

HOUSE FINAL STATUS

2/04 INTRODUCED  
 2/06 REFERRED TO HUMAN SERVICES & AGING  
 2/13 HEARING  
 2/16 TABLED IN COMMITTEE

HB 580 INTRODUCED BY KADAS  
 PROVIDE THAT MEMBER AND EMPLOYER CONTRIBUTIONS ON  
 LUMP-SUM PAYMENTS TO BE RECEIVED BY  
 TERMINATING EMPLOYEE NOT BE MADE UNLESS  
 EMPLOYEE ELECTS TO CONTRIBUTE

2/04 INTRODUCED  
 2/06 REFERRED TO STATE ADMINISTRATION  
 2/07 FISCAL NOTE REQUESTED  
 2/13 FISCAL NOTE RECEIVED  
 2/15 HEARING  
 2/15 FISCAL NOTE PRINTED  
 2/17 TABLED IN COMMITTEE

HB 581 INTRODUCED BY IVERSON, ET AL.  
 REVISE HARD-ROCK MINING ACT  
 BY REQUEST OF DEPARTMENT OF STATE LANDS

2/04 INTRODUCED  
 2/06 REFERRED TO NATURAL RESOURCES  
 2/13 HEARING  
 2/14 COMMITTEE REPORT--BILL PASSED  
 2/18 2ND READING PASSED 92 1  
 2/21 3RD READING PASSED 96 1

TRANSMITTED TO SENATE  
 2/28 REFERRED TO NATURAL RESOURCES  
 3/01 HEARING  
 3/02 COMMITTEE REPORT--BILL CONCURRED  
 3/03 2ND READING CONCURRED 46 2  
 3/06 3RD READING CONCURRED 48 2

RETURNED TO HOUSE  
 3/09 SIGNED BY SPEAKER  
 3/09 SIGNED BY PRESIDENT  
 3/10 TRANSMITTED TO GOVERNOR  
 3/14 SIGNED BY GOVERNOR  
 CHAPTER NUMBER 93 EFFECTIVE DATE: 10/01/89

HB 582 INTRODUCED BY EUDAILY, ET AL.  
 AUTHORIZE JUDGE TO REQUIRE A PERSON TO INSTALL  
 AN IGNITION INTERLOCK DEVICE WHEN CONVICTED  
 OF DRIVING UNDER THE INFLUENCE OF ALCOHOL

2/04 INTRODUCED  
 2/06 REFERRED TO JUDICIARY  
 2/07 FISCAL NOTE REQUESTED  
 2/13 FISCAL NOTE RECEIVED  
 2/15 FISCAL NOTE PRINTED  
 2/16 HEARING  
 2/18 COMMITTEE REPORT--BILL PASSED AS AMENDED  
 2/20 2ND READING PASSED AS AMENDED 66 30  
 2/21 3RD READING PASSED 71 25

except that the total number of jurors drawn shall be at least *the number of jurors needed* plus the total number of peremptory challenges.

(2) The qualifications of jurors and excuses from jury duty are prescribed in Title 3, chapter 15, part 3."

Approved March 14, 1989.

## CHAPTER NO. 93

[HB 581]

AN ACT TO GENERALLY REVISE THE LAWS RELATING TO METAL MINE RECLAMATION; AND AMENDING SECTIONS 82-4-303, 82-4-305, 82-4-331, 82-4-335, 82-4-361, AND 82-4-362, MCA.

### STATEMENT OF INTENT

A statement of intent is required for this bill because it delegates rule-making authority to the board of land commissioners. Under the provisions of this bill, the board of land commissioners shall adopt rules to implement and administer a procedure for waiver of a minor violation from the civil penalty provisions provided in [section 5].

It is the intent of the legislature that the waiver be allowed only if a violation does not represent potential harm to the public health, public safety, or the environment and does not otherwise impair administration of the provisions of Title 84, chapter 4, part 3.

*Be it enacted by the Legislature of the State of Montana:*

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

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

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

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

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

(4) "Disturbed land" means that area of land or surface water disturbed, beginning at the date of the issuance of the permit, and it comprises that area from which the overburden, tailings, waste materials, or minerals have been removed and tailings ponds, waste dumps, roads, conveyor systems, leach dumps, and all similar excavations or covering resulting from the operation and which have not been previously reclaimed under the reclamation plan.

