

# Memo

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**Date:** October 30, 2000

**From:** Roger Lloyd  
Senior Fiscal Analyst

**To:** Legislative Finance Committee

**Re:** Analysis of DEQ's Draft Legislation on Metal Mines

At the October 3, 2000 LFC meeting, the committee asked the Department of Environmental Quality to redraft their legislation to include the additional statutory amendments that the committee had approved in the June 9, 2000 meeting. I have reviewed the department's draft legislation (attached) and offer the following comparative analysis.

## Analysis

LFC's Recommendation	DEQ's Draft Legislation
1. Allow bonding for unforeseen costs	Yes. An additional 10% of the estimated reclamation cost to the state is required for unforeseen contingencies.
2. Require that an increase in bond be put in place immediately	Yes. Within 60 days of bond determination. 60 more days until final bond must be in place. Bond must be posted before any hearing. License suspended if the increase in bond is not posted.
3. Small miners: eliminate the maximum bond; bond all activity	Yes. All small miners are required to post bond and reclaim. All small miners must reclaim to the same standards as operating permit holders. A \$10 annual exemption fee is added.
4. Allow a portion of the bond to be retained after reclamation	Yes. The 10% contingency amount of the bond is held for 10 years after the remainder of the bond has been released to remedy actual or potential air and water violations or reclamation failures.
5. Review 82-4-360, MCA, to see if it is working as intended (related statutes included)	Prohibits a person from mining if DEQ receives bond proceeds from a surety or if the surety performs reclamation. Eliminates exemptions. Adds the department's receipt of proceeds from a surety or the completion of reclamation by the surety or department as reasons for prohibiting issuance of an operating permit.
6. Statutorily require all bond proceeds and earnings be used for reclamation	Yes. Bond proceeds and interest earnings are to be used for reclamation.
7. Ask the Office of the State Auditor to review surety statutes	NA
8. Provide authority for DEQ to convert bonds to trust funds	Yes. Authority is given for DEQ to use bond proceeds to establish a trust to fund long-term compliance with air or water quality requirements.

LFC's Recommendation	DEQ's Draft Legislation
	<ol style="list-style-type: none"> <li>1. Increases exploration license fee from \$5 to \$100; specifies a \$25 fee for annual renewal</li> <li>2. Increases operating permit fees from \$25 to \$500</li> <li>3. Adds "load-out facilities" to the definition of "disturbed land"</li> <li>4. Allows small miners to have more than two operations. Removes the prohibition on a small miner having an interest in another mine operated by a small miner. Prohibit small miners from conducting joint operations with an adjacent mining operation. Requires small miners to agree in writing not to pollute "state waters" rather than the "streams" under current law.</li> <li>5. Adds an irrevocable letter of credit to forms of allowable performance bonds</li> <li>6. Requires the payment of 10% of a forfeited bond within 30 days after forfeiture or default</li> </ol>

Committee Action

The committee could:

1. sponsor the draft legislation.
2. sponsor the draft legislation, but direct staff to make any desired.
3. support the draft legislation, but not sponsor it.