

HOUSE BILL NO. 769

INTRODUCED BY HOLLIDAY, HALLIGAN, GAGE

IN THE HOUSE

February 11, 1985	Introduced and referred to Committee on Natural Resources.
February 16, 1985	Committee recommend bill do pass. Report adopted. Bill printed and placed on members' desks.
February 18, 1985	Second reading, do pass.
February 19, 1985	Considered correctly engrossed.
February 20, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 22, 1985	Introduced and referred to Committee on Natural Resources.
March 19, 1985	Committee recommend bill be concurred in. Report adopted.
March 22, 1985	Second reading, concurred in.
March 25, 1985	Third reading, concurred in. Ayes, 46; Noes, 0. Returned to House.

IN THE HOUSE

March 26, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 769
 2 INTRODUCED BY Harrison Salzman Rep'
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE
 5 BOND RELEASE PROCEDURES UNDER THE MONTANA STRIP AND
 6 UNDERGROUND MINE RECLAMATION ACT; AMENDING SECTION 82-4-232,
 7 MCA."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10 Section 1. Section 82-4-232, MCA, is amended to read:
 11 "82-4-232. Area mining required -- bond -- alternative
 12 plan. (1) Area strip mining, a method of operation which
 13 does not produce a bench or fill bench, is required where
 14 strip mining is proposed. All highwalls must be reduced and
 15 the steepest slope of the reduced highwall shall be no
 16 greater than 20 degrees from the horizontal. Highwall
 17 reduction shall be commenced at or beyond the top of the
 18 highwall and sloped to the graded spoil bank. Reduction,
 19 backfilling, and grading shall eliminate all highwalls and
 20 spoil peaks. The area of land affected shall be restored to
 21 the approximate original contour of the land. When directed
 22 by the department, the operator shall construct in the final
 23 grading such diversion ditches, depressions, or terraces as
 24 will accumulate or control the water runoff. Additional
 25 restoration work may be required by the department according

1 to rules adopted by the board.

2 (2) In addition to the backfilling and grading
 3 requirements, the operator's method of operation on steep
 4 slopes may be regulated and controlled according to rules
 5 adopted by the board. These rules may require any measure
 6 whatsoever to accomplish the purpose of this part.

7 (3) For coal mining on prime farmlands, the board
 8 shall establish by rule specifications for soil removal,
 9 storage, replacement, and reconstruction, and the operator
 10 shall as a minimum be required to:

11 (a) segregate the A horizon of the natural soil,
 12 except where it can be shown that other available soil
 13 materials will create a final soil having a greater
 14 productive capacity; and if not utilized immediately,
 15 stockpile this material separately from other spoil and
 16 provide needed protection from wind and water erosion or
 17 contamination by other acid or toxic material;

18 (b) segregate the B horizon of the natural soil, or
 19 underlying C horizon or other strata, or a combination of
 20 such horizons or other strata that are shown to be both
 21 texturally and chemically suitable for plant growth and that
 22 can be shown to be equally or more favorable for plant
 23 growth than the B horizon in sufficient quantities to create
 24 in the regraded final soil a root zone of comparable depth
 25 and quality to that which existed in the natural soil; and

1 if not utilized immediately, stockpile this material
2 separately from other spoil and provide needed protection
3 from wind and water erosion or contamination by acid or
4 toxic material;

5 (c) replace and regrade the root zone material
6 described in (b) above with proper compaction and uniform
7 depth over the regraded spoil material; and

8 (d) redistribute and grade in a uniform manner the
9 surface soil horizon described in (a) above.

10 (4) All available topsoil shall be removed in a
11 separate layer, guarded from erosion and pollution, and kept
12 in such a condition that it can sustain vegetation of at
13 least the quality and variety it sustained prior to removal,
14 provided that the operator shall accord substantially the
15 same treatment to any subsurface deposit of material that is
16 capable, as determined by the department, of supporting
17 surface vegetation virtually as well as the present topsoil.
18 After the operation has been backfilled and graded, the
19 topsoil or the best available subsurface deposit of material
20 which is best able to support vegetation shall be returned
21 as the top layer.

22 (5) As determined by rules of the board, time limits
23 shall be established requiring backfilling, grading,
24 subsidence stabilization, water control, highwall reduction,
25 topsoiling, planting, and revegetation to be kept current.

1 All backfilling, subsidence stabilization, sealing, grading,
2 and topsoiling shall be completed before necessary equipment
3 is moved from the operation.

4 (6) ~~When the backfilling, grading, subsidence~~
5 ~~stabilization, water controls, and topsoiling have been~~
6 ~~completed and approved by the department, the commissioner,~~
7 ~~after public notice and opportunity for hearing, may~~
8 ~~release so much of the bond which was filed for that portion~~
9 ~~of the operation as the commissioner may determine, provided~~
10 ~~that no less than \$200 per acre shall be retained by the~~
11 ~~department until such time as the planting and revegetation~~
12 ~~is done according to law and approved by the department, at~~
13 ~~which time the commissioner shall release the bond in the~~
14 ~~remaining amount. No part of the bond or deposit may be~~
15 ~~released under this subsection so long as the lands to which~~
16 ~~the release would be applicable are contributing suspended~~
17 ~~solids to streamflow or runoff outside the permit area in~~
18 ~~excess of the requirements set by this part or until soil~~
19 ~~productivity for prime farmlands mined for coal has returned~~
20 ~~to equivalent levels of yield as nonmined land of the same~~
21 ~~soil type in the surrounding area under equivalent~~
22 ~~management practices as determined from the soil survey~~
23 ~~performed pursuant to this part. Where a silt dam is to be~~
24 ~~retained as a permanent impoundment, the portion of bond~~
25 ~~pertaining thereto may be released under this subsection so~~

1 long as provisions for sound future maintenance by the
 2 operator or the landowner have been made with the
 3 department. Any person with a valid legal interest that
 4 might be adversely affected by release of the bond or the
 5 responsible head of any federal, state, or local
 6 governmental agency that has jurisdiction by law or special
 7 expertise with respect to any environmental, social, or
 8 economic impact involved in the operation or is authorized
 9 to develop and enforce environmental standards with respect
 10 to such operations shall have the right to file written
 11 objections to the proposed release with the department
 12 within 30 days of public notice. The hearing shall be held
 13 at the state capital or, if an objector so requests, in the
 14 locality of the proposed bond release. For purposes of the
 15 hearing, the board may order site inspections of the area
 16 for which bond release is sought and other strip or
 17 underground mining operations carried on by the applicant in
 18 the area. Without prejudice to the rights of the objectors
 19 or the applicant or to the responsibilities of the
 20 department, the department may establish an informal
 21 conference to resolve written objections. (a) The permittee
 22 may file a request with the department for the release of
 23 all or part of a performance bond or deposit. Within 30 days
 24 after any application for bond or deposit release has been
 25 filed with the department, the permittee shall submit a copy