(5) "Exploration" means all activities conducted on or beneath the surface of lands resulting in material disturbance of the surface for the purpose of determining the presence, location, extent, depth, grade, and

economic viability of mineralization in those lands, if any, other than mining for production and economic exploitation, as well as all roads made for the purpose of facilitating exploration, except as noted in 82-4-310.

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

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

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

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

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

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

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

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

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

(e) the method of disposal of mining debris;

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

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

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

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

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

(i) *an operation* resulting in not more than 5 acres of the earth's surface being disturbed and unreclaimed; or

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

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

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

(C) not operated simultaneously except during seasonal transitional periods not to exceed 30 days.

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

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

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

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

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

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

**"82-4-305. Exemption — small miners — written agreement.**  
(1) *The provisions of this part do not apply to any small miner if the small miner:*



- (a) annually agrees in writing that:
- (i) he *will* not pollute or contaminate any stream; and
  - (ii) he *will* provide protection for human and animal life through the installation of bulkheads installed over safety collars and the installation of doors on tunnel portals; and
- (b) *provides* a map locating his mining operations. Such map shall be to a size and scale as determined by the department.
- (2) For small-miner exemptions obtained after September 30, 1985, a small miner may *not* obtain or continue an exemption under subsection (1) unless he annually certifies in writing:
- (a) if the small miner is a natural person, that:
    - (i) no business association or partnership of which he is a member or partner has a small-miner exemption; and
    - (ii) no corporation of which he is an officer, director, or owner of record of 25% or more of any class of voting stock has a small-miner exemption; or
  - (b) if the small miner is a partnership or business association, that:
    - (i) none of the associates or partners holds a small-miner exemption; and
    - (ii) none of the associates or partners is an officer, director, or owner of 25% or more of any class of voting stock of a corporation that has a small-miner exemption; or
  - (c) if the small miner is a corporation, that no officer, director, or owner of record of 25% or more of any class of voting stock of the corporation:
    - (i) holds a small-miner exemption;
    - (ii) is a member or partner in a business association or partnership that holds a small-miner exemption;
    - (iii) is an officer, director, or owner of record of 25% or more of any class of voting stock of another corporation that holds a small-miner exemption.
- (3) *The exemption provided in this section does not apply to a person whose failure to comply with the provisions of this part, the rules adopted under this part, or a permit or license issued under this part has resulted in the forfeiture of a bond unless that person meets the conditions described under [section 7].*"

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

**"82-4-331. Exploration license required — employees included — limitation.** (1) A person *may not* engage in exploration in the state without first obtaining an exploration license from the board. A license *must* be issued for a period of 1 year from date of issue and *is* renewable

from year to year on application. *An application for renewal must be filed within 30 days preceding the expiration of the current license and be accompanied by payment of a fee as required for a new license. A license may not be renewed if the applicant for renewal is in violation of any provision of this part. A license is subject to suspension and revocation as provided by this part.*

(2) Employees of persons holding a valid license under this part are included in and covered by the license.

(3) *A person may not be issued an exploration license if that person's failure to comply with the provisions of this part, the rules adopted under this part, or a permit or license issued under this part has resulted in the forfeiture of a bond unless that person meets the conditions described in [section 7]."*

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

**"82-4-335. Operating permit — limitation.** (1) *A person may not engage in mining, ore processing, or reprocessing of tailings or waste material or construct or operate a hard-rock mill or disturb land in anticipation of those activities in the state without first obtaining an operating permit from the board to do so. A separate operating permit is required for each complex. Prior to receiving an operating permit from the board, a person shall pay the basic permit fee of \$25 and shall submit an application on a form provided by the board, which must contain the following information and any other pertinent data required by rule:*

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

(b) minerals expected to be mined;

(c) a proposed reclamation plan;

(d) expected starting date of operations;

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

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

(g) a plan which will provide, within limits of normal operating procedures of the industry, for completion of the operation;

(h) ground water and surface water hydrologic data gathered from a sufficient number of sources and length of time to characterize the hydrologic regime;

(i) a plan detailing the design, operation, and monitoring of impounding structures, including but not limited to tailings impoundments and water reservoirs, sufficient to ensure that such structures are safe and stable;

(j) a plan identifying methods to be used to monitor for the accidental discharge of objectionable materials and remedial action plans to be used to control and mitigate discharges to surface or ground water; and

(k) an evaluation of the expected life of any tailings impoundment or waste area and the potential for expansion of the tailings impoundment or waste site.

