

1                    SENATE    BILL NO.    13  
2    INTRODUCED BY    TOWE

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-FIVE PERCENT (25%) OF VALUE; DELETING  
7    COAL FROM THE PROVISIONS TAXING THE NET PROCEEDS OF MINES;  
8    PROVIDING FOR TAXATION OF THE GROSS PROCEEDS FROM COAL AS AN  
9    ELEMENT IN THE PROPERTY TAX SYSTEM; AND REPEALING SECTIONS  
10  84-1301 THROUGH 84-1309, 84-1309.1, 84-1310, AND 84-1311,  
11  R.C.M. 1947."

12  
13  BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

23  The legislature further finds that:

24        (a) coal is the only mineral which can supply energy  
25  while being easily found in abundance in Montana;

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

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

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

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

14           (f) coal in the lignite form is in less demand and  
15 producers of lignite are able to pay lesser amounts of  
16 royalty and production tax than producers of sub-bituminous  
17 can pay;

18           (g) coal produced in underground mines has higher  
19 production costs and underground producers are able to pay  
20 lesser amounts of royalty and production tax than strip-mine  
21 producers can pay;

22           (h) coal production in Montana has been subject to an  
23 uncoordinated array of taxes which overlap one another and  
24 yield revenue in an inconsistent and unpredictable manner.

25           (2) The legislature declares that the purposes of this

1 chapter are:

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

4 (b) to stabilize the flow of tax revenue from coal  
5 mines to local governments through the property taxation  
6 system;

7 (c) to simplify the structure of coal taxation in  
8 Montana, reducing tax overlap and improving the  
9 predictability of tax projections; and

10 (d) to accomplish the foregoing purposes by  
11 establishing categories of taxation which recognize the  
12 unique character of coal as well as the variations found  
13 within the coal industry.

14 Section 2. Definitions. As used in this chapter -- (1)  
15 "Contract sales price" means either (a) the price of coal  
16 extracted and prepared for shipment f.o.b. mine, including  
17 reserves collected for payment of taxes subsequently  
18 determined, but not including any tax on the coal which is  
19 not determined at the time of sale and for which the seller  
20 does not collect reserves at the time of sale, or (b) a  
21 price imputed by the department under section 7 of this act.

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

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

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

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

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

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

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

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

39 The formula which yields the greater amount of tax in a  
40 particular case shall be used at each point on this  
41 schedule. "Value" means the contract sales price. A person

1 who produces less than one thousand two hundred fifty  
2 (1,250) tons of coal in a quarter-year is not liable for any  
3 severance tax on that production.

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

17 Section 5. Annual testing of samples. The Montana  
18 state bureau of mines and geology shall test coal production  
19 subject to this chapter and may make rules governing the  
20 collection of test data. A person subject to this chapter  
21 shall submit to the bureau on or before August 1 each year a  
22 sample of mine run "as is" coal from each mine producing  
23 that year. Additional samples shall be submitted at the  
24 request of the bureau. The bureau shall compute the Btu per  
25 pound of each sample received and forward this information

1 to the department prior to September 1 each year.

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

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

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

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

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

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1 (1) To the county general fund from which coal was  
2 mined three cents (3¢) per ton; and

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

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

13 (1) The name and address of the owner or lessee or  
14 operator of the mine.

15 (2) The location of the mine.

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

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

20 Section 9. Transmission of gross proceeds from coal to  
21 county assessor. On or before July 1 each year the  
22 department shall transmit to the county assessor of each  
23 county in which coal mines are situated, the valuation of  
24 the gross proceeds of such mines for the purpose of  
25 taxation, as the same have been determined by the

1 department. The county assessor shall immediately enter the  
2 same upon a suitable assessment roll, the form of which  
3 shall be prescribed by the department.

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

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

20 Section 12. Penalties for neglect or false statement.  
21 A person who fails, neglects, or refuses to file any  
22 statement required under this chapter, or who makes a false  
23 statement commits a misdemeanor. A person convicted under  
24 this section shall be fined not to exceed one thousand  
25 dollars (\$1,000) or be imprisoned in the county jail for any

1 term not to exceed six (6) months, or both.

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

4 "84-301. Classification of property for taxation. For  
5 the purpose of taxation the taxable property in the state  
6 shall be classified as follows:

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

20 Class Two. All agricultural and other tools,  
21 implements and machinery, gas and other engines and boilers,  
22 threshing machines and outfits used therewith, automobiles,  
23 motor trucks and other power-driven cars, vehicles of all  
24 kinds except mobile homes, boats and all watercraft,  
25 harness, saddlery and robes and except as provided in Class

1 Five (b) of this section, all poles, lines, transformers,  
2 transformer stations, meters, tools, improvements, machinery  
3 and other property used and owned by all persons, firms,  
4 corporations, and other organizations which are engaged in  
5 the business of furnishing telephone communications,  
6 exclusively to rural areas, or to rural areas and cities and  
7 towns provided that any such city or town has a population  
8 of eight hundred (800) persons or less; and provided  
9 further, that the average circuit miles for each station on  
10 the system is more than one and one-quarter (1 1/4) miles.

11 Class Three. Livestock, poultry and unprocessed  
12 products of both; stocks of merchandise of all sorts,  
13 together with furniture and fixtures used therewith, except  
14 mobile homes; the annual gross proceeds of underground coal  
15 mines; and all office or hotel furniture and fixtures.

