

SENATE BILL NO. 449

INTRODUCED BY J. TESTER

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A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE HARD-ROCK MINING AND RECLAMATION ACCOUNT AND THE OPENCUT MINING AND RECLAMATION ACCOUNT IN THE STATE SPECIAL REVENUE FUND; ESTABLISHING AN ENVIRONMENTAL REHABILITATION AND RESPONSE ACCOUNT IN THE STATE SPECIAL REVENUE FUND; DEDICATING CERTAIN FINES AND PENALTIES TO THE ACCOUNT; DEDICATING CERTAIN UNCLAIMED OR EXCESS RECLAMATION BOND FUNDS TO THE ACCOUNT; PROVIDING THAT FUNDS IN THE ACCOUNT BE APPROPRIATED TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR CERTAIN PURPOSES; AMENDING SECTIONS 75-10-1223, 82-4-241, 82-4-311, 82-4-424, AND 82-4-426, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Environmental rehabilitation and response account.** (1) There is an environmental rehabilitation and response account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

(a) fine and penalty money received pursuant to 75-10-1223, 82-4-311, and 82-4-424 and other funds or contributions designated for deposit to the account;

(b) unclaimed or excess reclamation bond money received pursuant to 82-4-241, 82-4-311, 82-4-424, and 82-4-426; and

(c) interest earned on the account.

(3) Money in the account is available to the department of environmental quality by appropriation and must be used to pay for:

(a) reclamation and revegetation of land affected by mining activities, research pertaining to the reclamation and revegetation of land, and the rehabilitation of water affected by mining activities;

(b) reclamation and revegetation of unreclaimed mine lands for which the department may not require reclamation by, or obtain costs of reclamation from, a legally responsible party;

(c) remediation of sites containing hazardous wastes or hazardous substances for which the

1 department may not recover costs from a legally responsible party; or

2 (d) response to an imminent threat of substantial harm to the environment, to public health, or to
3 public safety for which no funding or insufficient funding is available pursuant to 75-1-1101.

4 (4) Any unspent or unencumbered money in the account at the end of a fiscal year must remain
5 in the account until spent or appropriated by the legislature.

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7 **Section 2.** Section 75-10-1223, MCA, is amended to read:

8 **"75-10-1223. Penalties and fines.** (1) A person ~~that~~ who disposes of septage in violation of
9 75-10-1210 or of the standards adopted pursuant to 75-10-1202 is guilty of a misdemeanor and upon
10 conviction shall be fined an amount not to exceed \$500.

11 (2) A person ~~that~~ who violates this part or a rule or order adopted pursuant to this part is subject
12 to a civil penalty of not more than \$500. Each day that violation of this part, a rule of the department, or
13 an order issued pursuant to this part occurs constitutes a separate violation. The department or the county
14 attorney of the county in which the violation occurred may file an action to collect the penalty.

15 (3) Penalties collected by the department under this section must be deposited in the ~~account~~
16 provided for in 75-10-1203 environmental rehabilitation and response account in the state special revenue
17 fund provided for in [section 1]. Fines and penalties collected by a county must be deposited in the general
18 fund of the county."

19

20 **Section 3.** Section 82-4-241, MCA, is amended to read:

21 **"82-4-241. Receipts paid into general fund -- disposition of bond forfeiture money.** (1) Except for
22 bond forfeiture ~~moneys~~ money, all fees, penalties, and other ~~moneys~~ money available or paid to the
23 department under the provisions of this part ~~shall~~ must be placed in the state treasury and credited to the
24 general fund.

25 (2) Bond forfeiture money must be used to pay for expenses that the department incurs pursuant
26 to 82-4-240.

27 (3) Funds held by the department as bond or as a result of bond forfeiture that are no longer
28 needed for reclamation and for which the department is not able to locate an owner A SURETY OR OTHER
29 PERSON WHO OWNS THE FUNDS after diligent search must be deposited in the state special revenue fund and
30 credited to the environmental rehabilitation and response account provided for in [section 1]."

