

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 373

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1  
2 RELATING TO MINERAL RIGHTS IN STATE LANDS; AMENDING SECTION 47-704, IDAHO  
3 CODE, TO REMOVE A PROVISION REGARDING THE DEDUCTION OF RENTS PAID FOR  
4 ANY YEAR FROM ROYALTIES AS THEY ACCRUE FOR THAT YEAR AND TO PROVIDE COR-  
5 RECT TERMINOLOGY.

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 47-704, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 47-704. LEASES OF MINERAL RIGHTS IN STATE LANDS. (1) The state board of  
10 land commissioners may lease in tracts not exceeding six hundred forty (640)  
11 acres for prospecting and mining purposes, and mineral deposits, except for  
12 leases for oil, gas and other hydrocarbons, that may be contained in any por-  
13 tion of the unsold lands of the state or that may be contained in state lands  
14 sold with a reservation of mineral deposits or that belong to the state of  
15 Idaho by reason of being situate between the high water marks of navigable  
16 rivers of the state, for such annual rental, not less than one dollar (\$1.00)  
17 per acre per annum, and for such royalty upon the product as the board may  
18 deem fair and in the interest of the state, except in the case of state oil and  
19 gas leases wherein the royalty to the state shall be not less than twelve and  
20 one-half ~~per cent~~ percent (12 1/2%), and provided that the minimum royalty  
21 shall not be less than two and one-half ~~per cent~~ percent (2 1/2%). ~~The rental~~  
22 ~~paid for any year shall be deducted from the royalties as they accrue for that~~  
23 ~~year.~~

24 (2) All mineral leases, except leases for oil, gas, and other hydrocar-  
25 bons, and geothermal resources of state school lands and for lands belong-  
26 ing to the state of Idaho, other than school lands, shall be for a term of  
27 ten (10) years, and so long thereafter as precious metals, minerals, salable  
28 minerals, and ores, or any of them, are produced in paying quantities, or as  
29 much longer thereafter as the lessee in good faith shall conduct mining oper-  
30 ations thereon, together with the right to use and occupy so much of the sur-  
31 face of said land as may be required for all purposes reasonably incident to  
32 the prospecting for, exploration for, development of, production, refining,  
33 processing and marketing of said precious metals, minerals, salable miner-  
34 als, and ores produced from said lands, including the right to construct and  
35 maintain thereon all works, buildings, plants, waterways, roads, communica-  
36 tion lines, reservoirs, tanks or other structures necessary to the full en-  
37 joyment thereon for the purpose of the lease.

38 (3) Provided, that the leaseholder of any mineral lease except leases  
39 for oil, gas, and other hydrocarbons, and geothermal resources heretofore or  
40 hereafter issued, upon the expiration of the initial lease and all renewals  
41 thereof, shall be given the preferential right to renew such lease or renewal

1 leases under such readjustment of the terms and conditions as the board may  
2 determine to be necessary in the interest of the state.

3 (4) All applications received, whether by mail or by personal delivery  
4 over the counter, shall be immediately stamped with the date and hour of fil-  
5 ing. Simultaneous filings result when two (2) or more applications are re-  
6 ceived for the same lands during the same hour of the same day. Simultaneous  
7 filings shall be resolved by competitive bidding. This provision does not  
8 apply to applications received from an applicant having a preferential right  
9 under subsection (5) of this section. In the absence of a simultaneous fil-  
10 ing, and except for lands and resources which may be designated for competi-  
11 tive bidding, right of priority to a mineral lease shall be determined by the  
12 first qualified applicant who shall file a completed, signed application on  
13 the form of the department of lands or exact copy thereof between the hours  
14 of ~~eight~~ 8:00 a.m. and ~~five~~ 5:00 p.m. during any business day, together with  
15 the application fee set by the board.

16 (5) Applications for mineral leases shall be made under oath in such  
17 form as the board may prescribe, and the applicant shall describe the land,  
18 specify the particular mineral or minerals, and give such additional in-  
19 formation as may be required by the rules and regulations of the board. If  
20 the applicant for a lease has previously filed a certificate of location,  
21 as provided in section 47-703, Idaho Code, upon any part of the land desired  
22 to be leased, such application shall be given a preferential right to the  
23 land covered by his location; that no lands upon which a mineral location  
24 has been duly made and recorded as provided in section 47-703, Idaho Code,  
25 shall be leased for mining purposes during the two (2) year periods to any  
26 applicant except the person having made such location; provided, however,  
27 that no locations may be made for oil and gas deposits or lands, or geothermal  
28 resources.

29 (6) Any motorized exploration as defined in section 47-703, Idaho Code,  
30 on the lands between the ordinary high water marks of any navigable river  
31 of the state shall be prohibited except upon written approval by the board  
32 and submission of a bond to the department in the form and amount set by  
33 the board; and if applicable, an operator shall also comply with the Idaho  
34 dredge and placer mining protection act, chapter 13, title 47, Idaho Code;  
35 provided, that in all instances an operator shall comply with the stream  
36 protection act, and all other applicable laws and rules of the state.

37 (7) Upon receipt by the state board of land commissioners of an appli-  
38 cation to lease any lands which may belong to the state of Idaho by reason of  
39 being situate between the high water marks of navigable rivers of the state,  
40 the board shall cause at the expense of the applicant, a notice of such ap-  
41 plication to be published once a week for two (2) issues in a newspaper of  
42 general circulation in the county or counties in which said lands described  
43 in said application are situated. The board or its authorized representa-  
44 tive shall hold a public hearing on the application, if requested in writ-  
45 ing no later than thirty (30) days after the last published notice by ten  
46 (10) persons whose lawful rights to use the waters applied for may be injured  
47 thereby, or by an association presenting a petition with signatures of not  
48 less than ten (10) such aggrieved parties; provided that the board may order  
49 a public hearing in the first instance. The board shall consider fully all  
50 written and oral submissions respecting the application.

1           (8) Provided, however, that the state board of land commissioners shall  
2 send notice of any such application for leasing the bed of navigable rivers  
3 to the director of the department of water resources, who, if the director  
4 thinks advisable, shall at the expense of the applicant make an investiga-  
5 tion. If said investigation shows that the rights of interested parties may  
6 be jeopardized by the issuance of the proposed lease, the director shall give  
7 notice of such applications to parties affected thereby. If it shall appear  
8 to the state board of land commissioners that the leasing of any lands be-  
9 tween the high water marks of any navigable river will be injurious to the  
10 rights of any person or persons having the right to the use of the waters  
11 thereof for irrigation, power, or any other lawful purpose, the state board  
12 of land commissioners shall deny such application.