toxic, or otherwise pollutive solutions (hereinafter  
10 "objectionable effluents") on exposure to moisture, the  
11 reclamation plan shall include provisions which adequately  
12 provide for:

13 (a) insulation of all faces from moisture or water  
14 contact by covering to a depth of 2 feet or more with  
15 material or fill not susceptible itself to generation of  
16 objectionable effluents;

17 (b) processing of any objectionable effluents in the  
18 pit before their being allowed to flow or be pumped out of  
19 it to reduce toxic or other objectionable ratios to a level  
20 considered safe to humans and the environment by the board;

21 (c) drainage of any objectionable effluents to  
22 settling or treatment basins when the objectionable  
23 effluents must be reduced to levels considered safe by the  
24 board before release from the settling basin; or

25 (d) absorption or evaporation of objectionable

1 effluents in the open pit itself; and

2 (e) prevention of entrance into the open pit by  
3 persons or livestock lawfully upon adjacent lands by  
4 fencing, warning signs, and such other devices as may  
5 reasonably be required by the board.

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7 in the reclamation plan if appropriate to the future use of  
8 the land as specified in the reclamation plan.

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10 reclamation of all disturbed land. Proposed reclamation need  
11 not reclaim the areas to a better condition or different use  
12 than that which existed prior to development or mining.

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14 if it adequately provides for the accomplishment of the  
15 activities specified in this section."

16 Section 5. Section 82-4-337, MCA, is amended to read:

17 "82-4-337. Inspection -- issuance of operating permit  
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22 possible. An application is considered complete unless the  
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25 (b) Unless the review period is extended as provided

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15 shall inspect the site unless the department has failed to  
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22 of extension upon the applicant in person or by certified  
23 mail, and any such extension is subject to appeal to the  
24 board in accordance with the Montana Administrative  
25 Procedure Act.

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

(iii) Failure of the board to act upon a complete application within the extension period constitutes approval of the application, and the permit shall be issued promptly upon receipt of the bond as required in 82-4-338.

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

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

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

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Section 6. Section 82-4-340, MCA, is amended to read:

"82-4-340. Successor operator. When one operator succeeds to the interest of another in any uncompleted mining operation by sale, assignment, lease, or otherwise, the board may release the first operator from the duties imposed upon him by this part as to such operation, provided that both operators have complied with the requirements of this part and the successor operator assumes the duty of the former operator to complete the reclamation of the land, in which case the board shall transfer the permit to the successor operator upon approval of the successor operator's bond as required under this part."

Section 7. Section 82-4-351, MCA, is amended to read:

"82-4-351. Reasons for denial of permit. (1) A permit may be denied for any of the following reasons:

(a) the plan of development, ~~mining~~, operation or reclamation conflicts with Title 75, chapter 2, as amended, Title 75, chapter 5, as amended, Title 75, chapter 6, as amended, or rules adopted pursuant to these laws;

(b) the reclamation plan does not provide an acceptable method for accomplishment of reclamation as required by this part.

(2) A denial of a permit shall be in writing and state

1 the reasons therefor."

2 Section 8. Section 90-6-302, MCA, is amended to read:

3 "90-6-302. Definitions. In this part the following  
4 definitions apply:

5 (1) "Board" means the hard-rock mining impact board  
6 established in 2-15-1822.

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8 debentures, certificates of indebtedness, temporary bonds,  
9 temporary notes, interim receipts, interim certificates, and  
10 all instruments or obligations evidencing or representing  
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12 money or evidencing or representing a charge, lien, or  
13 encumbrance on specific revenues, special assessments,  
14 income, or property of a political subdivision, including  
15 all instruments or obligations payable from a special fund.

16 (3) "Local government unit" means a political  
17 subdivision of this state, including a county, city, town,  
18 school district, or other special district that provides any  
19 of the services referred to in subsection (1)(c) of  
20 90-6-307.

21 (4) "Large-scale mineral development" means the  
22 construction or operation of a hard-rock mine and the  
23 associated milling facility that will:

24 (a) employ at any given time at least 100 people; or

25 (b) cause, or be expected to cause, an increase in

1 estimated population of at least 15% in a local government  
2 unit when measured against the average population of the  
3 local government unit in the 3-year period immediately  
4 preceding the commencement of the construction of the mining  
5 facility. A mining operation that would qualify as a  
6 large-scale mineral development under this subsection is not  
7 a large-scale mineral development if the mine owner and  
8 operator are small miners as defined in 82-4-303~~(10)~~."

9 NEW SECTION. Section 9. Extension of authority. Any  
10 existing authority of the board of land commissioners or  
11 department of state lands to make rules on the subject of  
12 the provisions of this act is extended to the provisions of  
13 this act.

-End-

STATEMENT OF INTENT

HOUSE BILL 670

House Natural Resources Committee

The purpose of the extension of the rulemaking authority of the department of state lands and board of land commissioners is to allow the existing rules to be amended to include ore processing and reprocessing and extraction of old tailings and waste rock. In addition, the board and department may provide special rules eliminating application and performance standards irrelevant to reprocessing operations or milling operations.