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2 **Section 4.** Section 82-4-311, MCA, is amended to read:

3 "~~82-4-311. **Hard-rock mining and reclamation account**~~ **Disposition of fees, fines, penalties, and**
 4 **other uncleared money.** All fees, fines, penalties, and other uncleared money that has been or will be paid
 5 to the department under the provisions of this part must be placed in the environmental rehabilitation and
 6 response account in the state special revenue fund in the state treasury and credited to a special account
 7 ~~that is designated as the hard-rock mining and reclamation account. This account is available to the~~
 8 ~~department by appropriation and may be expended for the research, reclamation, and revegetation of land~~
 9 ~~and the rehabilitation of water affected by any mining operations provided for in [section 1]. Funds held~~
 10 ~~by the department as bond or as a result of bond forfeiture that are no longer needed for reclamation and~~
 11 ~~for which the department is not able to locate an owner~~ A SURETY OR OTHER PERSON WHO OWNS THE FUNDS
 12 after diligent search must be deposited in the environmental rehabilitation and response account in the
 13 state special revenue fund. ~~Any unencumbered and any unexpended balance of this account remaining~~
 14 ~~at the end of a fiscal year does not lapse but must be carried forward for the purposes of this section until~~
 15 ~~expended or until appropriated by subsequent legislative action."~~

16

17 **Section 5.** Section 82-4-424, MCA, is amended to read:

18 "~~82-4-424. **Receipt and expenditure of funds -- disposition of fees, fines, penalties, and other**~~
 19 **money.** (1) The department may receive any federal funds, state funds, or any other funds for the
 20 reclamation of land affected by opencut mining. The department may cause the reclamation work to be
 21 done by its employees, by employees of other governmental agencies, by soil conservation districts, or
 22 through contracts with qualified persons.

23 ~~(2) Any funds of any public works programs available to the department must be expended and~~
 24 ~~used to reclaim and rehabilitate any lands that have been subject to opencut mining and that have not been~~
 25 ~~reclaimed and rehabilitated in accordance with the standards of this part.~~

26 ~~(3)(2) There is an opencut mining and reclamation account within the state special revenue fund~~
 27 ~~established in 17-2-102. There must be deposited in the account all~~ All fees, fines, penalties, and other
 28 money ~~that have been or will be paid under the provisions of this part~~ must be deposited in the
 29 environmental rehabilitation and response account in the state special revenue fund provided for in [section
 30 1]. ~~The money in the account is available to the department through appropriation and must be spent by~~

1 ~~the department for the reclamation and revegetation of land, research pertaining to the reclamation and~~
 2 ~~revegetation of land, and the rehabilitation of water affected by opencut mining operations and for~~
 3 ~~administration of this part. Funds held by the department as bond or as a result of bond forfeiture that are~~
 4 ~~no longer needed for reclamation and for which the department is not able to locate an owner A SURETY~~
 5 ~~OR OTHER PERSON WHO OWNS THE FUNDS after diligent search must be deposited in the environmental~~
 6 ~~rehabilitation and response account in the state special revenue fund. Any unspent or unencumbered~~
 7 ~~money in the account at the end of a fiscal year must remain in the account until spent or appropriated~~
 8 ~~by the legislature."~~

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10 **Section 6.** Section 82-4-426, MCA, is amended to read:

11 **"82-4-426. Reclamation of land on which bond forfeited.** In keeping with the provisions of this
 12 part, the department may reclaim any affected lands with respect to which a bond has been forfeited. If
 13 the amount of the forfeited bond exceeds the cost of reclamation, the excess must be deposited in the
 14 ~~state general fund~~ environmental rehabilitation and response account in the state special revenue fund
 15 provided for in [section 1]."

16

17 NEW SECTION. **Section 7. Codification instruction.** [Section 1] is intended to be codified as an
 18 integral part of Title 75, chapter 1, and the provisions of Title 75, chapter 1, apply to [section 1].

19

20 NEW SECTION. **Section 8. Severability.** If a part of [this act] is invalid, all valid parts that are
 21 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
 22 applications, the part remains in effect in all valid applications that are severable from the invalid
 23 applications.

24

25 NEW SECTION. **Section 9. Effective date.** [This act] is effective July 1, 2001.

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