1 of an advertisement notice placed at least once a week for 4
 2 successive weeks in a newspaper of general circulation in
 3 the locality of the prospecting or mining operation. The
 4 notice is considered part of any bond release application
 5 and must contain a notification of the precise location of
 6 the land affected, the number of acres, the permit and the
 7 date approved, the amount of the bond filed and the portion
 8 sought to be released, the type and appropriate dates of
 9 reclamation work performed, and a description of the results
 10 achieved as they relate to the permittee's approved
 11 reclamation plan. In addition, as part of any bond release
 12 application, the permittee shall submit copies of letters
 13 that he has sent to adjoining property owners, local
 14 governmental bodies, planning agencies, and sewage and water
 15 treatment authorities or water companies in the locality of
 16 the operation, notifying them of his intention to seek
 17 release from the bond.

18 (b) Upon receipt of the request and copies of the
 19 notification made under subsection (6)(a), the department
 20 shall, within 30 days, conduct an inspection and evaluation
 21 of the reclamation work involved. In the evaluation, the
 22 department shall consider, among other things, the degree of
 23 difficulty in completing any remaining reclamation, whether
 24 pollution of surface and subsurface water is occurring, the
 25 probability of continuance or future occurrence of such

1 pollution, and the estimated cost of abating such pollution.
 2 The department shall notify the permittee in writing of its
 3 decision to release or not to release all or part of the
 4 performance bond within 60 days of the filing of the request
 5 if no public hearing is held pursuant to subsection (6)(f)
 6 or, if a public hearing is held pursuant to that subsection,
 7 within 30 days thereafter.

8 (c) The department may release the bond or deposit in
 9 whole or in part if it is satisfied the reclamation covered
 10 by the bond or deposit or portion thereof has been
 11 accomplished as required by this part according to the
 12 following schedule:

13 (i) When the permittee completes the plugging,
 14 backfilling, regrading, and drainage control of a bonded
 15 area in accordance with his approved reclamation plan, the
 16 department shall release 60% of the bond or collateral for
 17 the applicable permit area.

18 (ii) After revegetation has been established on the
 19 regraded lands in accordance with the approved reclamation
 20 plan, the department shall, for the period specified for
 21 operator responsibility of reestablishing revegetation,
 22 retain that amount of bond for the revegetated area that
 23 would be sufficient for a third party to cover the cost of
 24 reestablishing revegetation. Whenever a silt dam is to be
 25 retained as a permanent impoundment, the portion of bond may

1 be released under this subsection (6)(c)(ii) if provisions
 2 for sound future maintenance by the operator or the
 3 landowner have been made with the department. No part of the
 4 bond or deposit may be released under this subsection
 5 (6)(c)(ii):

6 (A) as long as the lands to which the release would be
 7 applicable are contributing suspended solids to streamflow
 8 or runoff outside the permit area in excess of the
 9 requirements of 82-4-231(3)(k); or

10 (B) before soil productivity for prime farm lands to
 11 which the release would be applicable has returned to
 12 equivalent levels of yield as nonmined land of the same soil
 13 type in the surrounding area under equivalent management
 14 practices, as determined from the soil survey.

15 (iii) When the permittee has successfully completed all
 16 prospecting, mining, and reclamation activities, the
 17 department shall release the remaining portion of the bond,
 18 but not before the expiration of the period specified for
 19 responsibility and not until all reclamation requirements of
 20 this part are fully met.

21 (d) If the department disapproves the application for
 22 release of the bond or portion thereof, it shall notify the
 23 permittee, in writing, stating the reasons for disapproval
 24 and recommending corrective actions necessary to secure the
 25 release and allowing opportunity for a public hearing.

1 (e) When an application for total or partial bond
 2 release is filed with the department, it shall notify the
 3 municipality in which a prospecting or mining operation is
 4 located by certified mail at least 30 days prior to the
 5 release of all or a portion of the bond.

6 (f) Any person with a valid legal interest that might
 7 be adversely affected by release of the bond or the
 8 responsible officer or head of any federal, state, or local
 9 governmental agency which has jurisdiction by law or special
 10 expertise with respect to any environmental, social, or
 11 economic impact involved in the operation or is authorized
 12 to develop and enforce environmental standards with respect
 13 to such operations has the right to file written objections
 14 to the proposed release from bond to the department within
 15 30 days after the last publication of the notice provided
 16 for in subsection (6)(a). If written objections are filed
 17 and a hearing requested, the department shall inform all the
 18 interested parties of the time and place of the hearing and,
 19 within 30 days of the request for such hearing, hold a
 20 public hearing in the locality of the operation proposed for
 21 bond release. The date, time, and location of the public
 22 hearing must be advertised by the department in a newspaper
 23 of general circulation in the locality for 2 consecutive
 24 weeks, and the hearing must be held in the locality of the
 25 operation proposed for bond release or at the state capital,

1 at the option of the objector, within 30 days of the request
 2 for such hearing.

3 (g) Without prejudice to the rights of the objectors
 4 or the permittee or the responsibilities of the department
 5 pursuant to this section, the department may establish an
 6 informal conference to resolve such written objections.

7 (h) For the purpose of the hearing under subsection
 8 (6)(f), the department may administer oaths; subpoena
 9 witnesses or written or printed materials; compel the
 10 attendance of witnesses or the production of materials; and
 11 take evidence, including but not limited to site inspections
 12 of the land affected and other operations carried on by the
 13 permittee in the general vicinity. A verbatim record of each
 14 public hearing required by this section must be made, and a
 15 transcript must be made available on the motion of any party
 16 or by order of the department.

17 (7) An operator may propose alternative plans other
 18 than backfilling, grading, highwall reduction, topsoiling,
 19 or seeding to a permanent diverse vegetative cover if the
 20 restoration will be consistent with the purpose of this
 21 part. These plans shall be submitted to the department, and
 22 after consultation with the landowner, if the plans are
 23 approved by the board and complied with within the time
 24 limits as may be determined by the board as being reasonable
 25 for carrying out the plans, the backfilling, grading,

1 highwall reduction, topsoiling, or revegetation requirements
 2 of this part may be modified by the board. An operator who
 3 proposes alternative plans that will affect an existing
 4 permit shall comply with the notice requirement of
 5 82-4-222(1)(k).