## 1 HOUSE BILL NO. 670

2 INTRODUCED BY IVERSON

3 BY REQUEST OF THE DEPARTMENT OF STATE LANDS

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE RECLAMATION  
6 OF LAND DISTURBED BY HARD-ROCK TAILING, WASTE ROCK, OR ORE  
7 PROCESSING OPERATIONS; AMENDING SECTIONS 82-4-303, 82-4-304,  
8 82-4-335 THROUGH 82-4-337, 82-4-340, 82-4-351, AND 90-6-302,  
9 MCA."

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

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

13 "82-4-303. Definitions. As used in this part, unless  
14 the context indicates otherwise, the following definitions  
15 apply:

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

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

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

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

1 which the overburden, tailings, waste materials, or minerals  
2 have been removed and tailings ponds, waste dumps, roads,  
3 conveyor systems, leach dumps, and all similar excavations  
4 or covering resulting from the operation and which have not  
5 been previously reclaimed under the reclamation plan.

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

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

21 (7) "Mining" commences at such time as the operator  
22 first mines ores or minerals in commercial quantities for  
23 sale, beneficiation, refining, or other processing or  
24 disposition or first takes bulk samples for metallurgical  
25 testing in excess of aggregate of 10,000 short tons.

1 (8) "Ore processing" means milling, heap leaching,  
 2 flotation, vat leaching, or other standard hard-rock mineral  
 3 concentration processes.

4 ~~†8†~~(9) "Person" means any person, corporation, firm,  
 5 association, partnership, or other legal entity engaged in  
 6 exploration for ~~or-development~~ or mining of minerals on or  
 7 below the surface of the earth, reprocessing of tailings or  
 8 waste materials, or operation of a hard-rock mill.

9 ~~†9†~~(10) "Reclamation plan" means the operator's written  
 10 proposal, as required and approved by the board, for  
 11 reclamation of the land that will be disturbed, which  
 12 proposal shall include, to the extent practical at the time  
 13 of application for an operating permit:

14 (a) a statement of the proposed subsequent use of the  
 15 land after reclamation;

16 (b) plans for surface gradient restoration to a  
 17 surface suitable for the proposed subsequent use of the land  
 18 after reclamation is completed and the proposed method of  
 19 accomplishment;

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

22 (d) procedures proposed to avoid foreseeable  
 23 situations of public nuisance, endangerment of public  
 24 safety, damage to human life or property, or unnecessary  
 25 damage to flora and fauna in or adjacent to the area;

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

2 (f) the method of diverting surface waters around the  
 3 disturbed areas where necessary to prevent pollution of  
 4 those waters or unnecessary erosion;

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

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

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

11 ~~†10†~~(11) (a) "Small miner" means a person, firm, or  
 12 corporation that engages in the business of mining, or  
 13 reprocessing of tailings or waste materials that does not  
 14 remove from the earth during any calendar year material in  
 15 excess of 36,500 tons in the aggregate, that holds no  
 16 operating permit under 82-4-335, and that conducts:

17 (i) operations resulting in not more than 5 acres of  
 18 the earth's surface being disturbed and unreclaimed; or

19 (ii) two operations which disturb and leave unreclaimed  
 20 less than 5 acres per operation if the respective mining  
 21 properties are:

22 (A) the only operations engaged in by the person,  
 23 firm, or corporation;

24 (B) at least 1 mile apart at their closest point; and

25 (C) not operated simultaneously except during seasonal



1 transitional periods not to exceed 30 days.

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

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

22 ~~†12†~~(13) "Underground mining" means all methods of  
23 mining other than surface mining.

24 ~~†13†~~(14) "Unit of surface-mined area" means that area  
25 of land and surface water included within an operating

1 permit actually disturbed by surface mining during each  
2 12-month period of time, beginning at the date of the  
3 issuance of the permit, and it comprises and includes the  
4 area from which overburden or minerals have been removed,  
5 the area covered by mining debris, and all additional areas  
6 used in surface mining or underground mining operations  
7 which by virtue of such use are thereafter susceptible to  
8 erosion in excess of the surrounding undisturbed portions of  
9 land.

10 ~~†14†~~(15) "Vegetative cover" means the type of  
11 vegetation, grass, shrubs, trees, or any other form of  
12 natural cover considered suitable at time of reclamation."

13 Section 2. Section 82-4-304, MCA, is amended to read:

14 "82-4-304. Exemption -- works performed prior to  
15 promulgation of rules. No provision of this part shall be  
16 applicable to any exploration or mining work performed prior  
17 to the date of promulgation of the board's rules pursuant to  
18 82-4-321~~r~~ relating to exploration and mining. No provision  
19 of this part is applicable to the reprocessing of tailings  
20 or waste rock that occurred prior to the date of  
21 promulgation of the board's rules regarding those  
22 activities. If, after the date of promulgation of rules  
23 applicable to mills not located at a mine site, work is  
24 performed at such a mill that was constructed and operated  
25 before promulgation of those rules, this part applies only

1 to the areas initially disturbed after promulgation of those  
2 rules."