16 Class Four. (a) All land, town and city lots, with  
17 improvements, and all trailers affixed to land owned,  
18 leased, or under contract or purchase by the trailer owner,  
19 manufacturing and mining machinery, fixtures and supplies,  
20 except as otherwise provided by the constitution of Montana,  
21 and except as such property may be included in Class Five,  
22 Class Seven or Class Eight.

23 (b) Mobile homes without regard to the ownership of the  
24 land upon which they are situated, except those held by a  
25 distributor or dealer of mobile homes as part of his stock

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1 in trade, and except as such property may be included in  
2 Class Eight.

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

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

23 (c) All unprocessed agricultural products either on the  
24 farm or in storage, irrespective of whether said products  
25 are owned by the elevator, warehouse or flour mill owner or

1 company storing the same, or any other person whomsoever,  
2 except all perishable fruits and vegetables in farm storage  
3 and owned by the producer, and excepting livestock and  
4 poultry and the unprocessed products of both.

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

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

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

18 Class Seven. (a) All new industrial property. New  
19 industrial property shall mean any new industrial plant,  
20 including land, buildings, machinery and fixtures which, in  
21 the determination of the state department of revenue, is  
22 used by a new industry during the first three (3) years of  
23 operation not having been assessed prior to July 1, 1961,  
24 within the state of Montana. New industry shall mean any  
25 person, corporation, firm, partnership, association, or

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

23 Class Eight. Any improvement on real property,  
 24 trailers affixed to land or mobile home belonging to any  
 25 person who qualifies under any one or more of the

1 hereinafter set forth categories, valued at not more than  
 2 seventeen thousand five hundred dollars (\$17,500), which is  
 3 owned or under a contract for deed, and which is actually  
 4 occupied by:

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

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

11 (3) a widow with minor or dependent children regardless  
 12 of age, who qualifies under the income limitations of (4),  
 13 or

14 (4) a recipient of retirement benefits whose income  
 15 from all sources is not more than four thousand dollars  
 16 (\$4,000) for a single person and five thousand two hundred  
 17 dollars (\$5,200) for a married couple per annum. Provided,  
 18 further, that one who applies for classification of property  
 19 under this class must make an affidavit to the state  
 20 department of revenue on a form as may be provided by the  
 21 state department of revenue supplied without cost to the  
 22 applicant, as to his income, if applicable, as to his  
 23 retirement benefits, if applicable, or, as to his marital  
 24 status, if applicable, and to the fact that he or she  
 25 actually occupies such improvements with right of the county

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1 welfare board to investigate the applicant, on the  
 2 completion of the form, as to answers given on the form.  
 3 Provided, further, that the value of said property shall not  
 4 increase during the life of the recipient of retirement  
 5 benefits or widow or widower covered under this class. For  
 6 purposes of the affidavit required for classification of  
 7 property under this class, it shall be sufficient if the  
 8 applicant signs a statement swearing to or affirming the  
 9 correctness of the information supplied, whether or not the  
 10 statement is signed before a person authorized to administer  
 11 oaths, and mails the application and statement to the  
 12 department of revenue. This signed statement shall be  
 13 treated as a statement under oath or equivalent affirmation  
 14 for purposes of section 94-7-203, R.C.M. 1947, relating to  
 15 the criminal offense of false swearing.

16 Class Nine. The annual gross proceeds of coal mines  
 17 using the strip mining method.

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

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

22 "34-302. Basis for imposition of taxes. As a basis for  
 23 the imposition of taxes upon the different classes of  
 24 property specified in the preceding section, a percentage of  
 25 the true and full value of the property of each class shall

1 be taken as follows:

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

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

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

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

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

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

13 Class 7. Seven per cent (7%) of its true and full  
 14 value.

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

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

19 Class 10. Forty per cent (40%) of its true and full  
 20 value."

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

23 "84-5402. Net proceeds tax--statement of yield,  
 24 penalty, extension of time. Every person, partnership,  
 25 corporation, or association, engaged in mining, extracting



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

18 1. The name and address of the owner or lessee or  
 19 operator of the mine, together with the names and addresses  
 20 of any and all persons, corporations, or associations owning  
 21 or claiming any royalty interest in the mineral product of  
 22 such mine or the proceeds derived from the sale thereof, and  
 23 the amount or amounts paid or yielded as royalty to each of  
 24 such persons, corporations or associations during the period  
 25 covered by the statement.

1 2. The description and location of the mine.  
 2 3. The number of tons of ore, barrels of petroleum,  
 3 cubic feet of natural gas or other mineral products or  
 4 deposits extracted, produced, and treated or sold from the  
 5 mine during the period covered by the statement.  
 6 4. The amount and character of such ores, mineral  
 7 products or deposits, and the yield of such ores, mineral  
 8 products or deposits from such mine in constituents of  
 9 commercial value; that is to say, the number of ounces of  
 10 gold or silver, pounds of copper or lead, ~~tons-of-east~~  
 11 barrels of petroleum or other crude or mineral oil, cubic  
 12 feet of natural gas or other commercially valuable  
 13 constituents of said ores or mineral products or deposits  
 14 measured by standard units of measurement, yielded to such  
 15 person, corporation or association so engaged in mining, and  
 16 to said royalty holders and each of them, if any, during the  
 17 period covered by the statement.  
 18 5. The gross yield or value in dollars and cents.  
 19 6. Actual cost of extracting same from mine.  
 20 7. Actual cost of transporting to place of reduction  
 21 or sale.  
 22 8. Actual cost of reduction or sale.  
 23 9. Actual cost of marketing the product and conversion  
 24 of same into money.  
 25 10. Cost of construction, repairs and betterments of

1 mines, and cost of repairs and replacements of reduction  
2 works.