(2) Except as provided in subsection (4), the permit provided for in subsection (1) for a large-scale mineral development as defined in 90-6-302 *must* be conditioned to provide that activities under the permit may not commence until the impact plan is approved under 90-6-307 and until the permittee has provided a written guarantee to the department and to the hard-rock mining impact board of compliance within the time schedule with the commitment made in the approved impact plan, as provided in 90-6-307. If the permittee does not comply with that commitment within the time scheduled, the board, upon receipt of written notice from the hard-rock mining impact board, shall suspend the permit until it receives written notice from the hard-rock mining impact board that the permittee is in compliance.

(3) When the department determines that a permittee has become or will become a large-scale mineral developer pursuant to 82-4-339 and 90-6-302(4) and provides notice as required under 82-4-339, within 6 months of receiving the notice, the permittee shall provide the board with proof that he has obtained a waiver of the impact plan requirement from the hard-rock mining impact board or that he has filed an impact plan with the hard-rock mining impact board and the appropriate county or counties. If the permittee does not file the required proof or if the hard-rock mining impact board certifies to the board that the permittee has failed to comply with the hard-rock mining impact review and implementation requirements in Title 90, chapter 6, parts 3 and 4, the board shall suspend the permit until the permittee files the required proof or until the hard-rock mining impact board certifies that the permittee has complied with the hard-rock mining impact review and implementation requirements.

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

(5) *A person may not be issued an operating permit if that person's failure to comply with the provisions of this part, the rules adopted under this part, or a permit or license issued under this part has resulted in the forfeiture of a bond unless that person meets the conditions described in [section 7]."*

Section 5. Section 82-4-361, MCA, is amended to read:

**"82-4-361. Violation — penalties — waiver.** (1) A person who violates any of the provisions of this part, *the* rules or orders adopted under this part (except 82-4-339), or *the* conditions of a small-miner exemption shall pay a civil penalty of not less than \$100 or more than \$1,000 for the violations and an additional civil penalty of not less than \$100 or more than \$1,000 for each day during which a violation continues



and may be enjoined from continuing such violations as provided in this section. These penalties *are* recoverable in any action brought in the name of the state of Montana by the attorney general in the district court of the first judicial district of this state in and for the county of Lewis and Clark or in the district court having jurisdiction of the defendant.

(2) The attorney general shall, upon the request of the department, sue for the recovery of the penalties provided for in this section and bring an action for a restraining order or a temporary or permanent injunction against an operator or other person violating or threatening to violate an order adopted under this part.

(3) *The civil penalties provided for in this section may be waived for a minor violation if it is determined that the violation does not represent potential harm to public health, public safety, or the environment and does not impair the administration of this part. The board shall adopt rules to implement and administer a procedure for waiver of a penalty under this subsection.*

Section 6. Section 82-4-362, MCA, is amended to read:

**"82-4-362. Suspension of permits — hearing.** (1) If any of the requirements of this part, the rules *adopted under this part*, or the reclamation plan have not been complied with within the time limits set by the department or board or by this part, the department shall serve a notice of noncompliance on the licensee or permittee or, *if necessary*, the commissioner shall order the suspension of the permit. The notice or order *must* be handed to the licensee or permittee in person or served by certified or registered mail addressed to the permanent address shown on the application for a permit. The notice of noncompliance *must* specify in what respects the operator has failed to comply with this part, the rules *adopted under this part*, or the reclamation plan.