6 (8) If alternate revegetation is proposed, a
 7 management plan must be submitted showing how the area will
 8 be utilized and any data necessary to show that the
 9 alternate postmining land use can be achieved. Any plan must
 10 require the operation as a minimum to:

11 (a) restore the land affected to a condition capable
 12 of supporting the use which it was capable of supporting
 13 prior to any mining operation or to a higher or better use
 14 of which there is a reasonable likelihood, if the use or
 15 uses do not present any actual or probable threat of water
 16 diminution or pollution, and if the permit applicant's
 17 proposed land use following reclamation is not deemed to be
 18 impractical, unreasonable, or inconsistent with applicable
 19 land use policies and plans, would not involve unreasonable
 20 delay in implementation, and would not violate federal,
 21 state, or local law; and

22 (b) prevent soil erosion to the extent achieved prior
 23 to mining."

24 NEW SECTION. Section 2. Extension of authority. Any
 25 existing authority of the board of land commissioners or

1 department of state lands to make rules on the subject of
 2 the provisions of this act is extended to the provisions of
 3 this act.

-End-

APPROVED BY COMM. ON NATURAL RESOURCES

1 HOUSE BILL NO. 769
2 INTRODUCED BY Harrison Kelly Rep.

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE
5 BOND RELEASE PROCEDURES UNDER THE MONTANA STRIP AND
6 UNDERGROUND MINE RECLAMATION ACT; AMENDING SECTION 82-4-232,
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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 82-4-232, MCA, is amended to read:

11 "82-4-232. Area mining required -- bond -- alternative
12 plan. (1) Area strip mining, a method of operation which
13 does not produce a bench or fill bench, is required where
14 strip mining is proposed. All highwalls must be reduced and
15 the steepest slope of the reduced highwall shall be no
16 greater than 20 degrees from the horizontal. Highwall
17 reduction shall be commenced at or beyond the top of the
18 highwall and sloped to the graded spoil bank. Reduction,
19 backfilling, and grading shall eliminate all highwalls and
20 spoil peaks. The area of land affected shall be restored to
21 the approximate original contour of the land. When directed
22 by the department, the operator shall construct in the final
23 grading such diversion ditches, depressions, or terraces as
24 will accumulate or control the water runoff. Additional
25 restoration work may be required by the department according

1 to rules adopted by the board.

2 (2) In addition to the backfilling and grading
3 requirements, the operator's method of operation on steep
4 slopes may be regulated and controlled according to rules
5 adopted by the board. These rules may require any measure
6 whatsoever to accomplish the purpose of this part.

7 (3) For coal mining on prime farmlands, the board
8 shall establish by rule specifications for soil removal,
9 storage, replacement, and reconstruction, and the operator
10 shall as a minimum be required to:

11 (a) segregate the A horizon of the natural soil,
12 except where it can be shown that other available soil
13 materials will create a final soil having a greater
14 productive capacity; and if not utilized immediately,
15 stockpile this material separately from other spoil and
16 provide needed protection from wind and water erosion or
17 contamination by other acid or toxic material;

18 (b) segregate the B horizon of the natural soil, or
19 underlying C horizon or other strata, or a combination of
20 such horizons or other strata that are shown to be both
21 texturally and chemically suitable for plant growth and that
22 can be shown to be equally or more favorable for plant
23 growth than the B horizon in sufficient quantities to create
24 in the regraded final soil a root zone of comparable depth
25 and quality to that which existed in the natural soil; and



1 if not utilized immediately, stockpile this material
 2 separately from other spoil and provide needed protection
 3 from wind and water erosion or contamination by acid or
 4 toxic material;

5 (c) replace and regrade the root zone material
 6 described in (b) above with proper compaction and uniform
 7 depth over the regraded spoil material; and

8 (d) redistribute and grade in a uniform manner the
 9 surface soil horizon described in (a) above.

10 (4) All available topsoil shall be removed in a
 11 separate layer, guarded from erosion and pollution, and kept
 12 in such a condition that it can sustain vegetation of at
 13 least the quality and variety it sustained prior to removal,
 14 provided that the operator shall accord substantially the
 15 same treatment to any subsurface deposit of material that is
 16 capable, as determined by the department, of supporting
 17 surface vegetation virtually as well as the present topsoil.
 18 After the operation has been backfilled and graded, the
 19 topsoil or the best available subsurface deposit of material
 20 which is best able to support vegetation shall be returned
 21 as the top layer.

22 (5) As determined by rules of the board, time limits
 23 shall be established requiring backfilling, grading,
 24 subsidence stabilization, water control, highwall reduction,
 25 topsoiling, planting, and revegetation to be kept current.

1 All backfilling, subsidence stabilization, sealing, grading,
 2 and topsoiling shall be completed before necessary equipment
 3 is moved from the operation.

4 (6) When---the---backfilling,---grading,---subsidence
 5 stabilization,---water---controls,---and---topsoiling---have---been
 6 completed---and---approved---by---the---department,---the---commissioner,
 7 after---public---notice---and---opportunity---for---hearing,---may
 8 release---so---much---of---the---bond---which---was---filed---for---that---portion
 9 of---the---operation---as---the---commissioner---may---determine,---provided
 10 that---no---less---than---\$200---per---acre---shall---be---retained---by---the
 11 department---until---such---time---as---the---planting---and---revegetation
 12 is---done---according---to---law---and---approved---by---the---department,---at
 13 which---time---the---commissioner---shall---release---the---bond---in---the
 14 remaining---amount.---No---part---of---the---bond---or---deposit---may---be
 15 released---under---this---subsection---so---long---as---the---lands---to---which
 16 the---release---would---be---applicable---are---contributing---suspended
 17 solids---to---streamflow---or---runoff---outside---the---permit---area---in
 18 excess---of---the---requirements---set---by---this---part---or---until---soil
 19 productivity---for---prime---farmlands---mined---for---coal---has---returned
 20 to---equivalent---levels---of---yield---as---nonmined---land---of---the---same
 21 soil---type---in---the---surrounding---area---under---equivalent
 22 management---practices---as---determined---from---the---soil---survey
 23 performed---pursuant---to---this---part.---Where---a---silt---dam---is---to---be
 24 retained---as---a---permanent---impoundment,---the---portion---of---bond
 25 pertaining---thereto---may---be---released---under---this---subsection---so

