

1 *Zenger* BILL NO. *115*  
 2 INTRODUCED BY *Salverson Dunnington Day*  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION  
 5 OF COAL PRODUCTION; PROVIDING FOR A SEVERANCE TAX ON COAL  
 6 PRODUCED AT TWENTY PERCENT (20%) OF VALUE BEFORE TAXES;  
 7 DELETING COAL FROM THE PROVISIONS TAXING THE NET PROCEEDS OF  
 8 MINES; PROVIDING FOR TAXATION OF THE GROSS PROCEEDS FROM  
 9 COAL AS AN ELEMENT IN THE PROPERTY TAX SYSTEM; AMENDING  
 10 SECTIONS 84-301, 84-302, AND 84-5402, R.C.M. 1947; AND  
 11 REPEALING SECTIONS 84-1301 THROUGH 84-1309, 84-1309.1,  
 12 84-1310, AND 84-1311, R.C.M. 1947."  
 13

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

15 Section 1. Legislative findings and declarations of  
 16 purpose. (1) The legislature finds that while coal is  
 17 extracted from the earth like metal minerals, there are  
 18 differences between coal and metal minerals such that they  
 19 should be classified in different categories for taxation  
 20 purposes. The legislature finds that while coal can be  
 21 utilized like petroleum products, there are differences  
 22 between coal and petroleum such that they should be  
 23 classified in different categories for taxation purposes.  
 24 The legislature further finds that:

25 (a) coal is the only mineral which can supply energy

1 while being easily found in abundance in Montana;

2 (b) coal is the only mineral which is so often  
 3 marketed through sales contracts of many years' duration;

4 (c) coal, unlike most minerals, varies widely in  
 5 composition and consequent value when marketed;

6 (d) coal in Montana is subject to regional and  
 7 national demands for development which could affect the  
 8 economy and environment of a larger portion of the state  
 9 than any other mineral development has done;

10 (e) coal in Montana, when recoverable by strip mining,  
 11 is in sufficient demand that between one-fourth (1/4) and  
 12 one-third (1/3) of the price it commands at the mine may go  
 13 to the economic rents of royalties and production taxes;

14 (f) coal produced in underground mines has higher  
 15 production costs and underground producers are able to pay  
 16 lesser amounts of royalty and production tax than strip mine  
 17 producers can pay;

18 (g) coal production in Montana has been subject to an  
 19 uncoordinated array of taxes which overlap one another and  
 20 yield revenue in an inconsistent and unpredictable manner.

21 (2) The legislature declares that the purposes of this  
 22 chapter are:

23 (a) to allow the severance taxes on coal production to  
 24 remain a constant percentage of the price of coal;

25 (b) to stabilize the flow of tax revenue from coal

1 mines to local governments through the property taxation  
2 system;

3 (c) to simplify the structure of coal taxation in  
4 Montana, reducing tax overlap and improving the  
5 predictability of tax projections; and

6 (d) to accomplish the foregoing purposes by  
7 establishing categories of taxation which recognize the  
8 unique character of coal as well as the variations found  
9 within the coal industry.

10 Section 2. Definitions. As used in this chapter -- (1)  
11 "Contract sales price" means either (a) the price of coal  
12 extracted and prepared for shipment f.o.b. mine, excluding  
13 that amount charged by the seller to pay taxes paid on  
14 production, or (b) a price imputed by the department under  
15 section [6 of this act].

16 (2) "Energy conversion process" includes any process  
17 by which coal in the solid state is transformed into slurry,  
18 gas, electric energy, or any other form of energy.

19 (3) "Produced" means severed from the earth.

20 (4) "Strip mining" or "surface mining" is defined in  
21 section 50-1036.

22 (5) "Underground mining" means a coal mining method  
23 utilizing shafts and tunnels, and not regulated under  
24 section 50-1039.

25 (6) "Ton" means two thousand (2,000) pounds.

1 (7) "Taxes paid on production" include any tax paid to  
2 the federal, state, or local governments upon the quantity  
3 of coal produced as a function of either the volume or the  
4 value of production, and do not include any tax upon the  
5 value of mining equipment, machinery, or buildings and  
6 lands, any tax upon a person's net income derived in whole  
7 or in part from the sale of coal, or any license fee.

8 (8) "Department" means the department of revenue.

9 Section 3. Severance tax -- rates imposed --  
10 exemptions. A severance tax is imposed on each ton of coal  
11 produced in the state, in accordance with the following  
12 schedule:

13 Heating quality	14 Surface	15 Underground
14 (Btu per pound	14 Mining	14 Mining
15 of coal):		
16 Under 7,000	16 12 cents or	16 5 cents or
	17 20% of value	17 3% of value
18 7,000-8,000	18 22 cents or	18 8 cents or
	19 20% of value	19 4% of value
20 8,000-9,000	20 34 cents or	20 10 cents or
	21 20% of value	21 4% of value
22 Over 9,000	22 40 cents or	22 12 cents or
	23 20% of value	23 4% of value

24 The formula which yields the greater amount of tax in a  
25 particular case shall be used at each point on this

1 schedule. "Value" means the contract sales price. A person  
 2 who produces less than one thousand two hundred fifty  
 3 (1,250) tons of coal in a quarter-year is not liable for any  
 4 severance tax on that production. A person who produces  
 5 less than twelve thousand five hundred (12,500) tons in a  
 6 quarter-year is liable for one-eighth (1/8) of the severance  
 7 tax on that production.

8 Section 4. Quarterly statement and payment of tax.  
 9 Each coal mine operator shall compute the severance tax due  
 10 on each quarter-year's worth of production on forms  
 11 prescribed by the department. The statement shall indicate  
 12 the tonnage produced, the average Btu value of the  
 13 production, the contract sales price received for the  
 14 production, and such other information as the department may  
 15 require. The completed form in duplicate, with the tax  
 16 payment, shall be delivered to the department not later than  
 17 thirty (30) days following the close of the quarter. The  
 18 form shall be verified by an officer of the coal mine  
 19 operator. A person operating more than one coal mine in  
 20 this state may include all of his mines in one statement.

21 Section 5. Annual testing of samples. The Montana  
 22 state bureau of mines and geology shall test coal production  
 23 subject to this chapter and may make rules governing the  
 24 collection of test data. A person subject to this chapter  
 25 shall submit to the bureau on or before August 1 each year a

1 sample of mine run "as is" coal from each mine producing  
 2 that year. Additional samples shall be submitted at the  
 3 request of the bureau. The bureau shall compute the Btu per  
 4 pound of each sample received and forward this information  
 5 to the department prior to September 1 each year.

6 Section 6. When value of coal may be imputed;  
 7 procedure. In a case where

8 (a) the operator of a coal mine is using the produced  
 9 coal in an energy conversion process, or

10 (b) a person sells coal under a contract which is not  
 11 an arm's-length agreement, or

12 (c) a person neglects or refuses to file a statement  
 13 and tax return under this chapter, the department may impute  
 14 a value to the coal which approximates market value f.o.b.  
 15 mine. When imputing value, the department may apply the  
 16 factors used by the federal government under 26 U.S.C.  
 17 section 613, or that provision as it may be labelled or  
 18 amended, in determining gross income from mining, or the  
 19 department may apply any other or additional criteria it  
 20 considers appropriate. Each subject taxpayer shall, upon  
 21 request by the department, furnish a copy of its federal  
 22 income tax return, with any amendments, filed for the year  
 23 in which the value of coal is being imputed and copies of  
 24 the contracts under which it is selling coal at the time.  
 25 When the department's estimate of market value is contested

1 in any proceeding, the burden of proof is on the contesting  
2 party.

3 Section 7. Disposition of revenue. Severance taxes  
4 collected under this chapter are allocated as follows:

5 (1) To the county from which coal was mined one-tenth  
6 (1/10) of the tax paid by each mine in the county; for such  
7 purposes as the governing body of the county may determine;

8 (2) One-tenth (1/10) of the tax paid by each mine, to  
9 that city or town nearest the mine, as determined by the  
10 driving distance on improved all-weather roads, which was  
11 incorporated before January 1, 1965; and

12 (3) The balance to the general fund of the state.

13 Section 8. Reporting gross proceeds from coal. Each  
14 person engaged in mining coal must, on or before March 31  
15 each year file with the department a statement of the gross  
16 yield from each coal mine owned or worked by such person in  
17 the preceding calendar year, and the value thereof. The  
18 statement shall be in the form prescribed by the department  
19 of revenue, which may be coordinated with the form used  
20 under section 5 of this act, and must be verified by an  
21 officer of the firm. The statement shall include:

22 (1) The name and address of the owner or lessee or  
23 operator of the mine.

24 (2) The location of the mine.

25 (3) The tons of ore extracted, treated, and sold from

1 the mine during the taxable period.

2 (4) The gross yield or value in dollars and cents  
3 derived from the contract sales price.

4 Section 9. Transmission of gross proceeds from coal to  
5 county assessor. On or before July 1 each year the  
6 department shall transmit to the county assessor of each  
7 county in which coal mines are situated, the valuation of  
8 the gross proceeds of such mines for the purpose of  
9 taxation, as the same have been determined by the  
10 department. The county assessor shall immediately enter the  
11 same upon a suitable assessment roll, the form of which  
12 shall be prescribed by the department.

13 Section 10. Taxation of gross proceeds from coal. The  
14 county assessor shall prepare from the reported gross  
15 proceeds from coal a tax roll, which he shall transmit to  
16 the county treasurer on or before September 15 each year.  
17 The county treasurer shall proceed to give full notice  
18 thereof to each coal producer and to collect the taxes due  
19 within sixty (60) days after mailing.

20 Section 11. Lien of tax -- enforcement of payment.  
21 The tax on gross proceeds from coal shall be levied as taxes  
22 on other forms of property, and this tax and the severance  
23 tax on coal production are each a lien upon the coal mine  
24 and a prior lien upon all personal property and improvements  
25 used to produce the coal. These taxes may be collected by

1 the seizure and sale of the personal property on which the  
2 tax is a lien, as provided under sections 84-4202 through  
3 84-4211, or by suit under sections 84-4301 through 84-4302.

4 Section 12. Penalties for neglect or false statement.  
5 A person who fails, neglects, or refuses to file any  
6 statement required under this chapter, or who makes a false  
7 statement commits a misdemeanor. A person convicted under  
8 this section shall be fined not to exceed one thousand  
9 dollars (\$1,000) or be imprisoned in the county jail for any  
10 term not to exceed six (6) months, or both.

11 Section 13. Section 84-301, R.C.M. 1947, is amended to  
12 read as follows:

13 "84-301. Classification of property for taxation. For  
14 the purpose of taxation the taxable property in the state  
15 shall be classified as follows:

16 Class One. The annual net proceeds of all mines and  
17 mining claims, except coal mines, after deducting only the  
18 expenses specified and allowed by section 84-5403; also  
19 where the right to enter upon land, to explore or prospect,  
20 or dig for oil, gas, coal or mineral is reserved in land or  
21 received by mesne conveyance (exclusive of leasehold  
22 interests), devise or succession by any person or  
23 corporation, the surface title to which has passed to or  
24 remains in another, the state department of revenue shall  
25 determine the value of the right to enter upon said tract of

1 land for the purpose of digging, exploring, or prospecting  
2 for gas, oil, coal or minerals, and the same shall be placed  
3 in this classification for the purpose of taxation.

4 Class Two. All agricultural and other tools,  
5 implements and machinery, gas and other engines and boilers,  
6 threshing machines and outfits used therewith, automobiles,  
7 motor trucks and other power-driven cars, vehicles of all  
8 kinds except mobile homes, boats and all watercraft,  
9 harness, saddlery and robes and except as provided in Class  
10 Five (b) of this section, all poles, lines, transformers,  
11 transformer stations, meters, tools, improvements, machinery  
12 and other property used and owned by all persons, firms,  
13 corporations, and other organizations which are engaged in  
14 the business of furnishing telephone communications,  
15 exclusively to rural areas, or to rural areas and cities and  
16 towns provided that any such city or town has a population  
17 of eight hundred (800) persons or less; and provided  
18 further, that the average circuit miles for each station on  
19 the system is more than one and one-quarter (1 1/4) miles.

20 Class Three. Livestock, poultry and unprocessed  
21 products of both; stocks of merchandise of all sorts,  
22 together with furniture and fixtures used therewith, except  
23 mobile homes; the annual gross proceeds of underground coal  
24 mines; and all office or hotel furniture and fixtures.

25 Class Four. (a) All land, town and city lots, with

1 improvements, and all trailers affixed to land owned,  
 2 leased, or under contract or purchase by the trailer owner,  
 3 manufacturing and mining machinery, fixtures and supplies,  
 4 except as otherwise provided by the constitution of Montana,  
 5 and except as such property may be included in Class Five,  
 6 Class Seven or Class Eight.

7 (b) Mobile homes without regard to the ownership of the  
 8 land upon which they are situated, except those held by a  
 9 distributor or dealer of mobile homes as part of his stock  
 10 in trade, and except as such property may be included in  
 11 Class Eight.

12 Class Five. (a) All moneys and credits, secured or  
 13 unsecured, including all state, county, school district and  
 14 other municipal bonds, warrants and securities, without any  
 15 deduction or offset; provided, however, that the terms  
 16 "moneys and credits" as herein used shall not embrace the  
 17 moneyed capital employed in the banking business by any  
 18 banking corporation or individual in this state.