(2) If the licensee or permittee has not complied with the requirements set forth in the notice of noncompliance or order of suspension within the time limits set therein, the permit may be revoked by order of the board and the performance bond forfeited to the department. *The licensee or permittee is entitled to a hearing before the department on the revocation of a permit or license or the forfeiture of a performance bond if a hearing is requested within 30 days after service of notice as provided in subsection (1). The notice must state when those measures may be undertaken and must give notice of opportunity for a hearing. If a hearing is requested within the 30-day period, the permit or license may not be revoked and the bond may not be forfeited until a final decision is made by the department.*

(3) If a permittee fails to pay the fee or file the report required under 82-4-339, the department shall serve notice of this failure, by certified mail or personal delivery, on the permittee. If the permittee does not comply within 30 days of receipt of the notice, the commissioner shall suspend the permit. The commissioner shall reinstate the permit upon compliance."

Section 7. **Activity prohibited if bond forfeited — exception.** (1) Except as provided in subsection (2), a person may not conduct mining or exploration activities in this state if that person or any firm or business



association of which that person was a principal or controlling member had a bond forfeited under this part.

(2) A person described in subsection (1) may apply for an operations permit or an exploration license or may conclude a written agreement under 82-4-305 if that person first pays to the department:

(a) the full amount of the necessary expenses incurred by the board under 82-4-341(5) for reclamation of the area for which the bond was forfeited;

(b) the full amount of any penalties assessed under this part; and

(c) interest on these amounts and penalties incurred at the rate of 6% per year.

Section 8. **Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 9. **Codification instruction.** [Section 7] is intended to be codified as an integral part of Title 82, chapter 4, part 3, and the provisions of Title 82, chapter 4, part 3, apply to [section 7].

Approved March 14, 1989.

## CHAPTER NO. 94

[HB 226]

AN ACT TRANSFERRING FROM THE BOARD OF INVESTMENTS TO THE COAL TAX OVERSIGHT SUBCOMMITTEE THE DUTY TO PREPARE A REPORT ON POTENTIAL USES OF THE COAL TAX TRUST FUND; AMENDING SECTIONS 5-18-203 AND 17-6-322, MCA; REPEALING SECTION 17-6-323, MCA; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

Section 1. Section 17-6-322, MCA, is amended to read:

**“17-6-322. Report.** *The board shall include in its annual report a section on the results of the previous year's operations of the in-state investment fund, including:*

(1) *financial statements audited by independent auditors;*

(2) *a summary report of loan activity; and*

(3) *a comparison of the Montana in-state investment fund's performance in relation to the purposes contained in 17-6-303.”*

Section 2. Section 5-18-203, MCA, is amended to read:

**“5-18-203. Powers and duties of subcommittee.** (1) The coal tax oversight subcommittee may:

DISPOSITION OF HB 608

Motion: REP. OWENS moved DO NOT PASS.

Discussion: None

Amendments, Discussion, and Votes: None

Substitute Motion: REP. HARPER moved to TABLE HB 608.

Vote: The substitute motion CARRIED on a recorded vote, 13 - 3.

HEARING ON HB 581

Presentation and Opening Statement by Sponsor:

REP. DENNIS IVERSON, House District 12, opened on HB 581, stating that it dealt with hard rock mining and the Metal Mines Reclamation Act. He said that under current law, if you were hard rock mining, you were operating under a mining permit from the Department of State Lands (DSL). As a condition of that permit, you would also have a number of other permits and you would post a bond, set at 100% of the estimated cost of reclamation. He said that the problem was with this bonding requirement, and that occasionally an operator fouled up and had his bond revoked. DSL then would go in and do the clean-up, but the person guilty of the bad mining practices would not be prohibited from coming back in and doing that again.

REP. IVERSON said HB 581 would address this issue in establishing that for persons whose bonds had been revoked, several options would no longer be open to them. They would no longer be eligible for a Small Miner's Exemption, an Exploration Permit, or an Operating Permit. REP. IVERSON said that there was an escape in that the person could come in and pay back all the costs with interest and thus reinstate eligibility. DSL would also have the ability to waive penalties in situations where the penalty (minimum \$200) exceeded the infraction, and a provision was included to allow due process, a contested case hearing.

