

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 concurred 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. 1670

2 INTRODUCED BY Lease
3 BY REQUEST OF THE DEPARTMENT OF STATE LANDS

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."

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.

(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.

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.

11 (7) "Mining" commences at such time as the operator
12 first mines ores or minerals in commercial quantities for
13 sale, beneficiation, refining, or other processing or
14 disposition or first takes bulk samples for metallurgical
15 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 t87(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 t97(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 t107(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 ~~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 ~~13~~ "Underground mining" means all methods of
 23 mining other than surface mining.

24 ~~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~~ "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
8 "82-4-336. Reclamation plan and specific reclamation
9 requirements. (1) The reclamation plan shall provide that
10 reclamation activities, particularly those relating to
11 control of erosion, to the extent feasible, shall be
12 conducted simultaneously with mining the operation and in
13 any case shall be initiated promptly after completion or
14 abandonment of mining the operation on those portions of the
15 mine complex that will not be subject to further disturbance
16 by--the--mining-operation. In the absence of an order by the
17 board providing a longer period, the plan shall provide that
18 reclamation activities shall be completed not more than 2
19 years after completion or abandonment of mining the
20 operation on that portion of mine the complex.

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

25 (3) Provision shall be made to avoid accumulation of
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.

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{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-

STATE OF MONTANA

REQUEST NO. FNN 343-85

F I S C A L N O T E

Form BD-15

In compliance with a written request received February 6, 1985, 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:

<u>Expenditures:</u>	<u>FY 86</u>		<u>FY 87</u>		<u>Total Biennium</u>	
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Current Law</u>	<u>Proposed Law</u>
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:

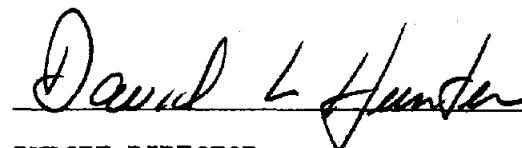
N/A

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

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.

SECOND READING

HB 670



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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.



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 21 surface treatment of disturbed areas;

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1 transitional periods not to exceed 30 days.

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 14 mining of minerals naturally exposed at the surface of the
 15 earth, mining by the auger method, and all similar methods
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 17 removed in the course of mining. Surface mining does not
 18 include the extraction of oil, gas, bentonite, clay, coal,
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 21 construction, or other on-site building construction.

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 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.

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{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-

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

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.

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

24 ~~tit~~(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 ~~tit~~(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
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 4 "82-4-335. Operating permit. (1) No person shall
 5 engage in mining, ore processing, or reprocessing of
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 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
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1 or breeding ground for mosquitoes or other disease-bearing
 2 or noxious insect life.

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 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;

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 21 amended, or rules adopted pursuant to these laws;

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 23 acceptable method for accomplishment of reclamation as
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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~~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-

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.

HOUSE BILL NO. 670

INTRODUCED BY IVERSON

BY REQUEST OF THE DEPARTMENT OF STATE LANDS

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."

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.

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 ~~t9t~~(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 ~~t9t~~(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 ~~t10t~~(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 ~~(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 ~~(13)~~ "Underground mining" means all methods of
 23 mining other than surface mining.

24 ~~(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 ~~(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.

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~~title~~."

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-