1 long-as-provisions--for--sound--future--maintenance--by--the
 2 operator---or---the---landowner--have--been--made--with--the
 3 department--Any-person-with-a--valid--legal--interest--that
 4 might--be--adversely--affected-by-release-of-the-bond-or-the
 5 responsible--head--of---any---federal,---state,---or---local
 6 governmental--agency--that--has--jurisdiction-by-law-or-special
 7 expertise-with-respect--to--any--environmental,--social,--or
 8 economic--impact--involved-in-the-operation-or-is-authorized
 9 to-develop-and-enforce-environmental-standards-with--respect
 10 to--such--operations--shall--have--the-right-to-file-written
 11 objections-to--the--proposed--release--with--the--department
 12 within--30--days-of-public-notice--The-hearing-shall-be-held
 13 at-the-state-capital-or,--if-an-objector-so-requests,--in--the
 14 locality--of--the-proposed-bond-release--For-purposes-of-the
 15 hearing,--the-board-may-order-site-inspections--of--the--area
 16 for--which--bond--release--is--sought--and--other--strip--or
 17 underground-mining-operations-carried-on-by-the-applicant-in
 18 the-area--Without-prejudice-to-the-rights-of--the--objectors
 19 or--the--applicant--or--to--the--responsibilities--of--the
 20 department,--the--department--may--establish--an--informal
 21 conference--to--resolve-written-objections; (a) The permittee
 22 may file a request with the department for the release of
 23 all or part of a performance bond or deposit. Within 30 days
 24 after any application for bond or deposit release has been
 25 filed with the department, the permittee shall submit a copy

1 of an advertisement notice placed at least once a week for 4
 2 successive weeks in a newspaper of general circulation in
 3 the locality of the prospecting or mining operation. The
 4 notice is considered part of any bond release application
 5 and must contain a notification of the precise location of
 6 the land affected, the number of acres, the permit and the
 7 date approved, the amount of the bond filed and the portion
 8 sought to be released, the type and appropriate dates of
 9 reclamation work performed, and a description of the results
 10 achieved as they relate to the permittee's approved
 11 reclamation plan. In addition, as part of any bond release
 12 application, the permittee shall submit copies of letters
 13 that he has sent to adjoining property owners, local
 14 governmental bodies, planning agencies, and sewage and water
 15 treatment authorities or water companies in the locality of
 16 the operation, notifying them of his intention to seek
 17 release from the bond.

18 (b) Upon receipt of the request and copies of the
 19 notification made under subsection (6)(a), the department
 20 shall, within 30 days, conduct an inspection and evaluation
 21 of the reclamation work involved. In the evaluation, the
 22 department shall consider, among other things, the degree of
 23 difficulty in completing any remaining reclamation, whether
 24 pollution of surface and subsurface water is occurring, the
 25 probability of continuance or future occurrence of such

pollution, and the estimated cost of abating such pollution.

The department shall notify the permittee in writing of its decision to release or not to release all or part of the performance bond within 60 days of the filing of the request if no public hearing is held pursuant to subsection (6)(f) or, if a public hearing is held pursuant to that subsection, within 30 days thereafter.

(c) The department may release the bond or deposit in whole or in part if it is satisfied the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this part according to the following schedule:

(i) When the permittee completes the plugging, backfilling, regrading, and drainage control of a bonded area in accordance with his approved reclamation plan, the department shall release 60% of the bond or collateral for the applicable permit area.

(ii) After revegetation has been established on the regraded lands in accordance with the approved reclamation plan, the department shall, for the period specified for operator responsibility of reestablishing revegetation, retain that amount of bond for the revegetated area that would be sufficient for a third party to cover the cost of reestablishing revegetation. Whenever a silt dam is to be retained as a permanent impoundment, the portion of bond may

be released under this subsection (6)(c)(ii) if provisions for sound future maintenance by the operator or the landowner have been made with the department. No part of the bond or deposit may be released under this subsection (6)(c)(ii):

(A) as long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements of 82-4-231(3)(k); or

(B) before soil productivity for prime farm lands to which the release would be applicable has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices, as determined from the soil survey.

(iii) When the permittee has successfully completed all prospecting, mining, and reclamation activities, the department shall release the remaining portion of the bond, but not before the expiration of the period specified for responsibility and not until all reclamation requirements of this part are fully met.

(d) If the department disapproves the application for release of the bond or portion thereof, it shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure the release and allowing opportunity for a public hearing.

1 (e) When an application for total or partial bond
 2 release is filed with the department, it shall notify the
 3 municipality in which a prospecting or mining operation is
 4 located by certified mail at least 30 days prior to the
 5 release of all or a portion of the bond.

6 (f) Any person with a valid legal interest that might
 7 be adversely affected by release of the bond or the
 8 responsible officer or head of any federal, state, or local
 9 governmental agency which has jurisdiction by law or special
 10 expertise with respect to any environmental, social, or
 11 economic impact involved in the operation or is authorized
 12 to develop and enforce environmental standards with respect
 13 to such operations has the right to file written objections
 14 to the proposed release from bond to the department within
 15 30 days after the last publication of the notice provided
 16 for in subsection (6)(a). If written objections are filed
 17 and a hearing requested, the department shall inform all the
 18 interested parties of the time and place of the hearing and,
 19 within 30 days of the request for such hearing, hold a
 20 public hearing in the locality of the operation proposed for
 21 bond release. The date, time, and location of the public
 22 hearing must be advertised by the department in a newspaper
 23 of general circulation in the locality for 2 consecutive
 24 weeks, and the hearing must be held in the locality of the
 25 operation proposed for bond release or at the state capital,

1 at the option of the objector, within 30 days of the request
 2 for such hearing.

3 (g) Without prejudice to the rights of the objectors
 4 or the permittee or the responsibilities of the department
 5 pursuant to this section, the department may establish an
 6 informal conference to resolve such written objections.

7 (h) For the purpose of the hearing under subsection
 8 (6)(f), the department may administer oaths; subpoena
 9 witnesses or written or printed materials; compel the
 10 attendance of witnesses or the production of materials; and
 11 take evidence, including but not limited to site inspections
 12 of the land affected and other operations carried on by the
 13 permittee in the general vicinity. A verbatim record of each
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17 (7) An operator may propose alternative plans other
 18 than backfilling, grading, highwall reduction, topsoiling,
 19 or seeding to a permanent diverse vegetative cover if the
 20 restoration will be consistent with the purpose of this
 21 part. These plans shall be submitted to the department, and
 22 after consultation with the landowner, if the plans are
 23 approved by the board and complied with within the time
 24 limits as may be determined by the board as being reasonable
 25 for carrying out the plans, the backfilling, grading,

1 highwall reduction, topsoiling, or revegetation requirements
2 of this part may be modified by the board. An operator who
3 proposes alternative plans that will affect an existing
4 permit shall comply with the notice requirement of
5 82-4-222(1)(k).