19 (b) All poles, lines, transformers, transformer  
 20 stations, meters, tools, improvements, machinery and other  
 21 property used and owned by co-operative rural electrical and  
 22 co-operative rural telephone associations organized under  
 23 the laws of Montana except those within the incorporated  
 24 limits of a city or town in which less than ninety-five per  
 25 cent (95%) of the electric consumers and/or telephone users

1 are served by a co-operative organization, and as to the  
 2 property enumerated in this subsection (b) within  
 3 incorporated limits of a city or town in which less than  
 4 ninety-five per cent (95%) of the electric consumers or  
 5 users will be served by a co-operative organization, such  
 6 property shall be put in Class Two.

7 (c) All unprocessed agricultural products either on the  
 8 farm or in storage, irrespective of whether said products  
 9 are owned by the elevator, warehouse or flour mill owner or  
 10 company storing the same, or any other person whomsoever,  
 11 except all perishable fruits and vegetables in farm storage  
 12 and owned by the producer, and excepting livestock and  
 13 poultry and the unprocessed products of both.

14 (d) The dwelling house, and the lot on which it is  
 15 erected, owned and occupied by any resident of the state,  
 16 who has been honorably discharged from active service in any  
 17 branch of the armed forces, who is rated one hundred per  
 18 cent (100%) disabled due to a service-connected disability  
 19 by the United States veterans administration or its  
 20 successors.

21 In the event of the veteran's death, the dwelling  
 22 house, and the lot on which it is erected, so long as the  
 23 widow remains unmarried and the owner and occupant of the  
 24 property, shall remain within this classification.

25 Class Six. Property formerly included in this class is

1 now classified by section 84-308, R.C.M. 1947.

2 Class Seven. (a) All new industrial property. New  
3 industrial property shall mean any new industrial plant,  
4 including land, buildings, machinery and fixtures which, in  
5 the determination of the state department of revenue, is  
6 used by a new industry during the first three (3) years of  
7 operation not having been assessed prior to July 1, 1961,  
8 within the state of Montana. New industry shall mean any  
9 person, corporation, firm, partnership, association, or  
10 other group which establishes a new plant or plants in this  
11 state for the operation of a new industrial endeavor, as  
12 distinguished from a mere expansion, reorganization, or  
13 merger of an existing industry or industries. Provided,  
14 however, that new industrial property shall be limited to  
15 industries that manufacture, mill, mine, produce, process or  
16 fabricate materials, or do similar work in which capital and  
17 labor are employed and in which materials unserviceable in  
18 their natural state are extracted, processed or made fit for  
19 use or are substantially altered or treated so as to create  
20 commercial products or materials; and in no event shall the  
21 term new industrial property be included to mean property  
22 used by retail or wholesale merchants, commercial services  
23 of any type, agriculture, trades or professions. And  
24 provided further, that new industrial property shall not be  
25 included to mean property which is used or employed in any

1 industrial plant which has been in operation in this state  
2 for three (3) years or longer. Any person, corporation,  
3 firm, partnership, association or other group seeking to  
4 qualify its property for inclusion in this class shall make  
5 application to the state department of revenue in such  
6 manner and form as may be required by said department.

7 Class Eight. Any improvement on real property,  
8 trailers affixed to land or mobile home belonging to any  
9 person who qualifies under any one or more of the  
10 hereinafter set forth categories, valued at not more than  
11 seventeen thousand five hundred dollars (\$17,500), which is  
12 owned or under a contract for deed, and which is actually  
13 occupied by:

14 (1) a widow sixty-two (62) years of age or older,  
15 whether with or without minor dependent children, who  
16 qualifies under the income limitations of (4), or

17 (2) a widower sixty-five (65) years of age or older,  
18 whether with or without minor dependent children, who  
19 qualifies under the income limitations of (4), or

20 (3) a widow with minor or dependent children regardless  
21 of age, who qualifies under the income limitations of (4),  
22 or

23 (4) a recipient of retirement benefits whose income  
24 from all sources is not more than four thousand dollars  
25 (\$4,000) for a single person and five thousand two hundred

1 dollars (\$5,200) for a married couple per annum. Provided,  
 2 further, that one who applies for classification of property  
 3 under this class must make an affidavit to the state  
 4 department of revenue on a form as may be provided by the  
 5 state department of revenue supplied without cost to the  
 6 applicant, as to his income, if applicable, as to his  
 7 retirement benefits, if applicable, or, as to his marital  
 8 status, if applicable, and to the fact that he or she  
 9 actually occupies such improvements with right of the county  
 10 welfare board to investigate the applicant, on the  
 11 completion of the form, as to answers given on the form.  
 12 Provided, further, that the value of said property shall not  
 13 increase during the life of the recipient of retirement  
 14 benefits or widow or widower covered under this class. For  
 15 purposes of the affidavit required for classification of  
 16 property under this class, it shall be sufficient if the  
 17 applicant signs a statement swearing to or affirming the  
 18 correctness of the information supplied, whether or not the  
 19 statement is signed before a person authorized to administer  
 20 oaths, and mails the application and statement to the  
 21 department of revenue. This signed statement shall be  
 22 treated as a statement under oath or equivalent affirmation  
 23 for purposes of section 94-7-203, R.C.M. 1947, relating to  
 24 the criminal offense of false swearing.

25 Class Nine. The annual gross proceeds of coal mines

1 using the strip mining method.

2 Class ~~Nine-Ten~~. All property not included in the ~~eight~~  
 3 ~~(8)~~ nine (9) preceding classes."

4 Section 14. Section 84-302, R.C.M. 1947, is amended to  
 5 read as follows:

6 "84-302. Basis for imposition of taxes. As a basis for  
 7 the imposition of taxes upon the different classes of  
 8 property specified in the preceding section, a percentage of  
 9 the true and full value of the property of each class shall  
 10 be taken as follows:

11 Class 1. One hundred per cent (100%) of its true and  
 12 full value.

13 Class 2. Twenty per cent (20%) of its true and full  
 14 value.

15 Class 3. Thirty-three and one-third per cent (33 1/3%)  
 16 of its true and full value.

17 Class 4. Thirty per cent (30%) of its true and full  
 18 value.

19 Class 5. Seven per cent (7%) of its true and full  
 20 value.

21 Class 6. As specified in section 84-308, R.C.M. 1947.

22 Class 7. Seven per cent (7%) of its true and full  
 23 value.

24 Class 8. Fifteen per cent (15%) of its true and full  
 25 value.

1 Class 9. Forty per cent (40%) of its true and full  
2 value.

3 Class 10. Forty-five percent (45%) of its true and full  
4 value."

5 Section 15. Section 84-5402, R.C.M. 1947, is amended  
6 to read as follows:

7 "84-5402. Net proceeds tax--statement of yield,  
8 penalty, extension of time. Every person, partnership,  
9 corporation, or association, engaged in mining, extracting  
10 or producing from any quartz vein or lode, placer claim,  
11 dump or tailings, or other place or sources whatever,  
12 precious stones or gems, gold, silver, copper, ~~and~~ lead,  
13 petroleum, natural gas, or other valuable mineral, except  
14 coal, must on or before the thirty-first day of March of  
15 each year make out a statement of the gross yield of the  
16 above-named metals or minerals from each mine owned or  
17 worked by such person, corporation or association during the  
18 year preceding the first day of January of the year in which  
19 such statement is made, and the value thereof. Such  
20 statement shall be in the form prescribed by the state  
21 department of revenue, and must be verified by the oath of  
22 such person or the manager, superintendent, agent, president  
23 or vice-president of such corporation, association or  
24 partnership, and must be delivered to the state department  
25 of revenue on or before the thirty-first day of March. Such

1 statement shall show the following:

2 1. The name and address of the owner or lessee or  
3 operator of the mine, together with the names and addresses  
4 of any and all persons, corporations, or associations owning  
5 or claiming any royalty interest in the mineral product of  
6 such mine or the proceeds derived from the sale thereof, and  
7 the amount or amounts paid or yielded as royalty to each of  
8 such persons, corporations or associations during the period  
9 covered by the statement.

10 2. The description and location of the mine.

11 3. The number of tons of ore, barrels of petroleum,  
12 cubic feet of natural gas or other mineral products or  
13 deposits extracted, produced, and treated or sold from the  
14 mine during the period covered by the statement.

15 4. The amount and character of such ores, mineral  
16 products or deposits, and the yield of such ores, mineral  
17 products or deposits from such mine in constituents of  
18 commercial value; that is to say, the number of ounces of  
19 gold or silver, pounds of copper or lead, ~~tons--of--coal,~~  
20 barrels of petroleum or other crude or mineral oil, cubic  
21 feet of natural gas or other commercially valuable  
22 constituents of said ores or mineral products or deposits  
23 measured by standard units of measurement, yielded to such  
24 person, corporation or association so engaged in mining, and  
25 to said royalty holders and each of them, if any, during the

1 period covered by the statement.

2 5. The gross yield or value in dollars and cents.

3 6. Actual cost of extracting same from mine.

4 7. Actual cost of transporting to place of reduction  
5 or sale.

6 8. Actual cost of reduction or sale.

7 9. Actual cost of marketing the product and conversion  
8 of same into money.

9 10. Cost of construction, repairs and betterments of  
10 mines, and cost of repairs and replacements of reduction  
11 works.

12 11. The assessed valuation of reduction works for the  
13 calendar year for which such return is made.

14 12. Actual cost of fire insurance and workmen's  
15 compensation insurance.

16 If any person shall fail, neglect or refuse to file the  
17 statement required by this section within the time required,  
18 or within any extended period of time allowed, the state  
19 department of revenue when transmitting the net proceeds  
20 valuations to the counties shall inform the county assessor  
21 of such failure, neglect or refusal and the county assessor  
22 in addition to the net proceeds tax, if any, shall assess a  
23 penalty of 2/3 of 1% of such tax for each calendar month or  
24 fraction thereof that the required statement is not filed,  
25 deducting therefrom any moneys collected by the state

1 department of revenue required by this section. The state  
2 department of revenue shall assess a penalty of \$25 for each  
3 calendar month or fraction thereof, not exceeding four  
4 months, that the required statement is not filed, to be  
5 collected by the state department of revenue and deposited  
6 to the credit of the general fund of the state of Montana.

7 The state department of revenue shall, upon a showing  
8 of reasonable cause, grant an extension of time for filing  
9 the statement required by this section. This penalty shall  
10 be in addition to penalties provided in section 84-5410.\*

11 Section 16. Severability. If a part of this act is  
12 invalid, all valid parts that are severable from the invalid  
13 part remain in effect. If a part of this act is invalid in  
14 one or more of its applications, the part remains in effect  
15 in all valid applications that are severable from the  
16 invalid applications.

17 Section 17. Repealer. Sections 84-1301 through  
18 84-1309, 84-1309.1, 84-1310, and 84-1311, R.C.M. 1947, are  
19 repealed.

-End-

STATE OF MONTANA

REQUEST NO. 58-75

FISCAL NOTE

Form BD-15

compliance with a written request received January 20, 19 75, there is hereby submitted a Fiscal Note for House Bill 115 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 115 contains two major provisions: (1) To replace the strip coal mines license tax as a fixed rate per ton with a severance tax of 20% imposed on the before-tax-value of coal produced. (2) To delete coal from the provisions taxing the net proceeds of mines (taxable value is 100% of net proceeds) and to establish the annual gross proceeds of strip coal mines as Class 9 for property tax purposes (taxable value is 45% of gross proceeds).

ASSUMPTIONS:

- Coal production will be 24.725 million tons in FY 76 and 31.435 million tons in FY 77; coal production will not be affected by the increase in coal taxes proposed by this bill.
- The contract sales price of coal will average \$4.25 per ton in FY 76 and \$4.71 per ton in FY 77.
- The value of coal is defined to be the contract sales price, which in turn is defined to be the price of coal extracted and prepared for shipment f.o.b. mine, excluding that amount charged by the seller to pay taxes paid on production. "Taxes paid on production" is defined as any tax paid to governments upon the quantity of coal produced as a function of either the volume or the value of production. Since the contract sales price in assumption 2 includes resource indemnity taxes, strip mines license taxes and net proceeds taxes under existing law, these amounts must be excluded to compute the tax base for the proposed severance tax. Thus, the value of coal produced as defined in House Bill 115 will be \$91,978,015 in FY 76 and \$130,909,652 in FY 77.
- The definition of gross proceeds under House Bill 115 is derived from the definition of contract sales price (excluding taxes). With one exception (Peabody Coal) net proceeds of coal companies are approximately 45% of gross proceeds as defined in this bill. (See technical note)
- The provision that persons producing less than 12,500 tons in a quarter-year are liable for 1/8 of the severance tax will have no significant impact.
- Severance tax collections will be distributed 10% to counties, 10% to the city nearest the mine and 80% to the General Fund.

