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INTRODUCED BY *Senate* BILL NO. *146*
Ronny, Cetrone, Mary, Ferguson
Conover

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 84-2002, 84-2004, 84-2005, 84-2006, 84-2007, 84-2008, 84-2009, 84-2010, 84-2011, AND 84-2013, R.C.M. 1947, RELATING TO THE METALLIFEROUS MINES LICENSE TAX; REPEALING SECTION 84-2012, R.C.M. 1947; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 84-2002, R.C.M. 1947, is amended to read as follows:

"84-2002. Persons liable to pay license tax. Every person who engages in or carries on the business of working or operating any mine or mining property in the state of Montana from which gold, silver, copper, lead or any other metal or metals, or precious or semiprecious gems or stones of any kind shall be mined, extracted or produced, whether such person shall carry on such business or engage in such work or operations as owner, lessee, trustee, possessor, receiver, or in any other capacity, must for the year 1925, and each year thereafter, when engaged in or carrying on such business, work or operations, pay to the state treasury, department of revenue; for the exclusive use and

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benefit of the state of Montana, a license tax for engaging in and carrying on such business, work or operation in this state, ~~and shall pay to such state treasurer for such annual license the taxes hereinafter prescribed,~~ provided, however, that nothing contained in this act shall be construed as requiring laborers or employees hired or employed by any person to mine or to work in or about any mine or mining business or property, ~~to procure such license or~~ to pay such license taxes, nor shall any discovery work required to be done in prospecting for or locating any mining claims, or any annual assessment work, or work required in the obtaining of title to mining property from the United States, or required by the laws of the United States or of this state in order to hold possessory title to any mining claims, be deemed the engaging in or carrying on of the business of working or operating any such mine or mining property."

Section 2. Section 84-2004, R.C.M. 1947, is amended to read as follows:

"84-2004. Amount of tax. The annual license tax to be paid by such person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead or any other metal or metals, precious or semiprecious gems or stones are produced, shall be for the production years commencing on or

1 after January 1, 1970 and for each production year
 2 thereafter, ~~one-dollar-(\$1),-together-with~~ be an ~~additional~~
 3 ~~sum--or~~ amount computed on the gross value of product which
 4 may have been derived by such person from such business,
 5 work or operation within this state during the calendar year
 6 immediately preceding, at the following rates: The rate of
 7 tax shall be fifteen hundredths of one per cent (0.15 of 1%)
 8 of the first one hundred thousand dollars (\$100,000) of the
 9 gross value of the product, five hundred seventy-five
 10 thousandths of one per cent (0.575 of 1%) of the amount by
 11 which such gross value of product exceeds one hundred
 12 thousand dollars (\$100,000) and does not exceed two hundred
 13 and fifty thousand dollars (\$250,000); eighty-six hundredths
 14 of one per cent (0.86 of 1%) of the amount by which such
 15 gross value of product exceeds two hundred and fifty
 16 thousand dollars (\$250,000) and does not exceed four hundred
 17 thousand dollars (\$400,000); one and fifteen hundredths per
 18 cent (1.15%) of the amount by which the gross value of
 19 product exceeds four hundred thousand dollars (\$400,000) and
 20 does not exceed five hundred thousand dollars (\$500,000) and
 21 one and four hundred thirty-eight thousandths per cent
 22 (1.438%) of the amount by which the gross value of product
 23 exceeds five hundred thousand dollars (\$500,000)."

24 Section 3. Section 84-2005, R.C.M. 1947, is amended to
 25 read as follows:

1 "84-2005. Statement of gross value of product. Every
 2 person engaged in or carrying on the business of working or
 3 operating any mine or mining property in this state from
 4 which gold, silver, copper, lead or any other metal or
 5 metals, precious or semiprecious gems or stones are
 6 produced, must, not later than the fifteenth day of April,
 7 in such year when engaged in or carrying on any such
 8 business, work or operation, make out a statement of the
 9 gross value of product from all mines and mining properties
 10 worked or operated by such person during the calendar year
 11 immediately preceding. Such statement shall be in the form
 12 prescribed by the state department of revenue, ~~and--must--be~~
 13 ~~verified--by--the--oath--of--such--person--or--the--manager,~~
 14 ~~superintendent, agent, president or vice-president of--the~~
 15 ~~corporation,--joint--stock--or--other--company--or--syndicate~~ and
 16 must be delivered to the state department of revenue not
 17 later than the fifteenth day of April. The state department
 18 of revenue may grant a reasonable extension of time for
 19 filing statements upon good cause shown therefor. Such
 20 statement shall show the following:

- 21 1. The name and address of the owner or lessee of the
 22 mine or mining property.
- 23 2. The description and location of the mine or mining
 24 property.
- 25 3. The number of tons of ore or other mineral products

1 or deposits extracted from the mine or mining property
2 during the period covered by the statement.

3 4. The name and location of the smelter, mill or
4 reduction works to which such ore has been shipped or sold
5 during the period covered by the statement and such other
6 information as the state department of revenue may require.

7 5. The gross yield of such ores, mineral products or
8 deposits in constituents of commercial value, that is to
9 say, the number of ounces of gold or silver, pounds of
10 copper, lead or zinc, or other commercially valuable
11 constituents of said ores or mineral products or deposits,
12 measured by standard units of measurement during the period
13 covered by the statement.