6 (8) If alternate revegetation is proposed, a
7 management plan must be submitted showing how the area will
8 be utilized and any data necessary to show that the
9 alternate postmining land use can be achieved. Any plan must
10 require the operation as a minimum to:

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12 of supporting the use which it was capable of supporting
13 prior to any mining operation or to a higher or better use
14 of which there is a reasonable likelihood, if the use or
15 uses do not present any actual or probable threat of water
16 diminution or pollution, and if the permit applicant's
17 proposed land use following reclamation is not deemed to be
18 impractical, unreasonable, or inconsistent with applicable
19 land use policies and plans, would not involve unreasonable
20 delay in implementation, and would not violate federal,
21 state, or local law; and

22 (b) prevent soil erosion to the extent achieved prior
23 to mining."

24 NEW SECTION. Section 2. Extension of authority. Any
25 existing authority of the board of land commissioners or

1 department of state lands to make rules on the subject of
2 the provisions of this act is extended to the provisions of
3 this act.

-End-

1 HOUSE BILL NO. 769
 2 INTRODUCED BY *Harrison Salley Rep.*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE
 5 BOND RELEASE PROCEDURES UNDER THE MONTANA STRIP AND
 6 UNDERGROUND MINE RECLAMATION ACT; AMENDING SECTION 82-4-232,
 7 MCA."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10 Section 1. Section 82-4-232, MCA, is amended to read:
 11 "82-4-232. Area mining required -- bond -- alternative
 12 plan. (1) Area strip mining, a method of operation which
 13 does not produce a bench or fill bench, is required where
 14 strip mining is proposed. All highwalls must be reduced and
 15 the steepest slope of the reduced highwall shall be no
 16 greater than 20 degrees from the horizontal. Highwall
 17 reduction shall be commenced at or beyond the top of the
 18 highwall and sloped to the graded spoil bank. Reduction,
 19 backfilling, and grading shall eliminate all highwalls and
 20 spoil peaks. The area of land affected shall be restored to
 21 the approximate original contour of the land. When directed
 22 by the department, the operator shall construct in the final
 23 grading such diversion ditches, depressions, or terraces as
 24 will accumulate or control the water runoff. Additional
 25 restoration work may be required by the department according

1 to rules adopted by the board.
 2 (2) In addition to the backfilling and grading
 3 requirements, the operator's method of operation on steep
 4 slopes may be regulated and controlled according to rules
 5 adopted by the board. These rules may require any measure
 6 whatsoever to accomplish the purpose of this part.
 7 (3) For coal mining on prime farmlands, the board
 8 shall establish by rule specifications for soil removal,
 9 storage, replacement, and reconstruction, and the operator
 10 shall as a minimum be required to:
 11 (a) segregate the A horizon of the natural soil,
 12 except where it can be shown that other available soil
 13 materials will create a final soil having a greater
 14 productive capacity; and if not utilized immediately,
 15 stockpile this material separately from other spoil and
 16 provide needed protection from wind and water erosion or
 17 contamination by other acid or toxic material;
 18 (b) segregate the B horizon of the natural soil, or
 19 underlying C horizon or other strata, or a combination of
 20 such horizons or other strata that are shown to be both
 21 texturally and chemically suitable for plant growth and that
 22 can be shown to be equally or more favorable for plant
 23 growth than the B horizon in sufficient quantities to create
 24 in the regraded final soil a root zone of comparable depth
 25 and quality to that which existed in the natural soil; and

1 if not utilized immediately, stockpile this material
 2 separately from other spoil and provide needed protection
 3 from wind and water erosion or contamination by acid or
 4 toxic material;

5 (c) replace and regrade the root zone material
 6 described in (b) above with proper compaction and uniform
 7 depth over the regraded spoil material; and

8 (d) redistribute and grade in a uniform manner the
 9 surface soil horizon described in (a) above.

10 (4) All available topsoil shall be removed in a
 11 separate layer, guarded from erosion and pollution, and kept
 12 in such a condition that it can sustain vegetation of at
 13 least the quality and variety it sustained prior to removal,
 14 provided that the operator shall accord substantially the
 15 same treatment to any subsurface deposit of material that is
 16 capable, as determined by the department, of supporting
 17 surface vegetation virtually as well as the present topsoil.
 18 After the operation has been backfilled and graded, the
 19 topsoil or the best available subsurface deposit of material
 20 which is best able to support vegetation shall be returned
 21 as the top layer.

22 (5) As determined by rules of the board, time limits
 23 shall be established requiring backfilling, grading,
 24 subsidence stabilization, water control, highwall reduction,
 25 topsoiling, planting, and revegetation to be kept current.

1 All backfilling, subsidence stabilization, sealing, grading,
 2 and topsoiling shall be completed before necessary equipment
 3 is moved from the operation.

4 (6) ~~When the backfilling, grading, subsidence~~
 5 ~~stabilization, water controls, and topsoiling have been~~
 6 ~~completed and approved by the department, the commissioner,~~
 7 ~~after public notice and opportunity for hearing, may~~
 8 ~~release so much of the bond which was filed for that portion~~
 9 ~~of the operation as the commissioner may determine, provided~~
 10 ~~that no less than \$200 per acre shall be retained by the~~
 11 ~~department until such time as the planting and revegetation~~
 12 ~~is done according to law and approved by the department, at~~
 13 ~~which time the commissioner shall release the bond in the~~
 14 ~~remaining amount. No part of the bond or deposit may be~~
 15 ~~released under this subsection so long as the lands to which~~
 16 ~~the release would be applicable are contributing suspended~~
 17 ~~solids to streamflow or runoff outside the permit area in~~
 18 ~~excess of the requirements set by this part or until soil~~
 19 ~~productivity for prime farmlands mined for coal has returned~~
 20 ~~to equivalent levels of yield as nonmined land of the same~~
 21 ~~soil type in the surrounding area under equivalent~~
 22 ~~management practices as determined from the soil survey~~
 23 ~~performed pursuant to this part. Where a silt dam is to be~~
 24 ~~retained as a permanent impoundment, the portion of bond~~
 25 ~~pertaining thereto may be released under this subsection so~~