FISCAL IMPACT OF SEVERANCE TAX:

	FY 76			FY 77		
	State	Counties	Cities	State	Counties	Cities
Strip mines license tax collections under current law	\$ 8.17 million	\$ .74 million	0	\$10.33 million	\$ .94 mil.	0
Strip mines severance tax collections under proposed law.	<u>14.72</u>	<u>1.84</u>	<u>1.84</u>	<u>20.94</u>	<u>2.62</u>	<u>2.62</u>
Increase in collections	<u>\$ 6.55 million</u>	<u>1.10 million</u>	<u>1.84 mil.</u>	<u>\$10.61 million</u>	<u>\$1.68 mil.</u>	<u>\$2.62 mil.</u>

CONTINUED

BUDGET DIRECTOR  
Office of Budget and Program Planning  
Date: \_\_\_\_\_

## STATE OF MONTANA

REQUEST NO. 58-75

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 20, 19 75, there is hereby submitted a Fiscal Note for House Bill 115, pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

**FISCAL IMPACT OF GROSS PROCEEDS TAX:**

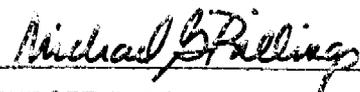
Replacing net proceeds taxable at 100% by gross proceeds (excluding that amount charged by the seller to pay production taxes) taxable at 45% will not significantly affect the taxable value of any district or county with the exception of School District No. 19 in Rosebud County wherein Peabody Coal is operating. Taxable net proceeds and royalties of Peabody Coal constitute approximately 29.2% of gross proceeds as defined in this bill. Thus, under House Bill 115, taxable value of Peabody Coal would increase approximately 54%. Since the taxable value of Peabody Coal is approximately 10.7% of the taxable value of School District No. 19, the School District will experience an increase in taxable value of 5.8%. Rosebud County would experience an increase in the tax base of 2.1%.

**TECHNICAL NOTE:**

A letter from the Legislative Council states that the percentages on page 17, lines 1 and 3 are in error and should read 45% on line 1 and 40% on line 3. Fiscal impact was prepared accordingly.

**NOTE:**

House Bill 115 is similar to Senate Bill 13. The major difference between the provisions of House Bill 115 and Senate Bill 13 is in the definition of "value". Senate Bill 13 defines value to be the contract sales price with no adjustment for taxes.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: January 24, 1975

Approved by Committee  
on Taxation

1 HOUSE BILL NO. 115  
2 INTRODUCED BY HALVORSON, DASSINGER, DAY  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION  
5 OF COAL PRODUCTION; PROVIDING FOR A SEVERANCE TAX ON COAL  
6 PRODUCED AT TWENTY PERCENT (20%) OF VALUE BEFORE TAXES;  
7 DELETING COAL FROM THE PROVISIONS TAXING THE NET PROCEEDS OF  
8 MINES; PROVIDING FOR TAXATION OF THE GROSS PROCEEDS FROM  
9 COAL AS AN ELEMENT IN THE PROPERTY TAX SYSTEM; AMENDING  
10 SECTIONS 84-301, 84-302, AND 84-5402, R.C.M. 1947; AND  
11 REPEALING SECTIONS 84-1301 THROUGH 84-1309, 84-1309.1,  
12 84-1310, AND 84-1311, R.C.M. 1947."  
13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
15 Section 1. Legislative findings and declarations of  
16 purpose. (1) The legislature finds that while coal is  
17 extracted from the earth like metal minerals, there are  
18 differences between coal and metal minerals such that they  
19 should be classified in different categories for taxation  
20 purposes. The legislature finds that while coal can be  
21 utilized like petroleum products, there are differences  
22 between coal and petroleum such that they should be  
23 classified in different categories for taxation purposes.  
24 The legislature further finds that:

25 (a) coal is the only mineral which can supply energy

1 while being easily found in abundance in Montana;  
2 (b) coal is the only mineral which is so often  
3 marketed through sales contracts of many years' duration;  
4 (c) coal, unlike most minerals, varies widely in  
5 composition and consequent value when marketed;  
6 (d) coal in Montana is subject to regional and  
7 national demands for development which could affect the  
8 economy and environment of a larger portion of the state  
9 than any other mineral development has done;  
10 (e) coal in Montana, when recoverable by strip mining,  
11 is in sufficient demand that between one-fourth (1/4) and  
12 one-third (1/3) of the price it commands at the mine may go  
13 to the economic rents of royalties and production taxes;  
14 (f) coal produced in underground mines has higher  
15 production costs and underground producers are able to pay  
16 lesser amounts of royalty and production tax than strip mine  
17 producers can pay;  
18 (g) coal production in Montana has been subject to an  
19 uncoordinated array of taxes which overlap one another and  
20 yield revenue in an inconsistent and unpredictable manner.  
21 (2) The legislature declares that the purposes of this  
22 chapter are:  
23 (a) to allow the severance taxes on coal production to  
24 remain a constant percentage of the price of coal;  
25 (b) to stabilize the flow of tax revenue from coal

1 mines to local governments through the property taxation  
2 system;

3 (c) to simplify the structure of coal taxation in  
4 Montana, reducing tax overlap and improving the  
5 predictability of tax projections; and

6 (d) to accomplish the foregoing purposes by  
7 establishing categories of taxation which recognize the  
8 unique character of coal as well as the variations found  
9 within the coal industry.

10 Section 2. Definitions. As used in this chapter: (1)  
11 "Contract sales price" means either (a) the price of coal  
12 extracted and prepared for shipment f.o.b. mine, excluding  
13 that amount charged by the seller to pay taxes paid on  
14 production, or (b) a price imputed by the department under  
15 section [6 of this act].

16 (2) "Energy conversion process" includes any process  
17 by which coal in the solid state is transformed into slurry,  
18 gas, electric energy, or any other form of energy.

19 (3) "Produced" means severed from the earth.

20 (4) "Strip mining" or "surface mining" is defined in  
21 section 50-1036.

22 (5) "Underground mining" means a coal mining method  
23 utilizing shafts and tunnels, and not regulated under  
24 section 50-1039.

25 (6) "Ton" means two thousand (2,000) pounds.

1 (7) "Taxes paid on production" include any tax paid to  
2 the federal, state, or local governments upon the quantity  
3 of coal produced as a function of either the volume or the  
4 value of production, and do not include any tax upon the  
5 value of mining equipment, machinery, or buildings and  
6 lands, any tax upon a person's net income derived in whole  
7 or in part from the sale of coal, or any license fee.

8 (8) "Department" means the department of revenue.

9 Section 3. Severance tax -- rates imposed --  
10 exemptions. A severance tax is imposed on each ton of coal  
11 produced in the state, in accordance with the following  
12 schedule:

13 Heating quality	14 Surface	15 Underground
14 (Stu per pound	14 Mining	14 Mining
15 of coal):		
16 Under 7,000	16 12 cents or	16 5 cents or
	17 20% of value	17 3% of value
18 7,000-8,000	18 22 cents or	18 3 cents or
	19 20% of value	19 4% of value
20 8,000-9,000	20 34 cents or	20 10 cents or
	21 20% of value	21 4% of value
22 Over 9,000	22 40 cents or	22 12 cents or
	23 20% of value	23 4% of value

24 The formula which yields the greater amount of tax in a  
25 particular case shall be used at each point on this

1 schedule. "Value" means the contract sales price. ~~A person~~  
 2 ~~who produces less than one thousand two hundred fifty~~  
 3 ~~(17250) tons of coal in a quarter year is not liable for any~~  
 4 ~~severance tax on that production. A person who produces~~  
 5 ~~less than twelve thousand five hundred (12,500) tons in a~~  
 6 ~~quarter year is liable for one eighth (1/8) of the severance~~  
 7 ~~tax on that production. A PERSON IS NOT LIABLE FOR ANY~~  
 8 SEVERANCE TAX UPON THE FIRST FIVE THOUSAND (5,000) TONS OF  
 9 COAL HE PRODUCES IN A QUARTER-YEAR.

10 Section 4. Quarterly statement and payment of tax.  
 11 Each coal mine operator shall compute the severance tax due  
 12 on each quarter-year's worth of production on forms  
 13 prescribed by the department. The statement shall indicate  
 14 the tonnage produced, the average Btu value of the  
 15 production, the contract sales price received for the  
 16 production, and such other information as the department may  
 17 require. The completed form in duplicate, with the tax  
 18 payment, shall be delivered to the department not later than  
 19 thirty (30) days following the close of the quarter. The  
 20 form shall be verified by an officer of the coal mine  
 21 operator. A person operating more than one coal mine in  
 22 this state may include all of his mines in one statement.

23 Section 5. Annual testing of samples. The Montana  
 24 state bureau of mines and geology shall test coal production  
 25 subject to this chapter and may make rules governing the

1 collection of test data. A person subject to this chapter  
 2 shall submit to the bureau on or before August 1 each year a  
 3 sample of mine run "as is" coal from each mine producing  
 4 that year. Additional samples shall be submitted at the  
 5 request of the bureau. The bureau shall compute the Btu per  
 6 pound of each sample received and forward this information  
 7 to the department prior to September 1 each year.

8 Section 6. When value of coal may be imputed;  
 9 procedure. In a case where

10 (a) the operator of a coal mine is using the produced  
 11 coal in an energy conversion process, or

12 (b) a person sells coal under a contract which is not  
 13 an arm's-length agreement, or

14 (c) a person neglects or refuses to file a statement  
 15 and tax return under this chapter, the department may impute  
 16 a value to the coal which approximates market value f.o.b.  
 17 mine. When imputing value, the department may apply the  
 18 factors used by the federal government under 26 U.S.C.  
 19 section 613, or that provision as it may be labelled or  
 20 amended, in determining gross income from mining, or the  
 21 department may apply any other or additional criteria it  
 22 considers appropriate. Each subject taxpayer shall, upon  
 23 request by the department, furnish a copy of its federal  
 24 income tax return, with any amendments, filed for the year  
 25 in which the value of coal is being imputed and copies of

1 the contracts under which it is selling coal at the time.  
2 When the department's estimate of market value is contested  
3 in any proceeding, the burden of proof is on the contesting  
4 party.

5 Section 7. Disposition of revenue. Severance taxes  
6 collected under this chapter are allocated as follows:

7 (1) To the county from which coal was mined, one-tenth  
8 (1/10) of the tax paid by each mine in the county; for such  
9 purposes as the governing body of the county may determine;

10 (2) ~~One-tenth (1/10)~~ ONE-TWENTIETH (1/20) of the tax  
11 paid by each mine, to that city or town nearest the mine, as  
12 determined by the driving distance on improved all-weather  
13 roads, which was incorporated before January 1, 1965; and

14 (3) The balance to the general fund of the state.

15 Section 8. Reporting gross proceeds from coal. Each  
16 person engaged in mining coal must, on or before March 31  
17 each year file with the department a statement of the gross  
18 yield from each coal mine owned or worked by such person in  
19 the preceding calendar year, and the value thereof. The  
20 statement shall be in the form prescribed by the department  
21 of revenue, which may be coordinated with the form used  
22 under section 5 of this act, and must be verified by an  
23 officer of the firm. The statement shall include:

24 (1) The name and address of the owner or lessee or  
25 operator of the mine.

1 (2) The location of the mine.

2 (3) The tons of ore extracted, treated, and sold from  
3 the mine during the taxable period.

4 (4) The gross yield or value in dollars and cents  
5 derived from the contract sales price.

6 Section 9. Transmission of gross proceeds from coal to  
7 county assessor. On or before July 1 each year the  
8 department shall transmit to the county assessor of each  
9 county in which coal mines are situated, the valuation of  
10 the gross proceeds of such mines for the purpose of  
11 taxation, as the same have been determined by the  
12 department. The county assessor shall immediately enter the  
13 same upon a suitable assessment roll, the form of which  
14 shall be prescribed by the department.

15 Section 10. Taxation of gross proceeds from coal. The  
16 county assessor shall prepare from the reported gross  
17 proceeds from coal a tax roll, which he shall transmit to  
18 the county treasurer on or before September 15 each year.  
19 The county treasurer shall proceed to give full notice  
20 thereof to each coal producer and to collect the taxes due  
21 within sixty (60) days after mailing.

22 Section 11. Lien of tax -- enforcement of payment.  
23 The tax on gross proceeds from coal shall be levied as taxes  
24 on other forms of property, and this tax and the severance  
25 tax on coal production are each a lien upon the coal mine

1 and a prior lien upon all personal property and improvements  
2 used to produce the coal. These taxes may be collected by  
3 the seizure and sale of the personal property on which the  
4 tax is a lien, as provided under sections 84-4202 through  
5 84-4211, or by suit under sections 34-4301 through 34-4302.

6 Section 12. Penalties for neglect or false statement.  
7 A person who fails, neglects, or refuses to file any  
8 statement required under this chapter, or who makes a false  
9 statement commits a misdemeanor. A person convicted under  
10 this section shall be fined not to exceed one thousand  
11 dollars (\$1,000) or be imprisoned in the county jail for any  
12 term not to exceed six (6) months, or both.

13 Section 13. Section 84-301, R.C.M. 1947, is amended to  
14 read as follows:

15 "84-301. Classification of property for taxation. For  
16 the purpose of taxation the taxable property in the state  
17 shall be classified as follows:

18 Class One. The annual net proceeds of all mines and  
19 mining claims, except coal mines, after deducting only the  
20 expenses specified and allowed by section 84-5403; also  
21 where the right to enter upon land, to explore or prospect,  
22 or dig for oil, gas, coal or mineral is reserved in land or  
23 received by mesne conveyance (exclusive of leasehold  
24 interests), devise or succession by any person or  
25 corporation, the surface title to which has passed to or

1 remains in another, the state department of revenue shall  
2 determine the value of the right to enter upon said tract of  
3 land for the purpose of digging, exploring, or prospecting  
4 for gas, oil, coal or minerals, and the same shall be placed  
5 in this classification for the purpose of taxation.