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

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

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

23 The state department of revenue shall, upon a showing  
24 of reasonable cause, grant an extension of time for filing  
25 the statement required by this section. This penalty shall

1 be in addition to penalties provided in section 84-5410."

2 Section 16. Severability. If a part of this act is  
3 invalid, all valid parts that are severable from the invalid  
4 part remain in effect. If a part of this act is invalid in  
5 one or more of its applications, the part remains in effect  
6 in all valid applications that are severable from the  
7 invalid applications.

8 Section 17. Repealer. Sections 84-1301 through  
9 84-1309, 84-1309.1, 84-1310, and 84-1311, R.C.M. 1947, are  
10 repealed.

-End-

## STATE OF MONTANA

REQUEST NO. 3-75

## FISCAL NOTE

Form BD 15

In compliance with a written request received January 6, 19 75, there is hereby submitted a Fiscal Note for Senate Bill 13 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:

Senate Bill 13 contains two major provisions: (1) to replace the strip coal mines license tax as a fixed rate per ton with a severance tax imposed on the gross 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 nine for property tax purposes (taxable value is 40% of gross proceeds).

## ASSUMPTIONS:

- Coal production will be 24.725 million tons in FY 76 and 31.435 million in FY 77; coal production will not be affected by the increase in severance tax proposed by this bill.
- The value of coal, defined to be the contract sales price, will average \$4.25 per ton in FY 76 and \$4.71 per ton in FY 77.
- Gross value of coal produced will be \$104,975,750 in FY 76 and \$148,048,325 in FY 77.
- With one exception (Peabody Coal) net proceeds of coal companies are approximately 40% of gross proceeds.
- Severance tax collections will be distributed 3 cents per ton to counties from which coal was mined and the balance to the State General Fund.

## FISCAL IMPACT (1):

	FY 76		FY 77	
	State	Counties	State	Counties
Strip mines license tax collections under current law	\$ 8.17 million	\$ .74 million	\$10.33 million	\$ .94 million
Strip mines severance tax collections under proposed law	<u>26.24</u>	<u>.74</u>	<u>37.01</u>	<u>.94</u>
Increase in collections	<u>\$18.07 million</u>	-0-	<u>\$26.68 million</u>	-0-

## FISCAL IMPACT (2)

Replacing net proceeds taxable at 100% by gross proceeds taxable at 40% for property tax purposes 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 25.9% of gross proceeds under present law. Thus, under Senate Bill 13, 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 approximately 5.8%. Rosebud County would experience an increase in the tax base of approximately 2.1%.

*Michael S. Billings*

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: January 13, 1975

Approved by Committee  
on Taxation

1 SENATE BILL NO. 13

2 INTRODUCED BY TOWE, CETRONE, NORMAN, R. SMITH, CONOVER,

3 WATT, COLBERG, FOSTER, BLAYLOCK, REGAN, ROMNEY

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION  
6 OF COAL PRODUCTION; PROVIDING FOR A SEVERANCE TAX ON COAL  
7 PRODUCED AT TWENTY-FIVE PERCENT (25%) OF VALUE; DELETING  
8 COAL FROM THE PROVISIONS TAXING THE NET PROCEEDS OF MINES;  
9 PROVIDING FOR TAXATION OF THE GROSS PROCEEDS FROM COAL AS AN  
10 ELEMENT IN THE PROPERTY TAX SYSTEM; AMENDING SECTIONS  
11 84-301, 84-302, AND 84-5402; AND REPEALING SECTIONS 84-1301  
12 THROUGH 84-1309, 84-1309.1, 84-1310, AND 84-1311, R.C.M.  
13 1947."

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

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

1 (a) coal is the only mineral which can supply energy  
2 while being easily found in abundance in Montana;

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

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

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

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

16 ~~(f) coal in the lignite form is in less demand and~~  
17 ~~producers of lignite are able to pay lesser amounts of~~  
18 ~~royalty and production tax than producers of sub-bituminous~~  
19 ~~can pay;~~

20 ~~(g) (F)~~ coal produced in underground mines has higher  
21 production costs and underground producers are able to pay  
22 lesser amounts of royalty and production tax than strip-mine  
23 producers can pay;

24 ~~(h) (G)~~ coal production in Montana has been subject  
25 to an uncoordinated array of taxes which overlap one another

1 and yield revenue in an inconsistent and unpredictable  
2 manner.

3 (2) The legislature declares that the purposes of this  
4 chapter are:

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

7 (b) to stabilize the flow of tax revenue from coal  
8 mines to local governments through the property taxation  
9 system;

10 (c) to simplify the structure of coal taxation in  
11 Montana, reducing tax overlap and improving the  
12 predictability of tax projections; and

13 (d) to accomplish the foregoing purposes by  
14 establishing categories of taxation which recognize the  
15 unique character of coal as well as the variations found  
16 within the coal industry.

17 Section 2. Definitions. As used in this chapter -- (1)  
18 "Contract sales price" means either (a) the price of coal  
19 extracted and prepared for shipment f.o.b. mine, including  
20 reserves collected for payment of taxes subsequently  
21 determined, but not including any tax on the coal which is  
22 not determined at the time of sale and for which the seller  
23 does not collect reserves at the time of sale, or (b) a  
24 price imputed by the department under section 7 of this act.

25 (2) "Energy conversion process" includes any process

1 by which coal in the solid state is transformed into slurry,  
2 gas, electric energy, or any other form of energy.