long-as-provisions--for--sound--future--maintenance--by--the
 operator---or---the---landowner--have--been--made--with--the
 department. Any person with a valid legal interest that
 might be adversely affected by release of the bond or the
 responsible head of any federal, state, or local
 governmental agency that has jurisdiction by law or special
 expertise with respect to any environmental, social, or
 economic impact involved in the operation or is authorized
 to develop and enforce environmental standards with respect
 to such operations shall have the right to file written
 objections to the proposed release with the department
 within 30 days of public notice. The hearing shall be held
 at the state capital or, if an objector so requests, in the
 locality of the proposed bond release. For purposes of the
 hearing, the board may order site inspections of the area
 for which bond release is sought and other strip or
 underground mining operations carried on by the applicant in
 the area. Without prejudice to the rights of the objectors
 or the applicant or to the responsibilities of the
 department, the department may establish an informal
 conference to resolve written objections. (a) The permittee
 may file a request with the department for the release of
 all or part of a performance bond or deposit. Within 30 days
 after any application for bond or deposit release has been
 filed with the department, the permittee shall submit a copy

of an advertisement notice placed at least once a week for 4
 successive weeks in a newspaper of general circulation in
 the locality of the prospecting or mining operation. The
 notice is considered part of any bond release application
 and must contain a notification of the precise location of
 the land affected, the number of acres, the permit and the
 date approved, the amount of the bond filed and the portion
 sought to be released, the type and appropriate dates of
 reclamation work performed, and a description of the results
 achieved as they relate to the permittee's approved
 reclamation plan. In addition, as part of any bond release
 application, the permittee shall submit copies of letters
 that he has sent to adjoining property owners, local
 governmental bodies, planning agencies, and sewage and water
 treatment authorities or water companies in the locality of
 the operation, notifying them of his intention to seek
 release from the bond.

(b) Upon receipt of the request and copies of the
 notification made under subsection (6)(a), the department
 shall, within 30 days, conduct an inspection and evaluation
 of the reclamation work involved. In the evaluation, the
 department shall consider, among other things, the degree of
 difficulty in completing any remaining reclamation, whether
 pollution of surface and subsurface water is occurring, the
 probability of continuance or future occurrence of such

1 pollution, and the estimated cost of abating such pollution.
 2 The department shall notify the permittee in writing of its
 3 decision to release or not to release all or part of the
 4 performance bond within 60 days of the filing of the request
 5 if no public hearing is held pursuant to subsection (5)(f)
 6 or, if a public hearing is held pursuant to that subsection,
 7 within 30 days thereafter.

8 (c) The department may release the bond or deposit in
 9 whole or in part if it is satisfied the reclamation covered
 10 by the bond or deposit or portion thereof has been
 11 accomplished as required by this part according to the
 12 following schedule:

13 (i) When the permittee completes the plugging,
 14 backfilling, regrading, and drainage control of a bonded
 15 area in accordance with his approved reclamation plan, the
 16 department shall release 60% of the bond or collateral for
 17 the applicable permit area.

18 (ii) After revegetation has been established on the
 19 regraded lands in accordance with the approved reclamation
 20 plan, the department shall, for the period specified for
 21 operator responsibility of reestablishing revegetation,
 22 retain that amount of bond for the revegetated area that
 23 would be sufficient for a third party to cover the cost of
 24 reestablishing revegetation. Whenever a silt dam is to be
 25 retained as a permanent impoundment, the portion of bond may

1 be released under this subsection (6)(c)(ii) if provisions
 2 for sound future maintenance by the operator or the
 3 landowner have been made with the department. No part of the
 4 bond or deposit may be released under this subsection
 5 (6)(c)(ii):

6 (A) as long as the lands to which the release would be
 7 applicable are contributing suspended solids to streamflow
 8 or runoff outside the permit area in excess of the
 9 requirements of 82-4-231(3)(k); or

10 (B) before soil productivity for prime farm lands to
 11 which the release would be applicable has returned to
 12 equivalent levels of yield as nonmined land of the same soil
 13 type in the surrounding area under equivalent management
 14 practices, as determined from the soil survey.

15 (iii) When the permittee has successfully completed all
 16 prospecting, mining, and reclamation activities, the
 17 department shall release the remaining portion of the bond,
 18 but not before the expiration of the period specified for
 19 responsibility and not until all reclamation requirements of
 20 this part are fully met.

21 (d) If the department disapproves the application for
 22 release of the bond or portion thereof, it shall notify the
 23 permittee, in writing, stating the reasons for disapproval
 24 and recommending corrective actions necessary to secure the
 25 release and allowing opportunity for a public hearing.

1 (e) When an application for total or partial bond
 2 release is filed with the department, it shall notify the
 3 municipality in which a prospecting or mining operation is
 4 located by certified mail at least 30 days prior to the
 5 release of all or a portion of the bond.

6 (f) Any person with a valid legal interest that might
 7 be adversely affected by release of the bond or the
 8 responsible officer or head of any federal, state, or local
 9 governmental agency which has jurisdiction by law or special
 10 expertise with respect to any environmental, social, or
 11 economic impact involved in the operation or is authorized
 12 to develop and enforce environmental standards with respect
 13 to such operations has the right to file written objections
 14 to the proposed release from bond to the department within
 15 30 days after the last publication of the notice provided
 16 for in subsection (6)(a). If written objections are filed
 17 and a hearing requested, the department shall inform all the
 18 interested parties of the time and place of the hearing and,
 19 within 30 days of the request for such hearing, hold a
 20 public hearing in the locality of the operation proposed for
 21 bond release. The date, time, and location of the public
 22 hearing must be advertised by the department in a newspaper
 23 of general circulation in the locality for 2 consecutive
 24 weeks, and the hearing must be held in the locality of the
 25 operation proposed for bond release or at the state capital,

1 at the option of the objector, within 30 days of the request
 2 for such hearing.

3 (g) Without prejudice to the rights of the objectors
 4 or the permittee or the responsibilities of the department
 5 pursuant to this section, the department may establish an
 6 informal conference to resolve such written objections.

7 (h) For the purpose of the hearing under subsection
 8 (6)(f), the department may administer oaths; subpoena
 9 witnesses or written or printed materials; compel the
 10 attendance of witnesses or the production of materials; and
 11 take evidence, including but not limited to site inspections
 12 of the land affected and other operations carried on by the
 13 permittee in the general vicinity. A verbatim record of each
 14 public hearing required by this section must be made, and a
 15 transcript must be made available on the motion of any party
 16 or by order of the department.