6 Class Two. All agricultural and other tools,  
7 implements and machinery, gas and other engines and boilers,  
8 threshing machines and outfits used therewith, automobiles,  
9 motor trucks and other power-driven cars, vehicles of all  
10 kinds except mobile homes, boats and all watercraft,  
11 harness, saddlery and robes and except as provided in Class  
12 Five (b) of this section, all poles, lines, transformers,  
13 transformer stations, meters, tools, improvements, machinery  
14 and other property used and owned by all persons, firms,  
15 corporations, and other organizations which are engaged in  
16 the business of furnishing telephone communications,  
17 exclusively to rural areas, or to rural areas and cities and  
18 towns provided that any such city or town has a population  
19 of eight hundred (800) persons or less; and provided  
20 further, that the average circuit miles for each station on  
21 the system is more than one and one-quarter (1 1/4) miles.

22 Class Three. Livestock, poultry and unprocessed  
23 products of both; stocks of merchandise of all sorts,  
24 together with furniture and fixtures used therewith, except  
25 mobile homes; the annual gross proceeds of underground coal

1 mines; and all office or hotel furniture and fixtures.

2 Class Four. (a) All land, town and city lots, with  
3 improvements, and all trailers affixed to land owned,  
4 leased, or under contract or purchase by the trailer owner,  
5 manufacturing and mining machinery, fixtures and supplies,  
6 except as otherwise provided by the constitution of Montana,  
7 and except as such property may be included in Class Five,  
8 Class Seven or Class Eight.

9 (b) Mobile homes without regard to the ownership of the  
10 land upon which they are situated, except those held by a  
11 distributor or dealer of mobile homes as part of his stock  
12 in trade, and except as such property may be included in  
13 Class Eight.

14 Class Five. (a) All moneys and credits, secured or  
15 unsecured, including all state, county, school district and  
16 other municipal bonds, warrants and securities, without any  
17 deduction or offset; provided, however, that the terms  
18 "moneys and credits" as herein used shall not embrace the  
19 moneyed capital employed in the banking business by any  
20 banking corporation or individual in this state.

21 (b) All poles, lines, transformers, transformer  
22 stations, meters, tools, improvements, machinery and other  
23 property used and owned by co-operative rural electrical and  
24 co-operative rural telephone associations organized under  
25 the laws of Montana except those within the incorporated

1 limits of a city or town in which less than ninety-five per  
2 cent (95%) of the electric consumers and/or telephone users  
3 are served by a co-operative organization, and as to the  
4 property enumerated in this subsection (b) within  
5 incorporated limits of a city or town in which less than  
6 ninety-five per cent (95%) of the electric consumers or  
7 users will be served by a co-operative organization, such  
8 property shall be put in Class Two.

9 (c) All unprocessed agricultural products either on the  
10 farm or in storage, irrespective of whether said products  
11 are owned by the elevator, warehouse or flour mill owner or  
12 company storing the same, or any other person whomsoever,  
13 except all perishable fruits and vegetables in farm storage  
14 and owned by the producer, and excepting livestock and  
15 poultry and the unprocessed products of both.

16 (d) The dwelling house, and the lot on which it is  
17 erected, owned and occupied by any resident of the state,  
18 who has been honorably discharged from active service in any  
19 branch of the armed forces, who is rated one hundred per  
20 cent (100%) disabled due to a service-connected disability  
21 by the United States veterans administration or its  
22 successors.

23 In the event of the veteran's death, the dwelling  
24 house, and the lot on which it is erected, so long as the  
25 widow remains unmarried and the owner and occupant of the

1 property, shall remain within this classification.

2 Class Six. Property formerly included in this class is  
3 now classified by section 84-308, R.C.M. 1947.

4 Class Seven. (a) All new industrial property. New  
5 industrial property shall mean any new industrial plant,  
6 including land, buildings, machinery and fixtures which, in  
7 the determination of the state department of revenue, is  
8 used by a new industry during the first three (3) years of  
9 operation not having been assessed prior to July 1, 1961,  
10 within the state of Montana. New industry shall mean any  
11 person, corporation, firm, partnership, association, or  
12 other group which establishes a new plant or plants in this  
13 state for the operation of a new industrial endeavor, as  
14 distinguished from a mere expansion, reorganization, or  
15 merger of an existing industry or industries. Provided,  
16 however, that new industrial property shall be limited to  
17 industries that manufacture, mill, mine, produce, process or  
18 fabricate materials, or do similar work in which capital and  
19 labor are employed and in which materials unserviceable in  
20 their natural state are extracted, processed or made fit for  
21 use or are substantially altered or treated so as to create  
22 commercial products or materials; and in no event shall the  
23 term new industrial property be included to mean property  
24 used by retail or wholesale merchants, commercial services  
25 of any type, agriculture, trades or professions. And

1 provided further, that new industrial property shall not be  
2 included to mean property which is used or employed in any  
3 industrial plant which has been in operation in this state  
4 for three (3) years or longer. Any person, corporation,  
5 firm, partnership, association or other group seeking to  
6 qualify its property for inclusion in this class shall make  
7 application to the state department of revenue in such  
8 manner and form as may be required by said department.

9 Class Eight. Any improvement on real property,  
10 trailers affixed to land or mobile home belonging to any  
11 person who qualifies under any one or more of the  
12 hereinafter set forth categories, valued at not more than  
13 seventeen thousand five hundred dollars (\$17,500), which is  
14 owned or under a contract for deed, and which is actually  
15 occupied by:

16 (1) a widow sixty-two (62) years of age or older,  
17 whether with or without minor dependent children, who  
18 qualifies under the income limitations of (4), or

19 (2) a widower sixty-five (65) years of age or older,  
20 whether with or without minor dependent children, who  
21 qualifies under the income limitations of (4), or

22 (3) a widow with minor or dependent children regardless  
23 of age, who qualifies under the income limitations of (4),  
24 or

25 (4) a recipient of retirement benefits whose income

1 from all sources is not more than four thousand dollars  
 2 (\$4,000) for a single person and five thousand two hundred  
 3 dollars (\$5,200) for a married couple per annum. Provided,  
 4 further, that one who applies for classification of property  
 5 under this class must make an affidavit to the state  
 6 department of revenue on a form as may be provided by the  
 7 state department of revenue supplied without cost to the  
 8 applicant, as to his income, if applicable, as to his  
 9 retirement benefits, if applicable, or, as to his marital  
 10 status, if applicable, and to the fact that he or she  
 11 actually occupies such improvements with right of the county  
 12 welfare board to investigate the applicant, on the  
 13 completion of the form, as to answers given on the form.  
 14 Provided, further, that the value of said property shall not  
 15 increase during the life of the recipient of retirement  
 16 benefits or widow or widower covered under this class. For  
 17 purposes of the affidavit required for classification of  
 18 property under this class, it shall be sufficient if the  
 19 applicant signs a statement swearing to or affirming the  
 20 correctness of the information supplied, whether or not the  
 21 statement is signed before a person authorized to administer  
 22 oaths, and mails the application and statement to the  
 23 department of revenue. This signed statement shall be  
 24 treated as a statement under oath or equivalent affirmation  
 25 for purposes of section 94-7-203, R.C.M. 1947, relating to

1 the criminal offense of false swearing.

2 Class Nine. The annual gross proceeds of coal mines  
 3 using the strip mining method.

4 Class Nine-Ten. All property not included in the ~~eight~~  
 5 ~~{8}~~ nine (9) preceding classes."

6 Section 14. Section 84-302, R.C.M. 1947, is amended to  
 7 read as follows:

8 "84-302. Basis for imposition of taxes. As a basis for  
 9 the imposition of taxes upon the different classes of  
 10 property specified in the preceding section, a percentage of  
 11 the true and full value of the property of each class shall  
 12 be taken as follows:

13 Class 1. One hundred per cent (100%) of its true and  
 14 full value.

15 Class 2. Twenty per cent (20%) of its true and full  
 16 value.

17 Class 3. Thirty-three and one-third per cent (33 1/3%)  
 18 of its true and full value.

19 Class 4. Thirty per cent (30%) of its true and full  
 20 value.

21 Class 5. Seven per cent (7%) of its true and full  
 22 value.

23 Class 6. As specified in section 84-302, R.C.M. 1947.

24 Class 7. Seven per cent (7%) of its true and full  
 25 value.

1 Class 8. Fifteen per cent (15%) of its true and full  
2 value.

3 Class 9. ~~Forty-per-cent-(40%)~~ FORTY-FIVE PERCENT (45%)  
4 of its true and full value.

5 Class 10. ~~Forty-five-percent-(45%)~~ FORTY PERCENT (40%)  
6 of its true and full value."

7 Section 15. Section 84-5402, R.C.M. 1947, is amended  
8 to read as follows:

9 "84-5402. Net proceeds tax--statement of yield,  
10 penalty, extension of time. Every person, partnership,  
11 corporation, or association, engaged in mining, extracting  
12 or producing from any quartz vein or lode, placer claim,  
13 dump or tailings, or other place or sources whatever,  
14 precious stones or gems, gold, silver, copper, ~~east,~~ lead,  
15 petroleum, natural gas, or other valuable mineral, except  
16 coal, must on or before the thirty-first day of March of  
17 each year make out a statement of the gross yield of the  
18 above-named metals or minerals from each mine owned or  
19 worked by such person, corporation or association during the  
20 year preceding the first day of January of the year in which  
21 such statement is made, and the value thereof. Such  
22 statement shall be in the form prescribed by the state  
23 department of revenue, and must be verified by the oath of  
24 such person or the manager, superintendent, agent, president  
25 or vice-president of such corporation, association or

1 partnership, and must be delivered to the state department  
2 of revenue on or before the thirty-first day of March. Such  
3 statement shall show the following:

4 1. The name and address of the owner or lessee or  
5 operator of the mine, together with the names and addresses  
6 of any and all persons, corporations, or associations owning  
7 or claiming any royalty interest in the mineral product of  
8 such mine or the proceeds derived from the sale thereof, and  
9 the amount or amounts paid or yielded as royalty to each of  
10 such persons, corporations or associations during the period  
11 covered by the statement.

12 2. The description and location of the mine.

13 3. The number of tons of ore, barrels of petroleum,  
14 cubic feet of natural gas or other mineral products or  
15 deposits extracted, produced, and treated or sold from the  
16 mine during the period covered by the statement.

17 4. The amount and character of such ores, mineral  
18 products or deposits, and the yield of such ores, mineral  
19 products or deposits from such mine in constituents of  
20 commercial value; that is to say, the number of ounces of  
21 gold or silver, pounds of copper or lead, ~~tons-of-coal,~~  
22 barrels of petroleum or other crude or mineral oil, cubic  
23 feet of natural gas or other commercially valuable  
24 constituents of said ores or mineral products or deposits  
25 measured by standard units of measurement, yielded to such

1 person, corporation or association so engaged in mining, and  
 2 to said royalty holders and each of them, if any, during the  
 3 period covered by the statement.

4 5. The gross yield or value in dollars and cents.

5 6. Actual cost of extracting same from mine.

6 7. Actual cost of transporting to place of reduction  
 7 or sale.

8 8. Actual cost of reduction or sale.

9 9. Actual cost of marketing the product and conversion  
 10 of same into money.

11 10. Cost of construction, repairs and betterments of  
 12 mines, and cost of repairs and replacements of reduction  
 13 works.

14 11. The assessed valuation of reduction works for the  
 15 calendar year for which such return is made.

16 12. Actual cost of fire insurance and workmen's  
 17 compensation insurance.

18 If any person shall fail, neglect or refuse to file the  
 19 statement required by this section within the time required,  
 20 or within any extended period of time allowed, the state  
 21 department of revenue when transmitting the net proceeds  
 22 valuations to the counties shall inform the county assessor  
 23 of such failure, neglect or refusal and the county assessor  
 24 in addition to the net proceeds tax, if any, shall assess a  
 25 penalty of 2/3 of 1% of such tax for each calendar month or

1 fraction thereof that the required statement is not filed,  
 2 deducting therefrom any moneys collected by the state  
 3 department of revenue required by this section. The state  
 4 department of revenue shall assess a penalty of \$25 for each  
 5 calendar month or fraction thereof, not exceeding four  
 6 months, that the required statement is not filed, to be  
 7 collected by the state department of revenue and deposited  
 8 to the credit of the general fund of the state of Montana.

9 The state department of revenue shall, upon a showing  
 10 of reasonable cause, grant an extension of time for filing  
 11 the statement required by this section. This penalty shall  
 12 be in addition to penalties provided in section 84-5410."

13 Section 16. Severability. If a part of this act is  
 14 invalid, all valid parts that are severable from the invalid  
 15 part remain in effect. If a part of this act is invalid in  
 16 one or more of its applications, the part remains in effect  
 17 in all valid applications that are severable from the  
 18 invalid applications.

19 Section 17. Repealer. Sections 84-1301 through  
 20 84-1309, 84-1309.1, 84-1310, and 84-1311, R.C.M. 1947, are  
 21 repealed.