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

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

6 (5) "Underground mining" means a coal mining method  
7 utilizing shafts and tunnels, and not regulated under  
8 section 50-1039.

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

10 (7) "Department" means the department of revenue.

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

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

1 The formula which yields the greater amount of tax in a  
 2 particular case shall be used at each point on this  
 3 schedule. "Value" means the contract sales price. A person  
 4 who produces less than ~~one FIVE~~ thousand ~~two--hundred--fifty~~  
 5 ~~(17,250)~~ (5,000) tons of coal in a quarter-year is not liable  
 6 for any severance tax on that production.

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

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

1 that year. Additional samples shall be submitted at the  
 2 request of the bureau. The bureau shall compute the Btu per  
 3 pound of each sample received and forward this information  
 4 to the department prior to September 1 each year.

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

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

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

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

1 party.

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

4 (1) To the county general fund from which coal was  
5 mined three cents (3¢) per ton; and

6 (2) The balance to the general fund of the state.

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

16 (1) The name and address of the owner or lessee or  
17 operator of the mine.

18 (2) The location of the mine.

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

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

23 Section 9. Transmission of gross proceeds from coal to  
24 county assessor. On or before July 1 each year the  
25 department shall transmit to the county assessor of each

1 county in which coal mines are situated, the valuation of  
2 the gross proceeds of such mines for the purpose of  
3 taxation, as the same have been determined by the  
4 department. The county assessor shall immediately enter the  
5 same upon a suitable assessment roll, the form of which  
6 shall be prescribed by the department.

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

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

23 Section 12. Penalties for neglect or false statement.  
24 A person who fails, neglects, or refuses to file any  
25 statement required under this chapter, or who makes a false

1 statement commits a misdemeanor. A person convicted under  
 2 this section shall be fined not to exceed one thousand  
 3 dollars (\$1,000) or be imprisoned in the county jail for any  
 4 term not to exceed six (6) months, or both.

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

7 "84-301. Classification of property for taxation. For  
 8 the purpose of taxation the taxable property in the state  
 9 shall be classified as follows:

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

23 Class Two. All agricultural and other tools,  
 24 implements and machinery, gas and other engines and boilers,  
 25 threshing machines and outfits used therewith, automobiles,

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

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

19 Class Four. (a) All land, town and city lots, with  
 20 improvements, and all trailers affixed to land owned,  
 21 leased, or under contract or purchase by the trailer owner,  
 22 manufacturing and mining machinery, fixtures and supplies,  
 23 except as otherwise provided by the constitution of Montana,  
 24 and except as such property may be included in Class Five,  
 25 Class Seven or Class Eight.



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

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

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

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

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

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

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

21 Class Seven. (a) All new industrial property. New  
22 industrial property shall mean any new industrial plant,  
23 including land, buildings, machinery and fixtures which, in  
24 the determination of the state department of revenue, is  
25 used by a new industry during the first three (3) years of

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

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

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

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

14 (3) a widow with minor or dependent children regardless  
 15 of age, who qualifies under the income limitations of (4),  
 16 or.

17 (4) a recipient of retirement benefits whose income  
 18 from all sources is not more than four thousand dollars  
 19 (\$4,000) for a single person and five thousand two hundred  
 20 dollars (\$5,200) for a married couple per annum. Provided,  
 21 further, that one who applies for classification of property  
 22 under this class must make an affidavit to the state  
 23 department of revenue on a form as may be provided by the  
 24 state department of revenue supplied without cost to the  
 25 applicant, as to his income, if applicable, as to his

1 retirement benefits, if applicable, or, as to his marital  
 2 status, if applicable, and to the fact that he or she  
 3 actually occupies such improvements with right of the county  
 4 welfare board to investigate the applicant, on the  
 5 completion of the form, as to answers given on the form.  
 6 Provided, further, that the value of said property shall not  
 7 increase during the life of the recipient of retirement  
 8 benefits or widow or widower covered under this class. For  
 9 purposes of the affidavit required for classification of  
 10 property under this class, it shall be sufficient if the  
 11 applicant signs a statement swearing to or affirming the  
 12 correctness of the information supplied, whether or not the  
 13 statement is signed before a person authorized to administer  
 14 oaths, and mails the application and statement to the  
 15 department of revenue. This signed statement shall be  
 16 treated as a statement under oath or equivalent affirmation  
 17 for purposes of section 94-7-203, R.C.M. 1947, relating to  
 18 the criminal offense of false swearing.

19 Class Nine. The annual gross proceeds of coal mines  
 20 using the strip mining method.

21 Class Nine-Ten. All property not included in the ~~eight~~  
 22 ~~+~~ nine (9) preceding classes."

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

25 "84-302. Basis for imposition of taxes. As a basis for

1 the imposition of taxes upon the different classes of  
 2 property specified in the preceding section, a percentage of  
 3 the true and full value of the property of each class shall  
 4 be taken as follows:

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

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

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

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

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

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

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

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

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

22 Class 10. Forty per cent (40%) of its true and full  
 23 value."

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

1 "84-5402. Net proceeds tax--statement of yield,  
 2 penalty, extension of time. Every person, partnership,  
 3 corporation, or association, engaged in mining, extracting  
 4 or producing from any quartz vein or lode, placer claim,  
 5 dump or tailings, or other place or sources whatever,  
 6 precious stones or gems, gold, silver, copper, ~~coal~~, lead,  
 7 petroleum, natural gas, or other valuable mineral, except  
 8 coal, must on or before the thirty-first day of March of  
 9 each year make out a statement of the gross yield of the  
 10 above-named metals or minerals from each mine owned or  
 11 worked by such person, corporation or association during the  
 12 year preceding the first day of January of the year in which  
 13 such statement is made, and the value thereof. Such  
 14 statement shall be in the form prescribed by the state  
 15 department of revenue, and must be verified by the oath of  
 16 such person or the manager, superintendent, agent, president  
 17 or vice-president of such corporation, association or  
 18 partnership, and must be delivered to the state department  
 19 of revenue on or before the thirty-first day of March. Such  
 20 statement shall show the following:

21 1. The name and address of the owner or lessee or  
 22 operator of the mine, together with the names and addresses  
 23 of any and all persons, corporations, or associations owning  
 24 or claiming any royalty interest in the mineral product of  
 25 such mine or the proceeds derived from the sale thereof, and

1 the amount or amounts paid or yielded as royalty to each of  
 2 such persons, corporations or associations during the period  
 3 covered by the statement.

4 2. The description and location of the mine.

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

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

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

22 6. Actual cost of extracting same from mine.

23 7. Actual cost of transporting to place of reduction  
 24 or sale.

25 8. Actual cost of reduction or sale.

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

3           10. Cost of construction, repairs and betterments of  
4 mines, and cost of repairs and replacements of reduction  
5 works.

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

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

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

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

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

11           Section 17. Repealer. Sections 84-1301 through  
12 84-1309, 84-1309.1, 84-1310, and 84-1311, R.C.M. 1947, are  
13 repealed.

-End-

## 1 SENATE BILL NO. 13

2 INTRODUCED BY TOWE, CETRONE, NORMAN, R. SMITH, CONOVER,  
3 WATT, COLBERG, FOSTER, BLAYLOCK, REGAN, ROMNEY

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION  
6 OF COAL PRODUCTION; PROVIDING FOR A SEVERANCE TAX ON COAL  
7 PRODUCED AT TWENTY-FIVE PERCENT (25%) OF VALUE; DELETING  
8 COAL FROM THE PROVISIONS TAXING THE NET PROCEEDS OF MINES;  
9 PROVIDING FOR TAXATION OF THE GROSS PROCEEDS FROM COAL AS AN  
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13 between one-fourth (1/4) and one-third (1/3) of the price it  
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16 ~~(f) coal in the lignite form is in less demand and~~  
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20 reserves collected for payment of taxes subsequently  
21 determined, but not including any tax on the coal which is  
22 not determined at the time of sale and for which the seller  
23 does not collect reserves at the time of sale, or (b) a  
24 price imputed by the department under section 7 6 of this  
25 act.

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

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

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

7 (5) "Underground mining" means a coal mining method  
8 utilizing shafts and tunnels, and not regulated under  
9 section 50-1039.

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

11 (7) "Department" means the department of revenue.

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

16 Heating quality 17 (Btu per pound 18 of coal):	19 Surface 20 Mining	21 Underground 22 Mining
19 Under 7,000	12 cents or 20 25% of value	5 cents or 3% of value
21 7,000-8,000	22 22 cents or 23 25% of value	8 cents or 4% of value
24 8,000-9,000	25 34 cents or 25% of value	10 cents or 4% of value
25 Over 9,000	40 cents or	12 cents or

1                                   25% of value                   4% of value  
 2   The formula which yields the greater amount of tax in a  
 3   particular case shall be used at each point on this  
 4   schedule. "Value" means the contract sales price. A person  
 5   who produces less than ~~one FIVE~~ thousand ~~two-hundred-fifty~~  
 6   ~~(1,250)~~ (5,000) tons of coal in a quarter-year is not liable  
 7   for any severance 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 general fund from which coal was  
6 mined three cents (3¢) per ton; and

7 (2) The balance to the general fund of the state.

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

17 (1) The name and address of the owner or lessee or  
18 operator of the mine.

19 (2) The location of the mine.

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

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

24 Section 9. Transmission of gross proceeds from coal to  
25 county assessor. On or before July 1 each year the

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

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

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

24 Section 12. Penalties for neglect or false statement.  
25 A person who fails, neglects, or refuses to file any

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

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

8 "84-301. Classification of property for taxation. For  
9 the purpose of taxation the taxable property in the state  
10 shall be classified as follows:

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

24 Class Two. All agricultural and other tools,  
25 implements and machinery, gas and other engines and boilers,

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

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

20 Class Four. (a) All land, town and city lots, with  
21 improvements, and all trailers affixed to land owned,  
22 leased, or under contract or purchase by the trailer owner,  
23 manufacturing and mining machinery, fixtures and supplies,  
24 except as otherwise provided by the constitution of Montana,  
25 and except as such property may be included in Class Five,

1 ~~Class Seven or Class Eight.~~

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

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

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

1 property shall be put in Class Two.

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

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

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

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

22 Class Seven. (a) All new industrial property. New  
23 industrial property shall mean any new industrial plant,  
24 including land, buildings, machinery and fixtures which, in  
25 the determination of the state department of revenue, is

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

1 manner and form as may be required by said department.