17 (7) An operator may propose alternative plans other
 18 than backfilling, grading, highwall reduction, topsoiling,
 19 or seeding to a permanent diverse vegetative cover if the
 20 restoration will be consistent with the purpose of this
 21 part. These plans shall be submitted to the department, and
 22 after consultation with the landowner, if the plans are
 23 approved by the board and complied with within the time
 24 limits as may be determined by the board as being reasonable
 25 for carrying out the plans, the backfilling, grading,

1 highwall reduction, topsoiling, or revegetation requirements
 2 of this part may be modified by the board. An operator who
 3 proposes alternative plans that will affect an existing
 4 permit shall comply with the notice requirement of
 5 82-4-222(1)(k).

6 (8) If alternate revegetation is proposed, a
 7 management plan must be submitted showing how the area will
 8 be utilized and any data necessary to show that the
 9 alternate postmining land use can be achieved. Any plan must
 10 require the operation as a minimum to:

11 (a) restore the land affected to a condition capable
 12 of supporting the use which it was capable of supporting
 13 prior to any mining operation or to a higher or better use
 14 of which there is a reasonable likelihood, if the use or
 15 uses do not present any actual or probable threat of water
 16 diminution or pollution, and if the permit applicant's
 17 proposed land use following reclamation is not deemed to be
 18 impractical, unreasonable, or inconsistent with applicable
 19 land use policies and plans, would not involve unreasonable
 20 delay in implementation, and would not violate federal,
 21 state, or local law; and

22 (b) prevent soil erosion to the extent achieved prior
 23 to mining."

24 NEW SECTION. Section 2. Extension of authority. Any
 25 existing authority of the board of land commissioners or

1 department of state lands to make rules on the subject of
 2 the provisions of this act is extended to the provisions of
 3 this act.

-End-

1 HOUSE BILL NO. 769

2 INTRODUCED BY HOLLIDAY, HALLIGAN, GAGE

3
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15 the steepest slope of the reduced highwall shall be no
16 greater than 20 degrees from the horizontal. Highwall
17 reduction shall be commenced at or beyond the top of the
18 highwall and sloped to the graded spoil bank. Reduction,
19 backfilling, and grading shall eliminate all highwalls and
20 spoil peaks. The area of land affected shall be restored to
21 the approximate original contour of the land. When directed
22 by the department, the operator shall construct in the final
23 grading such diversion ditches, depressions, or terraces as
24 will accumulate or control the water runoff. Additional
25 restoration work may be required by the department according

1 to rules adopted by the board.

2 (2) In addition to the backfilling and grading
3 requirements, the operator's method of operation on steep
4 slopes may be regulated and controlled according to rules
5 adopted by the board. These rules may require any measure
6 whatsoever to accomplish the purpose of this part.

7 (3) For coal mining on prime farmlands, the board
8 shall establish by rule specifications for soil removal,
9 storage, replacement, and reconstruction, and the operator
10 shall as a minimum be required to:

11 (a) segregate the A horizon of the natural soil,
12 except where it can be shown that other available soil
13 materials will create a final soil having a greater
14 productive capacity; and if not utilized immediately,
15 stockpile this material separately from other spoil and
16 provide needed protection from wind and water erosion or
17 contamination by other acid or toxic material;

18 (b) segregate the B horizon of the natural soil, or
19 underlying C horizon or other strata, or a combination of
20 such horizons or other strata that are shown to be both
21 texturally and chemically suitable for plant growth and that
22 can be shown to be equally or more favorable for plant
23 growth than the B horizon in sufficient quantities to create
24 in the regraded final soil a root zone of comparable depth
25 and quality to that which existed in the natural soil; and

REFERENCE BILL

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1 if not utilized immediately, stockpile this material
2 separately from other spoil and provide needed protection
3 from wind and water erosion or contamination by acid or
4 toxic material;

5 (c) replace and regrade the root zone material
6 described in (b) above with proper compaction and uniform
7 depth over the regraded spoil material; and

8 (d) redistribute and grade in a uniform manner the
9 surface soil horizon described in (a) above.

10 (4) All available topsoil shall be removed in a
11 separate layer, guarded from erosion and pollution, and kept
12 in such a condition that it can sustain vegetation of at
13 least the quality and variety it sustained prior to removal,
14 provided that the operator shall accord substantially the
15 same treatment to any subsurface deposit of material that is
16 capable, as determined by the department, of supporting
17 surface vegetation virtually as well as the present topsoil.
18 After the operation has been backfilled and graded, the
19 topsoil or the best available subsurface deposit of material
20 which is best able to support vegetation shall be returned
21 as the top layer.

22 (5) As determined by rules of the board, time limits
23 shall be established requiring backfilling, grading,
24 subsidence stabilization, water control, highwall reduction,
25 topsoiling, planting, and revegetation to be kept current.

1 All backfilling, subsidence stabilization, sealing, grading,
2 and topsoiling shall be completed before necessary equipment
3 is moved from the operation.

4 (6) ~~When the backfilling, grading, subsidence~~
5 ~~stabilization, water controls, and topsoiling have been~~
6 ~~completed and approved by the department, the commissioner,~~
7 ~~after public notice and opportunity for hearing, may~~
8 ~~release so much of the bond which was filed for that portion~~
9 ~~of the operation as the commissioner may determine, provided~~
10 ~~that no less than \$200 per acre shall be retained by the~~
11 ~~department until such time as the planting and revegetation~~
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16 ~~the release would be applicable are contributing suspended~~
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1 long as provisions for sound future maintenance by the
 2 operator or the landowner have been made with the
 3 department. Any person with a valid legal interest that
 4 might be adversely affected by release of the bond or the
 5 responsible head of any federal, state, or local
 6 governmental agency that has jurisdiction by law or special
 7 expertise with respect to any environmental, social, or
 8 economic impact involved in the operation or is authorized
 9 to develop and enforce environmental standards with respect
 10 to such operations shall have the right to file written
 11 objections to the proposed release with the department
 12 within 30 days of public notice. The hearing shall be held
 13 at the state capital or, if an objector so requests, in the
 14 locality of the proposed bond release. For purposes of the
 15 hearing, the board may order site inspections of the area
 16 for which bond release is sought and other strip or
 17 underground mining operations carried on by the applicant in
 18 the area. Without prejudice to the rights of the objectors
 19 or the applicant or to the responsibilities of the
 20 department, the department may establish an informal
 21 conference to resolve written objections. (a) The permittee
 22 may file a request with the department for the release of
 23 all or part of a performance bond or deposit. Within 30 days
 24 after any application for bond or deposit release has been
 25 filed with the department, the permittee shall submit a copy