-End-

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2 INTRODUCED BY HALVORSON, DASSINGER, DAY

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8 MINES; PROVIDING FOR TAXATION OF THE GROSS PROCEEDS FROM  
9 COAL AS AN ELEMENT IN THE PROPERTY TAX SYSTEM; AMENDING  
10 SECTIONS 84-301, 84-302, AND 84-5402, R.C.M. 1947; AND  
11 REPEALING SECTIONS 84-1301 THROUGH 84-1309, 84-1309.1,  
12 84-1310, AND 84-1311, R.C.M. 1947."  
13

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

15 Section 1. Legislative findings and declarations of  
16 purpose. (1) The legislature finds that while coal is  
17 extracted from the earth like metal minerals, there are  
18 differences between coal and metal minerals such that they  
19 should be classified in different categories for taxation  
20 purposes. The legislature finds that while coal can be  
21 utilized like petroleum products, there are differences  
22 between coal and petroleum such that they should be  
23 classified in different categories for taxation purposes.

24 The legislature further finds that:

25 (a) coal is the only mineral which can supply energy

1 while being easily found in abundance in Montana;

2 (b) coal is the only mineral which is so often  
3 marketed through sales contracts of many years' duration;4 (c) coal, unlike most minerals, varies widely in  
5 composition and consequent value when marketed;6 (d) coal in Montana is subject to regional and  
7 national demands for development which could affect the  
8 economy and environment of a larger portion of the state  
9 than any other mineral development has done;10 (e) coal in Montana, when recoverable by strip mining,  
11 is in sufficient demand that between one-fourth (1/4) and  
12 one-third (1/3) of the price it commands at the mine may go  
13 to the economic rents of royalties and production taxes;14 (f) coal produced in underground mines has higher  
15 production costs and underground producers are able to pay  
16 lesser amounts of royalty and production tax than strip mine  
17 producers can pay;18 (g) coal production in Montana has been subject to an  
19 uncoordinated array of taxes which overlap one another and  
20 yield revenue in an inconsistent and unpredictable manner.21 (2) The legislature declares that the purposes of this  
22 chapter are:23 (a) to allow the severance taxes on coal production to  
24 remain a constant percentage of the price of coal;

25 (b) to stabilize the flow of tax revenue from coal

1 mines to local governments through the property taxation  
2 system;

3 (c) to simplify the structure of coal taxation in  
4 Montana, reducing tax overlap and improving the  
5 predictability of tax projections; and

6 (d) to accomplish the foregoing purposes by  
7 establishing categories of taxation which recognize the  
8 unique character of coal as well as the variations found  
9 within the coal industry.

10 Section 2. Definitions. As used in this chapter: (1)  
11 "Contract sales price" means either (a) the price of coal  
12 extracted and prepared for shipment f.o.b. mine, excluding  
13 that amount charged by the seller to pay taxes paid on  
14 production, or (b) a price imputed by the department under  
15 section [6 of this act].

16 (2) "Energy conversion process" includes any process  
17 by which coal in the solid state is transformed into slurry,  
18 gas, electric energy, or any other form of energy.

19 (3) "Produced" means severed from the earth.

20 (4) "Strip mining" or "surface mining" is defined in  
21 section 50-1036.

22 (5) "Underground mining" means a coal mining method  
23 utilizing shafts and tunnels, and not regulated under  
24 section 50-1039.

25 (6) "Ton" means two thousand (2,000) pounds.

1 (7) "Taxes paid on production" include any tax paid to  
2 the federal, state, or local governments upon the quantity  
3 of coal produced as a function of either the volume or the  
4 value of production, and do not include any tax upon the  
5 value of mining equipment, machinery, or buildings and  
6 lands, any tax upon a person's net income derived in whole  
7 or in part from the sale of coal, or any license fee.

8 (8) "Department" means the department of revenue.

9 Section 3. Severance tax -- rates imposed --  
10 exemptions. A severance tax is imposed on each ton of coal  
11 produced in the state, in accordance with the following  
12 schedule:

13 Heating quality	14 Surface	15 Underground
16 (Btu per pound	17 Mining	18 Mining
19 of coal):		
20 Under 7,000	21 12 cents or	22 5 cents or
	23 20% of value	24 3% of value
25 7,000-8,000	26 22 cents or	27 8 cents or
	28 20% of value	29 4% of value
30 8,000-9,000	31 34 cents or	32 10 cents or
	33 20% of value	34 4% of value
35 Over 9,000	36 40 cents or	37 12 cents or
	38 20% of value	39 4% of value

40 The formula which yields the greater amount of tax in a  
41 particular case shall be used at each point on this

1 schedule. "Value" means the contract sales price. A person  
 2 who produces less than one thousand two hundred fifty  
 3 (1,250) tons of coal in a quarter year is not liable for any  
 4 severance tax on that production. A person who produces  
 5 less than twelve thousand five hundred (12,500) tons in a  
 6 quarter year is liable for one eighth (1/8) of the severance  
 7 tax on that production. A PERSON IS NOT LIABLE FOR ANY  
 8 SEVERANCE TAX UPON THE FIRST FIVE THOUSAND (5,000) TONS OF  
 9 COAL HE PRODUCES IN A QUARTER-YEAR.

10 Section 4. Quarterly statement and payment of tax.  
 11 Each coal mine operator shall compute the severance tax due  
 12 on each quarter-year's worth of production on forms  
 13 prescribed by the department. The statement shall indicate  
 14 the tonnage produced, the average Btu value of the  
 15 production, the contract sales price received for the  
 16 production, and such other information as the department may  
 17 require. The completed form in duplicate, with the tax  
 18 payment, shall be delivered to the department not later than  
 19 thirty (30) days following the close of the quarter. The  
 20 form shall be verified by an officer of the coal mine  
 21 operator. A person operating more than one coal mine in  
 22 this state may include all of his mines in one statement.

23 Section 5. Annual testing of samples. The Montana  
 24 state bureau of mines and geology shall test coal production  
 25 subject to this chapter and may make rules governing the

1 collection of test data. A person subject to this chapter  
 2 shall submit to the bureau on or before August 1 each year a  
 3 sample of mine run "as is" coal from each mine producing  
 4 that year. Additional samples shall be submitted at the  
 5 request of the bureau. The bureau shall compute the Btu per  
 6 pound of each sample received and forward this information  
 7 to the department prior to September 1 each year.

8 Section 6. When value of coal may be imputed;  
 9 procedure. In a case where

10 (a) the operator of a coal mine is using the produced  
 11 coal in an energy conversion process, or

12 (b) a person sells coal under a contract which is not  
 13 an arm's-length agreement, or

14 (c) a person neglects or refuses to file a statement  
 15 and tax return under this chapter, the department may impute  
 16 a value to the coal which approximates market value f.o.b.  
 17 mine. When imputing value, the department may apply the  
 18 factors used by the federal government under 26 U.S.C.  
 19 section 613, or that provision as it may be labelled or  
 20 amended, in determining gross income from mining, or the  
 21 department may apply any other or additional criteria it  
 22 considers appropriate. Each subject taxpayer shall, upon  
 23 request by the department, furnish a copy of its federal  
 24 income tax return, with any amendments, filed for the year  
 25 in which the value of coal is being imputed and copies of

1 the contracts under which it is selling coal at the time.  
 2 When the department's estimate of market value is contested  
 3 in any proceeding, the burden of proof is on the contesting  
 4 party.

5 Section 7. Disposition of revenue. Severance taxes  
 6 collected under this chapter are allocated as follows:

7 (1) To the county from which coal was mined, one-tenth  
 8 (1/10) of the tax paid by each mine in the county; for such  
 9 purposes as the governing body of the county may determine;

10 (2) ~~One-tenth (1/10)~~ ONE-TWENTIETH (1/20) of the tax  
 11 paid by each mine, to that city or town nearest the mine, as  
 12 determined by the driving distance on improved all-weather  
 13 roads, which was incorporated before January 1, 1965; and

14 (3) The balance to the general fund of the state.

15 Section 8. Reporting gross proceeds from coal. Each  
 16 person engaged in mining coal must, on or before March 31  
 17 each year file with the department a statement of the gross  
 18 yield from each coal mine owned or worked by such person in  
 19 the preceding calendar year, and the value thereof. The  
 20 statement shall be in the form prescribed by the department  
 21 of revenue, which may be coordinated with the form used  
 22 under section 5 of this act, and must be verified by an  
 23 officer of the firm. The statement shall include:

24 (1) The name and address of the owner or lessee or  
 25 operator of the mine.

1 (2) The location of the mine.

2 (3) The tons of ore extracted, treated, and sold from  
 3 the mine during the taxable period.

4 (4) The gross yield or value in dollars and cents  
 5 derived from the contract sales price.

6 Section 9. Transmission of gross proceeds from coal to  
 7 county assessor. On or before July 1 each year the  
 8 department shall transmit to the county assessor of each  
 9 county in which coal mines are situated, the valuation of  
 10 the gross proceeds of such mines for the purpose of  
 11 taxation, as the same have been determined by the  
 12 department. The county assessor shall immediately enter the  
 13 same upon a suitable assessment roll, the form of which  
 14 shall be prescribed by the department.

15 Section 10. Taxation of gross proceeds from coal. The  
 16 county assessor shall prepare from the reported gross  
 17 proceeds from coal a tax roll, which he shall transmit to  
 18 the county treasurer on or before September 15 each year.  
 19 The county treasurer shall proceed to give full notice  
 20 thereof to each coal producer and to collect the taxes due  
 21 within sixty (60) days after mailing.

22 Section 11. Lien of tax -- enforcement of payment.  
 23 The tax on gross proceeds from coal shall be levied as taxes  
 24 on other forms of property, and this tax and the severance  
 25 tax on coal production are each a lien upon the coal mine

1 and a prior lien upon all personal property and improvements  
 2 used to produce the coal. These taxes may be collected by  
 3 the seizure and sale of the personal property on which the  
 4 tax is a lien, as provided under sections 84-4202 through  
 5 84-4211, or by suit under sections 84-4301 through 84-4302.

6 Section 12. Penalties for neglect or false statement.

7 A person who fails, neglects, or refuses to file any  
 8 statement required under this chapter, or who makes a false  
 9 statement commits a misdemeanor. A person convicted under  
 10 this section shall be fined not to exceed one thousand  
 11 dollars (\$1,000) or be imprisoned in the county jail for any  
 12 term not to exceed six (6) months, or both.

13 Section 13. Section 84-301, R.C.M. 1947, is amended to  
 14 read as follows:

15 "84-301. Classification of property for taxation. For  
 16 the purpose of taxation the taxable property in the state  
 17 shall be classified as follows:

18 Class One. The annual net proceeds of all mines and  
 19 mining claims, except coal mines, after deducting only the  
 20 expenses specified and allowed by section 84-5403; also  
 21 where the right to enter upon land, to explore or prospect,  
 22 or dig for oil, gas, coal or mineral is reserved in land or  
 23 received by mesne conveyance (exclusive of leasehold  
 24 interests), devise or succession by any person or  
 25 corporation, the surface title to which has passed to or

1 remains in another, the state department of revenue shall  
 2 determine the value of the right to enter upon said tract of  
 3 land for the purpose of digging, exploring, or prospecting  
 4 for gas, oil, coal or minerals, and the same shall be placed  
 5 in this classification for the purpose of taxation.

6 Class Two. All agricultural and other tools,  
 7 implements and machinery, gas and other engines and boilers,  
 8 threshing machines and outfits used therewith, automobiles,  
 9 motor trucks and other power-driven cars, vehicles of all  
 10 kinds except mobile homes, boats and all watercraft,  
 11 harness, saddlery and robes and except as provided in Class  
 12 Five (b) of this section, all poles, lines, transformers,  
 13 transformer stations, meters, tools, improvements, machinery  
 14 and other property used and owned by all persons, firms,  
 15 corporations, and other organizations which are engaged in  
 16 the business of furnishing telephone communications,  
 17 exclusively to rural areas, or to rural areas and cities and  
 18 towns provided that any such city or town has a population  
 19 of eight hundred (800) persons or less; and provided  
 20 further, that the average circuit miles for each station on  
 21 the system is more than one and one-quarter (1 1/4) miles.

22 Class Three. Livestock, poultry and unprocessed  
 23 products of both; stocks of merchandise of all sorts,  
 24 together with furniture and fixtures used therewith, except  
 25 mobile homes; the annual gross proceeds of underground coal

1 mines; and all office or hotel furniture and fixtures.

2 Class Four. (a) All land, town and city lots, with  
3 improvements, and all trailers affixed to land owned,  
4 leased, or under contract or purchase by the trailer owner,  
5 manufacturing and mining machinery, fixtures and supplies,  
6 except as otherwise provided by the constitution of Montana,  
7 and except as such property may be included in Class Five,  
8 Class Seven or Class Eight.

9 (b) Mobile homes without regard to the ownership of the  
10 land upon which they are situated, except those held by a  
11 distributor or dealer of mobile homes as part of his stock  
12 in trade, and except as such property may be included in  
13 Class Eight.

14 Class Five. (a) All moneys and credits, secured or  
15 unsecured, including all state, county, school district and  
16 other municipal bonds, warrants and securities, without any  
17 deduction or offset; provided, however, that the terms  
18 "moneys and credits" as herein used shall not embrace the  
19 moneyed capital employed in the banking business by any  
20 banking corporation or individual in this state.