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

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

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

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

18 (4) a recipient of retirement benefits whose income  
 19 from all sources is not more than four thousand dollars  
 20 (\$4,000) for a single person and five thousand two hundred  
 21 dollars (\$5,200) for a married couple per annum. Provided,  
 22 further, that one who applies for classification of property  
 23 under this class must make an affidavit to the state  
 24 department of revenue on a form as may be provided by the  
 25 state department of revenue supplied without cost to the

1 applicant, as to his income, if applicable, as to his  
 2 retirement benefits, if applicable, or, as to his marital  
 3 status, if applicable, and to the fact that he or she  
 4 actually occupies such improvements with right of the county  
 5 welfare board to investigate the applicant, on the  
 6 completion of the form, as to answers given on the form.  
 7 Provided, further, that the value of said property shall not  
 8 increase during the life of the recipient of retirement  
 9 benefits or widow or widower covered under this class. For  
 10 purposes of the affidavit required for classification of  
 11 property under this class, it shall be sufficient if the  
 12 applicant signs a statement swearing to or affirming the  
 13 correctness of the information supplied, whether or not the  
 14 statement is signed before a person authorized to administer  
 15 oaths, and mails the application and statement to the  
 16 department of revenue. This signed statement shall be  
 17 treated as a statement under oath or equivalent affirmation  
 18 for purposes of section 94-7-203, R.C.M. 1947, relating to  
 19 the criminal offense of false swearing.

20 Class Nine. The annual gross proceeds of coal mines  
 21 using the strip mining method.

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

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

1 "84-302. Basis for imposition of taxes. As a basis for  
 2 the imposition of taxes upon the different classes of  
 3 property specified in the preceding section, a percentage of  
 4 the true and full value of the property of each class shall  
 5 be taken as follows:

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

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

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

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

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

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

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

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

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

23 Class 10. Forty per cent (40%) of its true and full  
 24 value."

25 Section 15. Section 84-5402, R.C.M. 1947, is amended

1 to read as follows:

2 "84-5402. Net proceeds tax--statement of yield,  
3 penalty, extension of time. Every person, partnership,  
4 corporation, or association, engaged in mining, extracting  
5 or producing from any quartz vein or lode, placer claim,  
6 dump or tailings, or other place or sources whatever,  
7 precious stones or gems, gold, silver, copper, ~~coal~~, lead,  
8 petroleum, natural gas, or other valuable mineral, except  
9 coal, must on or before the thirty-first day of March of  
10 each year make out a statement of the gross yield of the  
11 above-named metals or minerals from each mine owned or  
12 worked by such person, corporation or association during the  
13 year preceding the first day of January of the year in which  
14 such statement is made, and the value thereof. Such  
15 statement shall be in the form prescribed by the state  
16 department of revenue, and must be verified by the oath of  
17 such person or the manager, superintendent, agent, president  
18 or vice-president of such corporation, association or  
19 partnership, and must be delivered to the state department  
20 of revenue on or before the thirty-first day of March. Such  
21 statement shall show the following:

22 1. The name and address of the owner or lessee or  
23 operator of the mine, together with the names and addresses  
24 of any and all persons, corporations, or associations owning  
25 or claiming any royalty interest in the mineral product of

1 such mine or the proceeds derived from the sale thereof, and  
2 the amount or amounts paid or yielded as royalty to each of  
3 such persons, corporations or associations during the period  
4 covered by the statement.

5 2. The description and location of the mine.

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

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

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

23 6. Actual cost of extracting same from mine.

24 7. Actual cost of transporting to place of reduction  
25 or sale.

1           8. Actual cost of reduction or sale.

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

4           10. Cost of construction, repairs and betterments of  
5 mines, and cost of repairs and replacements of reduction  
6 works.

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

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

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

1           to the credit of the general fund of the state of Montana.

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

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

12           Section 17. Repealer. Sections 84-1301 through  
13 84-1309, 84-1309.1, 84-1310, and 84-1311, R.C.M. 1947, are  
14 repealed.

-End-

HOUSE OF REPRESENTATIVES

March 27, 1975

HOUSE COMMITTEE ON TAXATION AMENDMENTS TO SENATE BILL 13

Amend in the third reading copy as follows:

1. Amend in the title, page 1, line 11.  
Following: "84-302,"  
Insert: "84-1309.1,"
2. Amend in the title, page 1, line 12.  
Following: "84-1309,"  
Strike: "84-1309.1,"
3. Amend page 3, section 2 (1)(a), lines 19 to 23.  
Following: "mine,"  
Strike: "including reserves collected for payment of taxes subsequently determined, but not including any tax on the coal which is not determined at the time of sale and for which the seller does not collect reserves at the time of sale"  
Insert: "excluding that amount charged by the seller to pay taxes paid on production"
4. Amend page 4, section 2, line 11.  
Following: Subsection (7)  
Insert: New subsection (8)  
"(8) "Taxes paid on production" include any tax paid to the federal, state, or local governments upon the quantity of coal produced as a function of either the volume or the value of production, and do not include any tax upon the value of mining equipment, machinery, or buildings and lands, any tax upon a person's net income derived in whole or in part from the sale of coal, or any license fee."
5. Amend page 5, section 3, lines 4 through 7.  
Following: "price."  
Strike: "A person who produces less than ~~one~~ FIVE thousand ~~two-hundred-fifty-(17,250)~~ (5000) tons of coal in a quarter-year is not liable for any severance tax on that production."  
Insert: "A person is not liable for any severance tax upon the first five thousand (5,000) tons of coal he produces in a quarter-year."
6. Amend page 7, section 7, lines 3 through 7.  
Strike: Section 7 in its entirety.  
Insert: New section 7.  
"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:



## HOUSE COMMITTEE ON TAXATION AMENDMENT TO SENATE BILL 13

(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 (3¢) 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."