Testifying Proponents and Who They Represent:

Jim Jensen, Montana Environmental Information Center  
Dennis Casey, Commissioner Designate, Department of State  
Lands (DSL)  
John North, Legal Counsel, DSL  
Stan Bradshaw, Montana Council, Trout Unlimited  
John Fitzpatrick, Pegasus Gold Corporation

Gary Langley, Montana Mining Association  
Kim Wilson, Montana Chapter, Sierra Club

Proponent Testimony:

JIM JENSEN stated support for the bill, and offered an amendment. The amendment would expand the language on page 16 to include any bonds forfeited outside Montana within the United States. He said that the provision would be similar to that in the Coal Mine Reclamation Act. He said that this would enable the state to determine whether an individual or mining company coming in from out of state had obeyed the laws in other states.

DENNIS CASEY introduced himself to the committee and turned the DSL testimony over to Mr. John North.

JOHN NORTH testified for the bill as set forth in EXHIBIT 11.

STAN BRADSHAW testified in support of the bill.

JOHN FITZPATRICK spoke for Pegasus Gold Corporation and for Gary Langley of the Montana Mining Association. He said Pegasus had three operating mines in Montana, and their investment exceeded \$150,000,000. He said they were foursquare behind the notion of good development, and had no tolerance for people who abused the reclamation laws of Montana. He encouraged the passing the bill to provide additional burdens for those who had broken the reclamation laws if they wished to come back to Montana.

MR. FITZPATRICK spoke for Mr. Langley. He said the Board of Directors of the Montana Mining Association had voted to support HB 581.

KIM WILSON testified in support of the bill. He said it addressed several problems in the current law by preventing repeat offenders from coming back in to work the land. It also would promote responsible development of natural resources.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

None



Closing by Sponsor:

REP. IVERSON addressed the suggested amendment offered by MEIC. He said he had no problem with the concept, but was concerned that an unfair burden might be placed on a person wanting to work in Montana, depending on the laws of his/her state of origin. He said that unless we were certain that other state laws were compatible with ours, we not include that amendment.

DISPOSITION OF HB 581

Motion: REP. GIACOMETTO moved the bill DO PASS.

Discussion: REP. SMITH said the sponsor indicated to him that the amendment would cause problems when we started dealing with other states, because their laws would possibly not be compatible with Montana's.

REP. GIACOMETTO said we would have to check with other states, which could be an extensive review.

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion CARRIED with no opposition.

HEARING ON HB 552

Presentation and Opening Statement by Sponsor:

REP. TOM NELSON, House District 95 in Billings, said the bill would require individuals who install or remove underground storage tanks to be licensed by the state of Montana. He continued as set forth in EXHIBIT 12. He also distributed the fiscal note, EXHIBIT 13.

Testifying Proponents and Who They Represent:

Larry Mitchell, Solid and Hazardous Waste Bureau, DHES  
Ronna Alexander, Montana Petroleum Marketers Association  
Chris Kaufmann, Montana Environmental Information Center  
Tom Hudson, Shaeffer and Associates, Bozeman  
Janelle Fallan, Montana Petroleum Association  
Ted Neuman, Montana Council of Cooperatives  
Doug Abelin, Montana Oil and Gas Association and Black  
Diamond Coating  
Ray Kenik, Petroleum Equipment Installers  
Ray Blehm, State Fire Marshall

Additional Proponent Testimony:

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Thomas F. Keating, on March 1, 1989, at 1:00 p.m., Room 405, in the State Capitol.

ROLL CALL

Members Present: Senators: Thomas F. Keating, Chairman, Fred Van Valkenburg, Loren Jenkins, Darryl Meyer, Pete Story, Bill Yellowtail, Elmer Severson, Cecil Weeding, Dorothy Eck, and Jerry Noble

Members Excused: Senator Larry Tveit

Members Absent: Senator Lawrence Stimatz

Staff Present: Bob Thompson and Helen McDonald

Announcements/Discussion: Weather permitting, there will be a tour of the Unical Exploratory Well on the Sieben Ranch at 7:00 a.m., March 7, 1989, sponsored by the Montana Petroleum Association.