3 Section 3. Section 82-4-335, MCA, is amended to read:

4 "82-4-335. Operating permit. (1) No person shall  
5 engage in mining, ore processing, or reprocessing of  
6 tailings or waste material or construct or operate a  
7 hard-rock mill or disturb land in anticipation of mining  
8 those activities in the state without first obtaining an  
9 operating permit from the board to do so. A separate  
10 operating permit shall be required for each mine complex.  
11 Prior to receiving an operating permit from the board, any  
12 person must pay the basic permit fee of \$25 and must submit  
13 an application on a form provided by the board, which shall  
14 contain the following information and any other pertinent  
15 data required by the rules:

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

20 (b) minerals expected to be mined;

21 (c) a proposed reclamation plan;

22 (d) expected starting date of mining operations;

23 (e) a map showing the specific area to be mined and  
24 the boundaries of the land which will be disturbed,  
25 topographic detail, the location and names of all streams,

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

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

8 (g) a plan ~~of mining~~ which will provide, within limits  
9 of normal operating procedures of the industry, for  
10 completion of ~~mining-and-associated--land--disturbances~~ the  
11 operation.

12 (2) Except as provided in subsection (3), the permit  
13 provided for in subsection (1) for a large-scale mineral  
14 development as defined in 90-6-302 shall be conditioned to  
15 provide that activities under the permit may not commence  
16 until the hard-rock mining impact board approves the impact  
17 plan under 90-6-307 and until the permittee has provided a  
18 written guarantee to the department and to the hard-rock  
19 mining impact board of compliance within the time schedule  
20 with the commitment made in the impact plan approved by the  
21 hard-rock mining impact board, as provided in 90-6-307. If  
22 the permittee does not comply with that commitment within  
23 the time scheduled, the board, upon receipt of written  
24 notice from the hard-rock mining impact board, shall suspend  
25 the permit until it receives written notice from the

1 hard-rock mining impact board that the permittee is in  
2 compliance.

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

6 Section 4. Section 82-4-336, MCA, is amended to read:

7 "82-4-336. Reclamation plan and specific reclamation  
8 requirements. (1) The reclamation plan shall provide that  
9 reclamation activities, particularly those relating to  
10 control of erosion, to the extent feasible, shall be  
11 conducted simultaneously with mining the operation and in  
12 any case shall be initiated promptly after completion or  
13 abandonment of mining the operation on those portions of the  
14 mine complex that will not be subject to further disturbance  
15 ~~by--the--mining-operation~~. In the absence of an order by the  
16 board providing a longer period, the plan shall provide that  
17 reclamation activities shall be completed not more than 2  
18 years after completion or abandonment of mining the  
19 operation on that portion of mine the complex.

20 (2) In the absence of emergency or suddenly threatened  
21 or existing catastrophe, an operator may not depart from an  
22 approved plan without previously obtaining from the  
23 department written approval of his proposed change.

24 (3) Provision shall be made to avoid accumulation of  
25 stagnant water in the mined area which may serve as a host

1 or breeding ground for mosquitoes or other disease-bearing  
2 or noxious insect life.

3 (4) All final grading shall be made with nonnoxious,  
4 nonflammable, noncombustible solids unless approval has been  
5 granted by the board for a supervised sanitary fill.

6 (5) Where mining has left an open pit exceeding 2  
7 acres of surface area and the composition of the floor or  
8 walls of the pit are likely to cause formation of acid,  
9 toxic, or otherwise pollutive solutions (hereinafter  
10 "objectionable effluents") on exposure to moisture, the  
11 reclamation plan shall include provisions which adequately  
12 provide for:

13 (a) insulation of all faces from moisture or water  
14 contact by covering to a depth of 2 feet or more with  
15 material or fill not susceptible itself to generation of  
16 objectionable effluents;

17 (b) processing of any objectionable effluents in the  
18 pit before their being allowed to flow or be pumped out of  
19 it to reduce toxic or other objectionable ratios to a level  
20 considered safe to humans and the environment by the board;

21 (c) drainage of any objectionable effluents to  
22 settling or treatment basins when the objectionable  
23 effluents must be reduced to levels considered safe by the  
24 board before release from the settling basin; or

25 (d) absorption or evaporation of objectionable

1 effluents in the open pit itself; and  
 2 (e) prevention of entrance into the open pit by  
 3 persons or livestock lawfully upon adjacent lands by  
 4 fencing, warning signs, and such other devices as may  
 5 reasonably be required by the board.

6 (6) Provisions for vegetative cover shall be required  
 7 in the reclamation plan if appropriate to the future use of  
 8 the land as specified in the reclamation plan.

9 (7) The reclamation plan shall provide for the  
 10 reclamation of all disturbed land. Proposed reclamation need  
 11 not reclaim the areas to a better condition or different use  
 12 than that which existed prior to development or mining.

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 14 if it adequately provides for the accomplishment of the  
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3 local government unit in the 3-year period immediately  
4 preceding the commencement of the construction of the mining  
5 facility. A mining operation that would qualify as a  
6 large-scale mineral development under this subsection is not  
7 a large-scale mineral development if the mine owner and  
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