1 of an advertisement notice placed at least once a week for 4
 2 successive weeks in a newspaper of general circulation in
 3 the locality of the prospecting or mining operation. The
 4 notice is considered part of any bond release application
 5 and must contain a notification of the precise location of
 6 the land affected, the number of acres, the permit and the
 7 date approved, the amount of the bond filed and the portion
 8 sought to be released, the type and appropriate dates of
 9 reclamation work performed, and a description of the results
 10 achieved as they relate to the permittee's approved
 11 reclamation plan. In addition, as part of any bond release
 12 application, the permittee shall submit copies of letters
 13 that he has sent to adjoining property owners, local
 14 governmental bodies, planning agencies, and sewage and water
 15 treatment authorities or water companies in the locality of
 16 the operation, notifying them of his intention to seek
 17 release from the bond.

18 (b) Upon receipt of the request and copies of the
 19 notification made under subsection (6)(a), the department
 20 shall, within 30 days, conduct an inspection and evaluation
 21 of the reclamation work involved. In the evaluation, the
 22 department shall consider, among other things, the degree of
 23 difficulty in completing any remaining reclamation, whether
 24 pollution of surface and subsurface water is occurring, the
 25 probability of continuance or future occurrence of such

1 pollution, and the estimated cost of abating such pollution.
 2 The department shall notify the permittee in writing of its
 3 decision to release or not to release all or part of the
 4 performance bond within 60 days of the filing of the request
 5 if no public hearing is held pursuant to subsection (6)(f)
 6 or, if a public hearing is held pursuant to that subsection,
 7 within 30 days thereafter.

8 (c) The department may release the bond or deposit in
 9 whole or in part if it is satisfied the reclamation covered
 10 by the bond or deposit or portion thereof has been
 11 accomplished as required by this part according to the
 12 following schedule:

13 (i) When the permittee completes the plugging,
 14 backfilling, regrading, and drainage control of a bonded
 15 area in accordance with his approved reclamation plan, the
 16 department shall release 60% of the bond or collateral for
 17 the applicable permit area.

18 (ii) After revegetation has been established on the
 19 regraded lands in accordance with the approved reclamation
 20 plan, the department shall, for the period specified for
 21 operator responsibility of reestablishing revegetation,
 22 retain that amount of bond for the revegetated area that
 23 would be sufficient for a third party to cover the cost of
 24 reestablishing revegetation. Whenever a silt dam is to be
 25 retained as a permanent impoundment, the portion of bond may

1 be released under this subsection (6)(c)(ii) if provisions
 2 for sound future maintenance by the operator or the
 3 landowner have been made with the department. No part of the
 4 bond or deposit may be released under this subsection
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6 (A) as long as the lands to which the release would be
 7 applicable are contributing suspended solids to streamflow
 8 or runoff outside the permit area in excess of the
 9 requirements of 82-4-231(3)(k); or

10 (B) before soil productivity for prime farm lands to
 11 which the release would be applicable has returned to
 12 equivalent levels of yield as nonmined land of the same soil
 13 type in the surrounding area under equivalent management
 14 practices, as determined from the soil survey.

15 (iii) When the permittee has successfully completed all
 16 prospecting, mining, and reclamation activities, the
 17 department shall release the remaining portion of the bond,
 18 but not before the expiration of the period specified for
 19 responsibility and not until all reclamation requirements of
 20 this part are fully met.

21 (d) If the department disapproves the application for
 22 release of the bond or portion thereof, it shall notify the
 23 permittee, in writing, stating the reasons for disapproval
 24 and recommending corrective actions necessary to secure the
 25 release and allowing opportunity for a public hearing.

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 2 release is filed with the department, it shall notify the
 3 municipality in which a prospecting or mining operation is
 4 located by certified mail at least 30 days prior to the
 5 release of all or a portion of the bond.

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 7 be adversely affected by release of the bond or the
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 9 governmental agency which has jurisdiction by law or special
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 11 economic impact involved in the operation or is authorized
 12 to develop and enforce environmental standards with respect
 13 to such operations has the right to file written objections
 14 to the proposed release from bond to the department within
 15 30 days after the last publication of the notice provided
 16 for in subsection (6)(a). If written objections are filed
 17 and a hearing requested, the department shall inform all the
 18 interested parties of the time and place of the hearing and,
 19 within 30 days of the request for such hearing, hold a
 20 public hearing in the locality of the operation proposed for
 21 bond release. The date, time, and location of the public
 22 hearing must be advertised by the department in a newspaper
 23 of general circulation in the locality for 2 consecutive
 24 weeks, and the hearing must be held in the locality of the
 25 operation proposed for bond release or at the state capital,

1 at the option of the objector, within 30 days of the request
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 4 or the permittee or the responsibilities of the department
 5 pursuant to this section, the department may establish an
 6 informal conference to resolve such written objections.

7 (h) For the purpose of the hearing under subsection
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 19 or seeding to a permanent diverse vegetative cover if the
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 21 part. These plans shall be submitted to the department, and
 22 after consultation with the landowner, if the plans are
 23 approved by the board and complied with within the time
 24 limits as may be determined by the board as being reasonable
 25 for carrying out the plans, the backfilling, grading,

1 highwall reduction, topsoiling, or revegetation requirements
 2 of this part may be modified by the board. An operator who
 3 proposes alternative plans that will affect an existing
 4 permit shall comply with the notice requirement of
 5 82-4-222(1)(k).

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 7 management plan must be submitted showing how the area will
 8 be utilized and any data necessary to show that the
 9 alternate postmining land use can be achieved. Any plan must
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 12 of supporting the use which it was capable of supporting
 13 prior to any mining operation or to a higher or better use
 14 of which there is a reasonable likelihood, if the use or
 15 uses do not present any actual or probable threat of water
 16 diminution or pollution, and if the permit applicant's
 17 proposed land use following reclamation is not deemed to be
 18 impractical, unreasonable, or inconsistent with applicable
 19 land use policies and plans, would not involve unreasonable
 20 delay in implementation, and would not violate federal,
 21 state, or local law; and

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24 NEW SECTION. Section 2. Extension of authority. Any
 25 existing authority of the board of land commissioners or

1 department of state lands to make rules on the subject of
 2 the provisions of this act is extended to the provisions of
 3 this act.

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