7. Amend page 20, section 17, line 13.

Following: "84-1309,"

Strike: "84-1309.1,"

AS SO AMENDED  
BE CONCURRED IN

HOUSE OF REPRESENTATIVES

March 28, 1975

COMMITTEE OF THE WHOLE AMENDMENT TO Senate Bill No. 13.

Amend HOUSE COMMITTEE ON TAXATION AMENDMENTS dated March 27, 1975

1. Amend amendment no. 6

Re: section 7, subsection (1), page 2, line 6.

Following: "of the"

Strike: "contract sale price of"

Insert: "severance taxes paid on"

AS SO AMENDED

BE CONCURRED IN

Yardley

HOUSE OF REPRESENTATIVES

March 28, 1975

COMMITTEE OF THE WHOLE AMENDMENT TO Senate Bill No. 13

Amend in the third reading copy as follows:

1. Amend page 16, section 14, line 21.

Following: "Class 9."

Strike: "Forty per cent (40%)"

Insert: "Forty-five per cent (45%)"

AS SO AMENDED

BE CONCURRED IN

Yardley

HOUSE OF REPRESENTATIVES

March 28, 1975

COMMITTEE OF THE WHOLE AMENDMENT TO Senate Bill No. 13

Amend the third reading copy as follows:

1. Amend title, page 1, line 7.

Following: "AT"

Strike: "TWENTY-FIVE PERCENT (25%)"

Insert: "TWENTY-EIGHT AND ONE-HALF PERCENT (28.5%)"

2. Amend page 4, section 3, the same figure in lines 20, 22, and 24 and page 5, line i.

Strike: "25%"

Insert: "28.5%"

AS SO AMENDED

BE CONCURRED IN

Kemmis

## SENATE BILL NO. 13

INTRODUCED BY TOWE, CETRONE, NORMAN, R. SMITH, CONOVER,  
WATT, COLBERG, FOSTER, BLAYLOCK, REGAN, ROMNEY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION  
OF COAL PRODUCTION; PROVIDING FOR A SEVERANCE TAX ON COAL  
PRODUCED AT ~~TWENTY-FIVE PERCENT (25%)~~ TWENTY-EIGHT AND  
ONE-HALF PERCENT (28.5%) OF VALUE; DELETING COAL FROM THE  
PROVISIONS TAXING THE NET PROCEEDS OF MINES; PROVIDING FOR  
TAXATION OF THE GROSS PROCEEDS FROM COAL AS AN ELEMENT IN  
THE PROPERTY TAX SYSTEM; AMENDING SECTIONS 84-301, 84-302,  
84-1309.1, AND 84-5402; AND REPEALING SECTIONS 84-1301  
THROUGH 84-1309, ~~84-1309.1,~~ 84-1310, AND 84-1311, R.C.M.  
1947."

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

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

The legislature further finds that:

(a) coal is the only mineral which can supply energy  
while being easily found in abundance in Montana;

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

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

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

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

~~(f) coal in the lignite form is in less demand and  
producers of lignite are able to pay lesser amounts of  
royalty and production tax than producers of sub-bituminous  
can pay;~~

(g) (F) coal produced in underground mines has higher  
production costs and underground producers are able to pay  
lesser amounts of royalty and production tax than strip-mine  
producers can pay;

~~(h) (G)~~ coal production in Montana has been subject

1 to an uncoordinated array of taxes which overlap one another  
2 and yield revenue in an inconsistent and unpredictable  
3 manner.

4 (2) The legislature declares that the purposes of this  
5 chapter are:

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

8 (b) to stabilize the flow of tax revenue from coal  
9 mines to local governments through the property taxation  
10 system;

11 (c) to simplify the structure of coal taxation in  
12 Montana, reducing tax overlap and improving the  
13 predictability of tax projections; and

14 (d) to accomplish the foregoing purposes by  
15 establishing categories of taxation which recognize the  
16 unique character of coal as well as the variations found  
17 within the coal industry.

18 Section 2. Definitions. As used in this chapter -- (1)  
19 "Contract sales price" means either (a) the price of coal  
20 extracted and prepared for shipment f.o.b. mine, ~~including~~  
21 ~~reserves--collected--for--payment--of---taxes---subsequently~~  
22 ~~determined,--but--not--including--any--tax--on--the--coal--which--is~~  
23 ~~not--determined--at--the--time--of--sale--and--for--which--the--seller~~  
24 ~~does--not--collect--reserves--at--the--time--of--sale~~ EXCLUDING THAT  
25 AMOUNT CHARGED BY THE SELLER TO PAY TAXES PAID ON

1 PRODUCTION, or (b) a price imputed by the department under  
2 section 7 6 of this act.

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

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

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

9 (5) "Underground mining" means a coal mining method  
10 utilizing shafts and tunnels, and not regulated under  
11 section 50-1039.

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

13 (7) "Department" means the department of revenue.

14 (8) "TAXES PAID ON PRODUCTION" INCLUDE ANY TAX PAID TO  
15 THE FEDERAL, STATE, OR LOCAL GOVERNMENTS UPON THE QUANTITY  
16 OF COAL PRODUCED AS A FUNCTION OF EITHER THE VOLUME OR THE  
17 VALUE OF PRODUCTION, AND DO NOT INCLUDE ANY TAX UPON THE  
18 VALUE OF MINING EQUIPMENT, MACHINERY, OR BUILDINGS AND  
19 LANDS, ANY TAX UPON A PERSON'S NET INCOME DERIVED IN WHOLE  
20 OR IN PART FROM THE SALE OF COAL, OR ANY LICENSE FEE.