21 (b) All poles, lines, transformers, transformer  
22 stations, meters, tools, improvements, machinery and other  
23 property used and owned by co-operative rural electrical and  
24 co-operative rural telephone associations organized under  
25 the laws of Montana except those within the incorporated

1 limits of a city or town in which less than ninety-five per  
2 cent (95%) of the electric consumers and/or telephone users  
3 are served by a co-operative organization, and as to the  
4 property enumerated in this subsection (b) within  
5 incorporated limits of a city or town in which less than  
6 ninety-five per cent (95%) of the electric consumers or  
7 users will be served by a co-operative organization, such  
8 property shall be put in Class Two.

9 (c) All unprocessed agricultural products either on the  
10 farm or in storage, irrespective of whether said products  
11 are owned by the elevator, warehouse or flour mill owner or  
12 company storing the same, or any other person whomsoever,  
13 except all perishable fruits and vegetables in farm storage  
14 and owned by the producer, and excepting livestock and  
15 poultry and the unprocessed products of both.

16 (d) The dwelling house, and the lot on which it is  
17 erected, owned and occupied by any resident of the state,  
18 who has been honorably discharged from active service in any  
19 branch of the armed forces, who is rated one hundred per  
20 cent (100%) disabled due to a service-connected disability  
21 by the United States veterans administration or its  
22 successors.

23 In the event of the veteran's death, the dwelling  
24 house, and the lot on which it is erected, so long as the  
25 widow remains unmarried and the owner and occupant of the

1 property, shall remain within this classification.  
 2 Class Six. Property formerly included in this class is  
 3 now classified by section 84-308, R.C.M. 1947.  
 4 Class Seven. (a) All new industrial property. New  
 5 industrial property shall mean any new industrial plant,  
 6 including land, buildings, machinery and fixtures which, in  
 7 the determination of the state department of revenue, is  
 8 used by a new industry during the first three (3) years of  
 9 operation not having been assessed prior to July 1, 1961,  
 10 within the state of Montana. New industry shall mean any  
 11 person, corporation, firm, partnership, association, or  
 12 other group which establishes a new plant or plants in this  
 13 state for the operation of a new industrial endeavor, as  
 14 distinguished from a mere expansion, reorganization, or  
 15 merger of an existing industry or industries. Provided,  
 16 however, that new industrial property shall be limited to  
 17 industries that manufacture, mill, mine, produce, process or  
 18 fabricate materials, or do similar work in which capital and  
 19 labor are employed and in which materials unserviceable in  
 20 their natural state are extracted, processed or made fit for  
 21 use or are substantially altered or treated so as to create  
 22 commercial products or materials; and in no event shall the  
 23 term new industrial property be included to mean property  
 24 used by retail or wholesale merchants, commercial services  
 25 of any type, agriculture, trades or professions. And

1 provided further, that new industrial property shall not be  
 2 included to mean property which is used or employed in any  
 3 industrial plant which has been in operation in this state  
 4 for three (3) years or longer. Any person, corporation,  
 5 firm, partnership, association or other group seeking to  
 6 qualify its property for inclusion in this class shall make  
 7 application to the state department of revenue in such  
 8 manner and form as may be required by said department.

9 Class Eight. Any improvement on real property,  
 10 trailers affixed to land or mobile home belonging to any  
 11 person who qualifies under any one or more of the  
 12 hereinafter set forth categories, valued at not more than  
 13 seventeen thousand five hundred dollars (\$17,500), which is  
 14 owned or under a contract for deed, and which is actually  
 15 occupied by:

16 (1) a widow sixty-two (62) years of age or older,  
 17 whether with or without minor dependent children, who  
 18 qualifies under the income limitations of (4), or

19 (2) a widower sixty-five (65) years of age or older,  
 20 whether with or without minor dependent children, who  
 21 qualifies under the income limitations of (4), or

22 (3) a widow with minor or dependent children regardless  
 23 of age, who qualifies under the income limitations of (4),  
 24 or

25 (4) a recipient of retirement benefits whose income

1 from all sources is not more than four thousand dollars  
 2 (\$4,000) for a single person and five thousand two hundred  
 3 dollars (\$5,200) for a married couple per annum. Provided,  
 4 further, that one who applies for classification of property  
 5 under this class must make an affidavit to the state  
 6 department of revenue on a form as may be provided by the  
 7 state department of revenue supplied without cost to the  
 8 applicant, as to his income, if applicable, as to his  
 9 retirement benefits, if applicable, or, as to his marital  
 10 status, if applicable, and to the fact that he or she  
 11 actually occupies such improvements with right of the county  
 12 welfare board to investigate the applicant, on the  
 13 completion of the form, as to answers given on the form.  
 14 Provided, further, that the value of said property shall not  
 15 increase during the life of the recipient of retirement  
 16 benefits or widow or widower covered under this class. For  
 17 purposes of the affidavit required for classification of  
 18 property under this class, it shall be sufficient if the  
 19 applicant signs a statement swearing to or affirming the  
 20 correctness of the information supplied, whether or not the  
 21 statement is signed before a person authorized to administer  
 22 oaths, and mails the application and statement to the  
 23 department of revenue. This signed statement shall be  
 24 treated as a statement under oath or equivalent affirmation  
 25 for purposes of section 94-7-203, R.C.M. 1947, relating to

1 the criminal offense of false swearing.

2 Class Nine. The annual gross proceeds of coal mines  
 3 using the strip mining method.

4 Class Nine-Ten. All property not included in the ~~eight~~  
 5 ~~four~~ nine (9) preceding classes."

6 Section 14. Section 84-302, R.C.M. 1947, is amended to  
 7 read as follows:

8 "84-302. Basis for imposition of taxes. As a basis for  
 9 the imposition of taxes upon the different classes of  
 10 property specified in the preceding section, a percentage of  
 11 the true and full value of the property of each class shall  
 12 be taken as follows:

13 Class 1. One hundred per cent (100%) of its true and  
 14 full value.

15 Class 2. Twenty per cent (20%) of its true and full  
 16 value.

17 Class 3. Thirty-three and one-third per cent (33 1/3%)  
 18 of its true and full value.

19 Class 4. Thirty per cent (30%) of its true and full  
 20 value.

21 Class 5. Seven per cent (7%) of its true and full  
 22 value.

23 Class 6. As specified in section 84-303, R.C.M. 1947.

24 Class 7. Seven per cent (7%) of its true and full  
 25 value.

1 Class 8. Fifteen per cent (15%) of its true and full  
2 value.

3 Class 9. ~~Forty-per-cent-(40%)~~ FORTY-FIVE PERCENT (45%)  
4 of its true and full value.

5 Class 10. ~~Forty-five-percent-(45%)~~ FORTY PERCENT (40%)  
6 of its true and full value."

7 Section 15. Section 84-5402, R.C.M. 1947, is amended  
8 to read as follows:

9 "84-5402. Net proceeds tax--statement of yield,  
10 penalty, extension of time. Every person, partnership,  
11 corporation, or association, engaged in mining, extracting  
12 or producing from any quartz vein or lode, placer claim,  
13 dump or tailings, or other place or sources whatever,  
14 precious stones or gems, gold, silver, copper, ~~coal~~, lead,  
15 petroleum, natural gas, or other valuable mineral, except  
16 coal, must on or before the thirty-first day of March of  
17 each year make out a statement of the gross yield of the  
18 above-named metals or minerals from each mine owned or  
19 worked by such person, corporation or association during the  
20 year preceding the first day of January of the year in which  
21 such statement is made, and the value thereof. Such  
22 statement shall be in the form prescribed by the state  
23 department of revenue, and must be verified by the oath of  
24 such person or the manager, superintendent, agent, president  
25 or vice-president of such corporation, association or

1 partnership, and must be delivered to the state department  
2 of revenue on or before the thirty-first day of March. Such  
3 statement shall show the following:

4 1. The name and address of the owner or lessee or  
5 operator of the mine, together with the names and addresses  
6 of any and all persons, corporations, or associations owning  
7 or claiming any royalty interest in the mineral product of  
8 such mine or the proceeds derived from the sale thereof, and  
9 the amount or amounts paid or yielded as royalty to each of  
10 such persons, corporations or associations during the period  
11 covered by the statement.

12 2. The description and location of the mine.

13 3. The number of tons of ore, barrels of petroleum,  
14 cubic feet of natural gas or other mineral products or  
15 deposits extracted, produced, and treated or sold from the  
16 mine during the period covered by the statement.

17 4. The amount and character of such ores, mineral  
18 products or deposits, and the yield of such ores, mineral  
19 products or deposits from such mine in constituents of  
20 commercial value; that is to say, the number of ounces of  
21 gold or silver, pounds of copper or lead, ~~tons-of-coal~~,  
22 barrels of petroleum or other crude or mineral oil, cubic  
23 feet of natural gas or other commercially valuable  
24 constituents of said ores or mineral products or deposits  
25 measured by standard units of measurement, yielded to such

1 person, corporation or association so engaged in mining, and  
2 to said royalty holders and each of them, if any, during the  
3 period covered by the statement.

4 5. The gross yield or value in dollars and cents.

5 6. Actual cost of extracting same from mine.

6 7. Actual cost of transporting to place of reduction  
7 or sale.

8 8. Actual cost of reduction or sale.

9 9. Actual cost of marketing the product and conversion  
10 of same into money.

11 10. Cost of construction, repairs and betterments of  
12 mines, and cost of repairs and replacements of reduction  
13 works.

14 11. The assessed valuation of reduction works for the  
15 calendar year for which such return is made.

16 12. Actual cost of fire insurance and workmen's  
17 compensation insurance.

18 If any person shall fail, neglect or refuse to file the  
19 statement required by this section within the time required,  
20 or within any extended period of time allowed, the state  
21 department of revenue when transmitting the net proceeds  
22 valuations to the counties shall inform the county assessor  
23 of such failure, neglect or refusal and the county assessor  
24 in addition to the net proceeds tax, if any, shall assess a  
25 penalty of 2/3 of 1% of such tax for each calendar month or

1 fraction thereof that the required statement is not filed,  
2 deducting therefrom any moneys collected by the state  
3 department of revenue required by this section. The state  
4 department of revenue shall assess a penalty of \$25 for each  
5 calendar month or fraction thereof, not exceeding four  
6 months, that the required statement is not filed, to be  
7 collected by the state department of revenue and deposited  
8 to the credit of the general fund of the state of Montana.

9 The state department of revenue shall, upon a showing  
10 of reasonable cause, grant an extension of time for filing  
11 the statement required by this section. This penalty shall  
12 be in addition to penalties provided in section 84-5410."

13 Section 16. Severability. If a part of this act is  
14 invalid, all valid parts that are severable from the invalid  
15 part remain in effect. If a part of this act is invalid in  
16 one or more of its applications, the part remains in effect  
17 in all valid applications that are severable from the  
18 invalid applications.

19 Section 17. Repealer. Sections 84-1301 through  
20 84-1309, 84-1309.1, 84-1310, and 84-1311, R.C.M. 1947, are  
21 repealed.

-End-

March 27, 1975

SENATE COMMITTEE ON TAXATION

AMENDMENTS TO HOUSE BILL NO. 115

That House Bill No. 115, third reading, be amended as follows:

1. Amend title, line 10.  
Following: "84-302,"  
Insert: "84-1309.1,"
2. Amend title, line 11.  
Following: "84-1309,"  
Strike: " 84-1309.1,"
3. Amend page 4, section 3, line 17.  
Following: line 16  
Strike: " 20% "  
Insert: " 30% "
4. Amend page 4, section 3, line 19.  
Following: line 18  
Strike: " 20% "  
Insert: " 30% "
5. Amend page 4, section 3, line 21.  
Following: line 20  
Strike: " 20% "  
Insert: " 30% "
6. Amend page 4, section 3, line 23.  
Following: line 22  
Strike: " 20% "  
Insert: " 30% "
7. Amend page 7, section 7, lines 5 through line 14 on page 8.  
Following: line 4  
Strike: Section 7 in its entirety  
Insert: "Section 7. Section 84-1309.1, R.C.M. 1947, is renumbered 84-1319, and is amended to read as follows:  
"~~84-1309.1~~ 84-1319. Disposal of license or severance taxes. License or severance taxes collected under the provisions of this chapter or such sections as may enact a severance tax on coal in 1975 are allocated as follows:  
(1) To the county ~~general fund~~ for such purposes as the governing body of that county may determine from which coal was mined three cents (3/) per ton; provided, however, for each calendar year prior to January 1, 1980, this amount shall be three cents (~~3c~~) per ton or five percent (5%) of the contract sale price of the coal mined in that county, whichever is higher.  
(2) To the earmarked revenue fund, such portions of the severance tax as may be authorized by laws enacted in 1975  
~~(2)~~ (3) All other revenues from license or severance taxes collected under the provisions of this Chapter shall be deposited to the credit of the general fund of the state." "
8. Amend page 20, section 17, line 20.  
Following: "84-1309,"  
Strike: "84-1309.1,"

AND AS SO AMENDED, BE CONCURRED IN

March 29, 1975

COMMITTEE OF THE WHOLE

SENATE AMENDMENTS TO HOUSE BILL NO. 115

Amend Senate Committee on Taxation Amendments, dated March 27, 1975,  
as follows:

1. Amend amendment No. 3.

Strike: amendment No. 3 in its entirety

and amend House Bill No. 115, third reading, as follows:

2. Amend title, line 6.

Following: "AT"

Strike: "TWENTY PERCENT (20%)"

Insert: "A PERCENTAGE"

3. Amend page 4, section 3, line 17.

Strike: "20%"

Insert: "15%"

## 1 HOUSE BILL NO. 115

2 INTRODUCED BY HALVORSON, DASSINGER, DAY

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION  
5 OF COAL PRODUCTION; PROVIDING FOR A SEVERANCE TAX ON COAL  
6 PRODUCED AT ~~TWENTY--PERCENT--(20%)~~ A PERCENTAGE OF VALUE  
7 BEFORE TAXES; DELETING COAL FROM THE PROVISIONS TAXING THE  
8 NET PROCEEDS OF MINES; PROVIDING FOR TAXATION OF THE GROSS  
9 PROCEEDS FROM COAL AS AN ELEMENT IN THE PROPERTY TAX SYSTEM;  
10 AMENDING SECTIONS 84-301, 84-302, 84-1309.1, AND 84-5402,  
11 R.C.M. 1947; AND REPEALING SECTIONS 84-1301 THROUGH 84-1309,  
12 ~~84-1309.1~~, 84-1310, AND 84-1311, R.C.M. 1947."  
13

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

15 Section 1. Legislative findings and declarations of  
16 purpose. (1) The legislature finds that while coal is  
17 extracted from the earth like metal minerals, there are  
18 differences between coal and metal minerals such that they  
19 should be classified in different categories for taxation  
20 purposes. The legislature finds that while coal can be  
21 utilized like petroleum products, there are differences  
22 between coal and petroleum such that they should be  
23 classified in different categories for taxation purposes.  
24 The legislature further finds that:

25 (a) coal is the only mineral which can supply energy

1 while being easily found in abundance in Montana;

2 (b) coal is the only mineral which is so often  
3 marketed through sales contracts of many years' duration;4 (c) coal, unlike most minerals, varies widely in  
5 composition and consequent value when marketed;6 (d) coal in Montana is subject to regional and  
7 national demands for development which could affect the  
8 economy and environment of a larger portion of the state  
9 than any other mineral development has done;10 (e) coal in Montana, when recoverable by strip mining,  
11 is in sufficient demand that between one-fourth (1/4) and  
12 one-third (1/3) of the price it commands at the mine may go  
13 to the economic rents of royalties and production taxes;14 (f) coal produced in underground mines has higher  
15 production costs and underground producers are able to pay  
16 lesser amounts of royalty and production tax than strip mine  
17 producers can pay;18 (g) coal production in Montana has been subject to an  
19 uncoordinated array of taxes which overlap one another and  
20 yield revenue in an inconsistent and unpredictable manner.21 (2) The legislature declares that the purposes of this  
22 chapter are:23 (a) to allow the severance taxes on coal production to  
24 remain a constant percentage of the price of coal;

25 (b) to stabilize the flow of tax revenue from coal

1 mines to local governments through the property taxation  
2 system;

3 (c) to simplify the structure of coal taxation in  
4 Montana, reducing tax overlap and improving the  
5 predictability of tax projections; and

6 (d) to accomplish the foregoing purposes by  
7 establishing categories of taxation which recognize the  
8 unique character of coal as well as the variations found  
9 within the coal industry.

10 Section 2. Definitions. As used in this chapter: (1)  
11 "Contract sales price" means either (a) the price of coal  
12 extracted and prepared for shipment f.o.b. mine, excluding  
13 that amount charged by the seller to pay taxes paid on  
14 production, or (b) a price imputed by the department under  
15 section [6 of this act].

16 (2) "Energy conversion process" includes any process  
17 by which coal in the solid state is transformed into slurry,  
18 gas, electric energy, or any other form of energy.

19 (3) "Produced" means severed from the earth.

20 (4) "Strip mining" or "surface mining" is defined in  
21 section 50-1036.

22 (5) "Underground mining" means a coal mining method  
23 utilizing shafts and tunnels, and not regulated under  
24 section 50-1039.

25 (6) "Ton" means two thousand (2,000) pounds.

1 (7) "Taxes paid on production" include any tax paid to  
2 the federal, state, or local governments upon the quantity  
3 of coal produced as a function of either the volume or the  
4 value of production, and do not include any tax upon the  
5 value of mining equipment, machinery, or buildings and  
6 lands, any tax upon a person's net income derived in whole  
7 or in part from the sale of coal, or any license fee.

8 (8) "Department" means the department of revenue.

9 Section 3. Severance tax -- rates imposed --  
10 exemptions. A severance tax is imposed on each ton of coal  
11 produced in the state, in accordance with the following  
12 schedule:

13 Heating quality	14 Surface	14 Underground
14 (Btu per pound	14 Mining	14 Mining
15 of coal):		
16 Under 7,000	16 12 cents or	16 5 cents or
17	17 <del>20%</del> <u>30%</u> of value	17 3% of value
18 7,000-8,000	18 22 cents or	18 8 cents or
19	19 <del>20%</del> <u>30%</u> of value	19 4% of value
20 8,000-9,000	20 34 cents or	20 10 cents or
21	21 <del>20%</del> <u>30%</u> of value	21 4% of value
22 Over 9,000	22 40 cents or	22 12 cents or
23	23 <del>20%</del> <u>30%</u> of value	23 4% of value

24 The formula which yields the greater amount of tax in a  
25 particular case shall be used at each point on this

1 schedule. "Value" means the contract sales price. A person  
 2 who produces less than one thousand two hundred fifty  
 3 (1,250) tons of coal in a quarter year is not liable for any  
 4 severance tax on that production. A person who produces  
 5 less than twelve thousand five hundred (12,500) tons in a  
 6 quarter year is liable for one eighth (1/8) of the severance  
 7 tax on that production. A PERSON IS NOT LIABLE FOR ANY  
 8 SEVERANCE TAX UPON THE FIRST FIVE THOUSAND (5,000) TONS OF  
 9 COAL HE PRODUCES IN A QUARTER-YEAR.

10 Section 4. Quarterly statement and payment of tax.  
 11 Each coal mine operator shall compute the severance tax due  
 12 on each quarter-year's worth of production on forms  
 13 prescribed by the department. The statement shall indicate  
 14 the tonnage produced, the average Btu value of the  
 15 production, the contract sales price received for the  
 16 production, and such other information as the department may  
 17 require. The completed form in duplicate, with the tax  
 18 payment, shall be delivered to the department not later than  
 19 thirty (30) days following the close of the quarter. The  
 20 form shall be verified by an officer of the coal mine  
 21 operator. A person operating more than one coal mine in  
 22 this state may include all of his mines in one statement.

23 Section 5. Annual testing of samples. The Montana  
 24 state bureau of mines and geology shall test coal production  
 25 subject to this chapter and may make rules governing the

1 collection of test data. A person subject to this chapter  
 2 shall submit to the bureau on or before August 1 each year a  
 3 sample of mine run "as is" coal from each mine producing  
 4 that year. Additional samples shall be submitted at the  
 5 request of the bureau. The bureau shall compute the Btu per  
 6 pound of each sample received and forward this information  
 7 to the department prior to September 1 each year.

8 Section 6. When value of coal may be imputed --  
 9 procedure. In a case where

10 (a) the operator of a coal mine is using the produced  
 11 coal in an energy conversion process, or

12 (b) a person sells coal under a contract which is not  
 13 an arm's-length agreement, or

14 (c) a person neglects or refuses to file a statement  
 15 and tax return under this chapter, the department may impute  
 16 a value to the coal which approximates market value f.o.b.  
 17 mine. When imputing value, the department may apply the  
 18 factors used by the federal government under 26 U.S.C.  
 19 section 613, or that provision as it may be labelled or  
 20 amended, in determining gross income from mining, or the  
 21 department may apply any other or additional criteria it  
 22 considers appropriate. Each subject taxpayer shall, upon  
 23 request by the department, furnish a copy of its federal  
 24 income tax return, with any amendments, filed for the year  
 25 in which the value of coal is being imputed and copies of

1 the contracts under which it is selling coal at the time.  
 2 When the department's estimate of market value is contested  
 3 in any proceeding, the burden of proof is on the contesting  
 4 party.

5 ~~Section 7,--Disposition-of--revenue,---Severance--taxes~~  
 6 ~~collected-under-this-chapter-are-allocated-as-follows:~~

7 ~~{1}--To-the-county-from-which-coal-was-mined, one-tenth~~  
 8 ~~{1/10}--of-the-tax-paid-by-each-mine-in-the-county, for-such~~  
 9 ~~purposes-as-the-governing-body-of-the-county-may--determine,~~

10 ~~{2}--One-tenth--{1/10} ONE-TWENTIEETH-{1/20} of-the-tax~~  
 11 ~~paid-by-each-mine, to-that-city-or-town-nearest-the-mine, as~~  
 12 ~~determined-by-the-driving-distance-on--improved--all-weather~~  
 13 ~~roads, which-was-incorporated-before-January-17-1965, and~~

14 ~~{3}--The-balance-to-the-general-fund-of-the-state,~~

15 SECTION 7. SECTION 84-1309.1, R.C.M. 1947, IS  
 16 RENUMBERED 84-1319, AND IS AMENDED TO READ AS FOLLOWS:

17 "84-1309.1, 84-1319. Disposal of license or severance  
 18 taxes. License or severance taxes collected under the  
 19 provisions of this chapter or such sections as may enact a  
 20 severance tax on coal in 1975 are allocated as follows:

21 (1) To the county general-fund for such purposes as  
 22 the governing body of that county may determine from which  
 23 coal was mined three cents (3¢) per ton; provided, however,  
 24 for each calendar year prior to January 1, 1980, this amount  
 25 shall be three cents (3¢) per ton or five percent (5%) of

1 the contract sale price of the coal mined in that county,  
 2 whichever is higher.

3 (2) To the earmarked revenue fund, such portions of  
 4 the severance tax as may be authorized by laws enacted in  
 5 1975.

6 ~~{2}~~ (3) All other revenues from license or severance  
 7 taxes collected under the provisions of this chapter shall  
 8 be deposited to the credit of the general fund of the  
 9 state."

10 Section 8. Reporting gross proceeds from coal. Each  
 11 person engaged in mining coal must, on or before March 31  
 12 each year file with the department a statement of the gross  
 13 yield from each coal mine owned or worked by such person in  
 14 the preceding calendar year, and the value thereof. The  
 15 statement shall be in the form prescribed by the department  
 16 of revenue, which may be coordinated with the form used  
 17 under section 5 of this act, and must be verified by an  
 18 officer of the firm. The statement shall include:

19 (1) The name and address of the owner or lessee or  
 20 operator of the mine.

21 (2) The location of the mine.

22 (3) The tons of ore extracted, treated, and sold from  
 23 the mine during the taxable period.

24 (4) The gross yield or value in dollars and cents  
 25 derived from the contract sales price.

1 Section 9. Transmission of gross proceeds from coal to  
 2 county assessor. On or before July 1 each year the  
 3 department shall transmit to the county assessor of each  
 4 county in which coal mines are situated, the valuation of  
 5 the gross proceeds of such mines for the purpose of  
 6 taxation, as the same have been determined by the  
 7 department. The county assessor shall immediately enter the  
 8 same upon a suitable assessment roll, the form of which  
 9 shall be prescribed by the department.

10 Section 10. Taxation of gross proceeds from coal. The  
 11 county assessor shall prepare from the reported gross  
 12 proceeds from coal a tax roll, which he shall transmit to  
 13 the county treasurer on or before September 15 each year.  
 14 The county treasurer shall proceed to give full notice  
 15 thereof to each coal producer and to collect the taxes due  
 16 within sixty (60) days after mailing.

17 Section 11. Lien of tax -- enforcement of payment.  
 18 The tax on gross proceeds from coal shall be levied as taxes  
 19 on other forms of property, and this tax and the severance  
 20 tax on coal production are each a lien upon the coal mine  
 21 and a prior lien upon all personal property and improvements  
 22 used to produce the coal. These taxes may be collected by  
 23 the seizure and sale of the personal property on which the  
 24 tax is a lien, as provided under sections 84-4202 through  
 25 84-4211, or by suit under sections 84-4301 through 84-4302.

1 Section 12. Penalties for neglect or false statement.  
 2 A person who fails, neglects, or refuses to file any  
 3 statement required under this chapter, or who makes a false  
 4 statement commits a misdemeanor. A person convicted under  
 5 this section shall be fined not to exceed one thousand  
 6 dollars (\$1,000) or be imprisoned in the county jail for any  
 7 term not to exceed six (6) months, or both.

8 Section 13. Section 84-301, R.C.M. 1947, is amended to  
 9 read as follows:

10 \*84-301. Classification of property for taxation. For  
 11 the purpose of taxation the taxable property in the state  
 12 shall be classified as follows:

13 Class One. The annual net proceeds of all mines and  
 14 mining claims, except coal mines, after deducting only the  
 15 expenses specified and allowed by section 84-5403; also  
 16 where the right to enter upon land, to explore or prospect,  
 17 or dig for oil, gas, coal or mineral is reserved in land or  
 18 received by mesne conveyance (exclusive of leasehold  
 19 interests), devise or succession by any person or  
 20 corporation, the surface title to which has passed to or  
 21 remains in another, the state department of revenue shall  
 22 determine the value of the right to enter upon said tract of  
 23 land for the purpose of digging, exploring, or prospecting  
 24 for gas, oil, coal or minerals, and the same shall be placed  
 25 in this classification for the purpose of taxation.