HEARING ON HB 581

Presentation and Opening Statement by Sponsor: Representative Dennis Iverson, District 12, explained this bill dealing with hard rock mining and mine reclamation. The mining law states that hardrock miners in Montana need a permit from the Department of State Lands to operate. There are several requirements for this permit, including three permits from the Department of Health and a bond. This bill deals primarily with the bond. Occasionally the miner because of mining or reclamation practices will have his permit cancelled and bond revoked and the department has to go in and cleanup. The problem arises when that same operator goes back to the department and gets another permit to start another operation. There is nothing to stop the miner from getting another permit and starting up. If they meet all the requirements, the department is required to grant them a permit. If a bond has been revoked under this proposed law, the miner would not be eligible to receive a small miner's exemption, to receive an exploration license, or to obtain an operating mine license from Department of State Lands.

On page 16, chapter 7, the bill states that if a person later cleans up his act and pays reclamation expenses and all the



penalties plus 8% interest then he is again eligible to get back in the mining business. There are some minor changes that are important on page 14, line 7-13, that allow for civil penalties. The law reads now that if there is a violation, the department is required to levy a fine of \$200 minimum. Often this violation would be for being 2 or 3 days late on a report. This bill proposes that as long as there is no threat to the environment, the department may waive the penalties. This bill also provides that if the miner wants to contest the violation, he would be entitled to a contested case hearing.

List of Testifying Proponents and What Group they Represent:

John North, Department of State Lands  
Gary Langley, Montana Mining Association  
John Fitzpatrick, Montana Tunnels, Pegasus Gold Corp.  
Jim Jensen, Montana Environmental Information Ctr.

List of Testifying Opponents and What Group They Represent:

None

Testimony:

John North, Department of State Lands, submitted written testimony.  
(Exhibit #2)

Gary Langley, Montana Mining Association said the association supports it.

John Fitzpatrick, Pegasus Gold Corporation, supports the bill. As a representative of a major mining company in the state, he thinks it is necessary for an operator to take responsibility for his actions.

Jim Jensen, Montana Environmental Information Center, indicated this bill may not go far enough. This measure addresses those few people who operate irresponsibly. The DSL should have the authority not to let the bad guys in again.

Questions From Committee Members: Senator Bill Yellowtail asked about the waiver of penalties. Is "minor" described in the law and how is a minor violation determined?

John North answered the explanation is in the rules under the coal strip mining act and in the statement of intent for this bill. It would be the intent of the legislature that waiver be allowed only if the violation does not represent a potential harm to public health, public safety, and the environment, and does not otherwise impair administration of the provisions of the hard rock mine



reclamation act.

Senator Van Valkenburg asked that the minutes with respect to this bill reflect the department's intention to apply the waiver provisions in the same manner that it does with the coal strip mining and open-cut acts.

Closing by Sponsor: Senator Iverson closed by thanking the committee.

DISPOSITION OF HB 581

Discussion: There was no opposition and no amendments.

Recommendation and Vote: Senator Jenkins moved that HB 581 DO PASS. The bill passed unanimously.

HEARING ON HB 680

Presentation and Opening Statement by Sponsor: Representative Ed Grady, District 47, introduced this bill requiring a hardrock miner using a cyanide ore-processing reagent to obtain an operating permit for the area where the cyanide is used or disposed of. Cyanide can be a threat to the public health and environment, and should be monitored and permitted. This measure is not intended to have a detrimental effect on the small mining industry. The Montana Mining Association supports the bill at this time. Representative Grady added that the large miners have to go through many requirements to be permitted and small miner should have to do the same when using such a dangerous type of material in their ore processing.

List of Testifying Proponents and What Group they Represent:

John Fitzpatrick, Pegasus Gold Corporation  
Gary Langley, Montana Mining Association  
Jim Jensen, Montana Environmental Information Center  
John North, Department of State Lands

List of Testifying Opponents and What Group They Represent:

Bill Hand, Dillon, Montana.  
David Whalen, Beaverhead Chamber of Commerce  
John Magnus representing himself.  
Carl Brown, Dillon  
Kevin Jones, Arcturus Resources

SENATE STANDING COMMITTEE REPORT

March 1, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HB 581 (third reading copy -- blue), respectfully report that HB 581 be concurred in.

Sponsor: Iverson (Williams)

BE CONCURRED IN

Signed:   
Thomas F. Keating, Chairman

*J.C.*  
*3/1/89*  
*4:49 p.m.*