21 Section 3. Severance tax -- rates imposed --  
22 exemptions. A severance tax is imposed on each ton of coal  
23 produced in the state, in accordance with the following  
24 schedule:

25 Heating quality                      Surface                      Underground

1	(Btu per pound	Mining	Mining
2	of coal):		
3	Under 7,000	12 cents or	5 cents or
4		<del>25%</del> <u>28.5%</u> of value	3% of value
5	7,000-8,000	22 cents or	8 cents or
6		<del>25%</del> <u>28.5%</u> of value	4% of value
7	8,000-9,000	34 cents or	10 cents or
8		<del>25%</del> <u>28.5%</u> of value	4% of value
9	Over 9,000	40 cents or	12 cents or
10		<del>25%</del> <u>28.5%</u> of value	4% of value

11 The formula which yields the greater amount of tax in a  
12 particular case shall be used at each point on this  
13 schedule. "Value" means the contract sales price. ~~A person~~  
14 ~~who--produces--less--than--one~~ five-thousand-two-hundred-fifty  
15 (2,250) (5,000)-tons-of-coal-in-a-quarter-year-is-not-liable  
16 for-any-severance-tax-on-that-production. A PERSON IS NOT  
17 LIABLE FOR ANY SEVERANCE TAX UPON THE FIRST FIVE THOUSAND  
18 (5,000) TONS OF COAL HE PRODUCES IN A QUARTER-YEAR.

19 Section 4. Quarterly statement and payment of tax.  
20 Each coal mine operator shall compute the severance tax due  
21 on each quarter-year's worth of production on forms  
22 prescribed by the department. The statement shall indicate  
23 the tonnage produced, the average Btu value of the  
24 production, the contract sales price received for the  
25 production, and such other information as the department may

1 require. The completed form in duplicate, with the tax  
2 payment, shall be delivered to the department not later than  
3 thirty (30) days following the close of the quarter. The  
4 form shall be verified by an officer of the coal mine  
5 operator. A person operating more than one coal mine in  
6 this state may include all of his mines in one statement.

7 Section 5. Annual testing of samples. The Montana  
8 state bureau of mines and geology shall test coal production  
9 subject to this chapter and may make rules governing the  
10 collection of test data. A person subject to this chapter  
11 shall submit to the bureau on or before August 1 each year a  
12 sample of mine run "as is" coal from each mine producing  
13 that year. Additional samples shall be submitted at the  
14 request of the bureau. The bureau shall compute the Btu per  
15 pound of each sample received and forward this information  
16 to the department prior to September 1 each year.

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

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

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

23 (c) a person neglects or refuses to file a statement  
24 and tax return under this chapter, the department may impute  
25 a value to the coal which approximates market value f.o.b.

1 mine. When imputing value, the department may apply the  
 2 factors used by the federal government under 26 U.S.C.  
 3 section 613, or that provision as it may be labelled or  
 4 amended, in determining gross income from mining, or the  
 5 department may apply any other or additional criteria it  
 6 considers appropriate. Each subject taxpayer shall, upon  
 7 request by the department, furnish a copy of its federal  
 8 income tax return, with any amendments, filed for the year  
 9 in which the value of coal is being imputed and copies of  
 10 the contracts under which it is selling coal at the time.  
 11 When the department's estimate of market value is contested  
 12 in any proceeding, the burden of proof is on the contesting  
 13 party.

14 ~~Section 7. Disposition of revenue. Severance taxes~~  
 15 ~~collected under this chapter are allocated as follows:~~

16 ~~(1) To the county general fund from which coal was~~  
 17 ~~mined three cents (3¢) per ton, and~~

18 ~~(2) The balance to the general fund of the state.~~

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

21 "84-1309.1 84-1319. Disposal of license or severance  
 22 taxes. License or severance taxes collected under the  
 23 provisions of this chapter or such sections as may enact a  
 24 severance tax on coal in 1975 are allocated as follows:

25 (1) To the county ~~general fund~~ for such purposes as the

1 governing body of that county may determine from which coal  
 2 was mined three cents (3¢) per ton; provided, however, for  
 3 each calendar year prior to January 1, 1980, this amount  
 4 shall be three cents (3¢) per ton or five percent (5%) of  
 5 the contract-sale-price-of SEVERANCE TAXES PAID ON the coal  
 6 mined in that county, whichever is higher.

7 (2) To the earmarked revenue fund, such portions of  
 8 the severance tax as may be authorized by laws enacted in  
 9 1975.

10 ~~(2)~~ (3) All other revenues from license or severance  
 11 taxes collected under the provisions of this chapter shall  
 12 be deposited to the credit of the general fund of the  
 13 state."

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

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

25 (2) The location of the mine.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (4) a recipient of retirement benefits whose income  
 25 from all sources is not more than four thousand dollars

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

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

3        Class Nine-Ten. All property not included in the ~~eight~~  
4        ~~48~~ nine (9) preceding classes."

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

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

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

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

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

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

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

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

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

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

1        value.

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

4        Class 10. Forty per cent (40%) of its true and full  
5        value."

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

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

1 of revenue on or before the thirty-first day of March. Such  
2 statement shall show the following:

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

11 2. The description and location of the mine.

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

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

1 to said royalty holders and each of them, if any, during the  
2 period covered by the statement.

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

4 6. Actual cost of extracting same from mine.

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

7 8. Actual cost of reduction or sale.

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

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

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

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

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

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

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

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

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

-End-