1           Class Two. All agricultural and other tools,  
 2 implements and machinery, gas and other engines and boilers,  
 3 threshing machines and outfits used therewith, automobiles,  
 4 motor trucks and other power-driven cars, vehicles of all  
 5 kinds except mobile homes, boats and all watercraft,  
 6 harness, saddlery and robes and except as provided in Class  
 7 Five (b) of this section, all poles, lines, transformers,  
 8 transformer stations, meters, tools, improvements, machinery  
 9 and other property used and owned by all persons, firms,  
 10 corporations, and other organizations which are engaged in  
 11 the business of furnishing telephone communications,  
 12 exclusively to rural areas, or to rural areas and cities and  
 13 towns provided that any such city or town has a population  
 14 of eight hundred (800) persons or less; and provided  
 15 further, that the average circuit miles for each station on  
 16 the system is more than one and one-quarter (1 1/4) miles.

17           Class Three. Livestock, poultry and unprocessed  
 18 products of both; stocks of merchandise of all sorts,  
 19 together with furniture and fixtures used therewith, except  
 20 mobile homes; the annual gross proceeds of underground coal  
 21 mines; and all office or hotel furniture and fixtures.

22           Class Four. (a) All land, town and city lots, with  
 23 improvements, and all trailers affixed to land owned,  
 24 leased, or under contract or purchase by the trailer owner,  
 25 manufacturing and mining machinery, fixtures and supplies,

1           except as otherwise provided by the constitution of Montana,  
 2 and except as such property may be included in Class Five,  
 3 Class Seven or Class Eight.

4           (b) Mobile homes without regard to the ownership of the  
 5 land upon which they are situated, except those held by a  
 6 distributor or dealer of mobile homes as part of his stock  
 7 in trade, and except as such property may be included in  
 8 Class Eight.

9           Class Five. (a) All moneys and credits, secured or  
 10 unsecured, including all state, county, school district and  
 11 other municipal bonds, warrants and securities, without any  
 12 deduction or offset; provided, however, that the terms  
 13 "moneys and credits" as herein used shall not embrace the  
 14 moneyed capital employed in the banking business by any  
 15 banking corporation or individual in this state.

16           (b) All poles, lines, transformers, transformer  
 17 stations, meters, tools, improvements, machinery and other  
 18 property used and owned by co-operative rural electrical and  
 19 co-operative rural telephone associations organized under  
 20 the laws of Montana except those within the incorporated  
 21 limits of a city or town in which less than ninety-five per  
 22 cent (95%) of the electric consumers and/or telephone users  
 23 are served by a co-operative organization, and as to the  
 24 property enumerated in this subsection (b) within  
 25 incorporated limits of a city or town in which less than

1 ninety-five per cent (95%) of the electric consumers or  
2 users will be served by a co-operative organization, such  
3 property shall be put in Class Two.

4 (c) All unprocessed agricultural products either on the  
5 farm or in storage, irrespective of whether said products  
6 are owned by the elevator, warehouse or flour mill owner or  
7 company storing the same, or any other person whomsoever,  
8 except all perishable fruits and vegetables in farm storage  
9 and owned by the producer, and excepting livestock and  
10 poultry and the unprocessed products of both.

11 (d) The dwelling house, and the lot on which it is  
12 erected, owned and occupied by any resident of the state,  
13 who has been honorably discharged from active service in any  
14 branch of the armed forces, who is rated one hundred per  
15 cent (100%) disabled due to a service-connected disability  
16 by the United States veterans administration or its  
17 successors.

18 In the event of the veteran's death, the dwelling  
19 house, and the lot on which it is erected, so long as the  
20 widow remains unmarried and the owner and occupant of the  
21 property, shall remain within this classification.

22 Class Six. Property formerly included in this class is  
23 now classified by section 84-308, R.C.M. 1947.

24 Class Seven. (a) All new industrial property. New  
25 industrial property shall mean any new industrial plant,

1 including land, buildings, machinery and fixtures which, in  
2 the determination of the state department of revenue, is  
3 used by a new industry during the first three (3) years of  
4 operation not having been assessed prior to July 1, 1961,  
5 within the state of Montana. New industry shall mean any  
6 person, corporation, firm, partnership, association, or  
7 other group which establishes a new plant or plants in this  
8 state for the operation of a new industrial endeavor, as  
9 distinguished from a mere expansion, reorganization, or  
10 merger of an existing industry or industries. Provided,  
11 however, that new industrial property shall be limited to  
12 industries that manufacture, mill, mine, produce, process or  
13 fabricate materials, or do similar work in which capital and  
14 labor are employed and in which materials unserviceable in  
15 their natural state are extracted, processed or made fit for  
16 use or are substantially altered or treated so as to create  
17 commercial products or materials; and in no event shall the  
18 term new industrial property be included to mean property  
19 used by retail or wholesale merchants, commercial services  
20 of any type, agriculture, trades or professions. And  
21 provided further, that new industrial property shall not be  
22 included to mean property which is used or employed in any  
23 industrial plant which has been in operation in this state  
24 for three (3) years or longer. Any person, corporation,  
25 firm, partnership, association or other group seeking to

1 qualify its property for inclusion in this class shall make  
2 application to the state department of revenue in such  
3 manner and form as may be required by said department.

4 Class Eight. Any improvement on real property,  
5 trailers affixed to land or mobile home belonging to any  
6 person who qualifies under any one or more of the  
7 hereinafter set forth categories, valued at not more than  
8 seventeen thousand five hundred dollars (\$17,500), which is  
9 owned or under a contract for deed, and which is actually  
10 occupied by:

11 (1) a widow sixty-two (62) years of age or older,  
12 whether with or without minor dependent children, who  
13 qualifies under the income limitations of (4), or

14 (2) a widower sixty-five (65) years of age or older,  
15 whether with or without minor dependent children, who  
16 qualifies under the income limitations of (4), or

17 (3) a widow with minor or dependent children regardless  
18 of age, who qualifies under the income limitations of (4),  
19 or

20 (4) a recipient of retirement benefits whose income  
21 from all sources is not more than four thousand dollars  
22 (\$4,000) for a single person and five thousand two hundred  
23 dollars (\$5,200) for a married couple per annum. Provided,  
24 further, that one who applies for classification of property  
25 under this class must make an affidavit to the state

1 department of revenue on a form as may be provided by the  
2 state department of revenue supplied without cost to the  
3 applicant, as to his income, if applicable, as to his  
4 retirement benefits, if applicable, or, as to his marital  
5 status, if applicable, and to the fact that he or she  
6 actually occupies such improvements with right of the county  
7 welfare board to investigate the applicant, on the  
8 completion of the form, as to answers given on the form.  
9 Provided, further, that the value of said property shall not  
10 increase during the life of the recipient of retirement  
11 benefits or widow or widower covered under this class. For  
12 purposes of the affidavit required for classification of  
13 property under this class, it shall be sufficient if the  
14 applicant signs a statement swearing to or affirming the  
15 correctness of the information supplied, whether or not the  
16 statement is signed before a person authorized to administer  
17 oaths, and mails the application and statement to the  
18 department of revenue. This signed statement shall be  
19 treated as a statement under oath or equivalent affirmation  
20 for purposes of section 94-7-203, R.C.M. 1947, relating to  
21 the criminal offense of false swearing.

22 Class Nine. The annual gross proceeds of coal mines  
23 using the strip mining method.

24 Class Nine-Ten. All property not included in the ~~eight~~  
25 ~~(8)~~ nine (9) preceding classes."

1 Section 14. Section 84-302, R.C.M. 1947, is amended to  
 2 read as follows:

3 "84-302. Basis for imposition of taxes. As a basis for  
 4 the imposition of taxes upon the different classes of  
 5 property specified in the preceding section, a percentage of  
 6 the true and full value of the property of each class shall  
 7 be taken as follows:

8 Class 1. One hundred per cent (100%) of its true and  
 9 full value.

10 Class 2. Twenty per cent (20%) of its true and full  
 11 value.

12 Class 3. Thirty-three and one-third per cent (33 1/3%)  
 13 of its true and full value.

14 Class 4. Thirty per cent (30%) of its true and full  
 15 value.

16 Class 5. Seven per cent (7%) of its true and full  
 17 value.

18 Class 6. As specified in section 84-308, R.C.M. 1947.

19 Class 7. Seven per cent (7%) of its true and full  
 20 value.

21 Class 8. Fifteen per cent (15%) of its true and full  
 22 value.

23 Class 9. ~~Forty-per-cent-(40%)~~ FORTY-FIVE PERCENT (45%)  
 24 of its true and full value.

25 Class 10. ~~Forty-five-percent-(45%)~~ FORTY PERCENT (40%)

1 of its true and full value."

2 Section 15. Section 84-5402, R.C.M. 1947, is amended  
 3 to read as follows:

4 "84-5402. Net proceeds tax--statement of yield,  
 5 penalty, extension of time. Every person, partnership,  
 6 corporation, or association, engaged in mining, extracting  
 7 or producing from any quartz vein or lode, placer claim,  
 8 dump or tailings, or other place or sources whatever,  
 9 precious stones or gems, gold, silver, copper, ~~coal,~~ lead,  
 10 petroleum, natural gas, or other valuable mineral, except  
 11 coal, must on or before the thirty-first day of March of  
 12 each year make out a statement of the gross yield of the  
 13 above-named metals or minerals from each mine owned or  
 14 worked by such person, corporation or association during the  
 15 year preceding the first day of January of the year in which  
 16 such statement is made, and the value thereof. Such  
 17 statement shall be in the form prescribed by the state  
 18 department of revenue, and must be verified by the oath of  
 19 such person or the manager, superintendent, agent, president  
 20 or vice-president of such corporation, association or  
 21 partnership, and must be delivered to the state department  
 22 of revenue on or before the thirty-first day of March. Such  
 23 statement shall show the following:

24 1. The name and address of the owner or lessee or  
 25 operator of the mine, together with the names and addresses

1 of any and all persons, corporations, or associations owning  
 2 or claiming any royalty interest in the mineral product of  
 3 such mine or the proceeds derived from the sale thereof, and  
 4 the amount or amounts paid or yielded as royalty to each of  
 5 such persons, corporations or associations during the period  
 6 covered by the statement.

7 2. The description and location of the mine.

8 3. The number of tons of ore, barrels of petroleum,  
 9 cubic feet of natural gas or other mineral products or  
 10 deposits extracted, produced, and treated or sold from the  
 11 mine during the period covered by the statement.

12 4. The amount and character of such ores, mineral  
 13 products or deposits, and the yield of such ores, mineral  
 14 products or deposits from such mine in constituents of  
 15 commercial value; that is to say, the number of ounces of  
 16 gold or silver, pounds of copper or lead, ~~tons-of-coal~~  
 17 barrels of petroleum or other crude or mineral oil, cubic  
 18 feet of natural gas or other commercially valuable  
 19 constituents of said ores or mineral products or deposits  
 20 measured by standard units of measurement, yielded to such  
 21 person, corporation or association so engaged in mining, and  
 22 to said royalty holders and each of them, if any, during the  
 23 period covered by the statement.

24 5. The gross yield or value in dollars and cents.

25 6. Actual cost of extracting same from mine.

1 7. Actual cost of transporting to place of reduction  
 2 or sale.

3 8. Actual cost of reduction or sale.

4 9. Actual cost of marketing the product and conversion  
 5 of same into money.

6 10. Cost of construction, repairs and betterments of  
 7 mines, and cost of repairs and replacements of reduction  
 8 works.

9 11. The assessed valuation of reduction works for the  
 10 calendar year for which such return is made.

11 12. Actual cost of fire insurance and workmen's  
 12 compensation insurance.

13 If any person shall fail, neglect or refuse to file the  
 14 statement required by this section within the time required,  
 15 or within any extended period of time allowed, the state  
 16 department of revenue when transmitting the net proceeds  
 17 valuations to the counties shall inform the county assessor  
 18 of such failure, neglect or refusal and the county assessor  
 19 in addition to the net proceeds tax, if any, shall assess a  
 20 penalty of 2/3 of 1% of such tax for each calendar month or  
 21 fraction thereof that the required statement is not filed,  
 22 deducting therefrom any moneys collected by the state  
 23 department of revenue required by this section. The state  
 24 department of revenue shall assess a penalty of \$25 for each  
 25 calendar month or fraction thereof, not exceeding four

1 months, that the required statement is not filed, to be  
2 collected by the state department of revenue and deposited  
3 to the credit of the general fund of the state of Montana.

4 The state department of revenue shall, upon a showing  
5 of reasonable cause, grant an extension of time for filing  
6 the statement required by this section. This penalty shall  
7 be in addition to penalties provided in section 84-5410."

8 Section 16. Severability. If a part of this act is  
9 invalid, all valid parts that are severable from the invalid  
10 part remain in effect. If a part of this act is invalid in  
11 one or more of its applications, the part remains in effect  
12 in all valid applications that are severable from the  
13 invalid applications.

14 Section 17. Repealer. Sections 84-1301 through  
15 84-1309, ~~84-1309.17~~ 84-1310, and 84-1311, R.C.M. 1947, are  
16 repealed.

-End-