14 6. The gross value of product in dollars and cents."

15 Section 4. Section 84-2006, R.C.M. 1947, is amended to
16 read as follows:

17 "84-2006. Computation and notice of tax. The state
18 department of revenue shall examine each such statement and
19 return filed and determine and ascertain therefrom, and
20 compute and assess the amount of the license tax to be paid
21 by the person making and filing the same, and shall, not
22 later than the first day of June, ~~certify-to-the-state~~
23 ~~treasurer-the-name-of-each-person-subject-to-the-payment--of~~
24 ~~license--taxes--under-the-provisions-of-this-act,-the-amount~~
25 ~~thereof-to-be-paid-by-such-person,-The-said-department-shall~~

1 ~~at-the-same-time~~ mail to each person making and filing such
2 statement and return, a written notice of the amount of the
3 license tax to be paid by each, respectively, that the same
4 is due and payable ~~to-the-state-treasurer,~~ and that it will
5 become delinquent at five o'clock p. m. on the thirtieth day
6 of June, immediately following, and that if the same becomes
7 delinquent a penalty of ten ~~per-centum~~ percent (10%) will be
8 added thereto, and that the whole amount of such license
9 tax, with penalty added, will bear interest at the rate of
10 ~~twelve-per-centum-per-annum~~ one percent (1%) per month or
11 fraction thereof from the date the same becomes delinquent
12 until paid. If any such person, has sold or otherwise
13 disposed of any of its mine's products at a price
14 substantially below the true market price of such product at
15 the time and place of such sale or disposal, then the state
16 department of revenue shall compute the gross value of such
17 portion of said mine's product, so sold or disposed of
18 substantially below the market price as aforesaid, which
19 gross value shall be based upon the quotations of the price
20 of such mine's product in New York City, at the time such
21 portion of the product was so sold or otherwise disposed of
22 as evidenced by some established authority or market report,
23 such as the Engineering and Mining Journal, of New York, or
24 some other standard publication, giving the market reports
25 for the year covered by such statement. Should there be no

1 quotation covering any particular product, then the state
 2 department of revenue shall fix the value of such gross
 3 product, or such portion thereof, as shall have been sold or
 4 otherwise disposed of at a price substantially below the
 5 true market price at the time and place of such sale or
 6 disposal in such a manner as may seem to be equitable."

7 Section 5. Section 84-2007, R.C.M. 1947, is amended to
 8 read as follows:

9 "84-2007. Delinquent taxes--penalty. All license taxes
 10 assessed under the provisions of this act shall become
 11 delinquent if not paid by five o'clock p. m., on the
 12 thirtieth day of June following the date when the same are
 13 assessed ~~and--certified--to-the-state-treasurer~~, and as the
 14 same become delinquent a penalty of ten ~~per--centum~~ percent
 15 (10%) shall be added thereto, and the whole amount of said
 16 license tax, with penalty added, shall bear interest at the
 17 rate of ~~twelve--per--centum-per-annum~~ one percent (1%) per
 18 month or fraction thereof from the date of becoming
 19 delinquent until paid."

20 Section 6. Section 84-2008, R.C.M. 1947, is amended to
 21 read as follows:

22 "84-2008. Procedure in case of failure to file
 23 statement. If any person shall fail, refuse or neglect to
 24 make and file such statement and return within the time
 25 prescribed, the state department of revenue, shall,

1 immediately after such time has expired, ascertain and
 2 determine as nearly as may be possible from any returns or
 3 reports filed with any state or county officer or board
 4 under any law of this state, and from any other information
 5 which the department may be able to obtain, the total gross
 6 value of product of such person from such business during
 7 the calendar year immediately preceding the year in which
 8 the license tax is to be paid, ~~and--license-issued~~, and shall
 9 make and file a statement showing the amount of such gross
 10 value of product and shall ascertain and determine and
 11 compute and assess the amount of the license taxes due from,
 12 and to be paid by such person, and shall immediately ~~certify~~
 13 ~~the--same--to--the--state-treasurer~~ and give notice to such
 14 person in the same manner as though such statement had been
 15 filed within time, and ~~the-state~~ shall proceed to collect
 16 such license tax, adding thereto and collecting therewith,
 17 if the same is delinquent, the same penalty and interest as
 18 provided for herein for other delinquencies."

19 Section 7. Section 84-2009, R.C.M. 1947, is amended to
 20 read as follows:

21 "84-2009. False or erroneous ~~statements~~--investigation
 22 concerning. (1) Should the state director of the department
 23 of revenue have reason to believe that any statement and
 24 return is false, or erroneous in any particular, it may
 25 require the person, or if made by a corporation, association

1 or company, the officers thereof, and the employees of any
 2 such person, corporation, association or company, to appear
 3 before the director of revenue or his agent and testify
 4 concerning the same and any statement contained therein, and
 5 may examine all books, records, papers and documents of such
 6 person pertaining to such business, upon giving five days'
 7 written notice to such persons, or officers or employees
 8 thereof having custody of such books, records, papers and
 9 documents, and any person failing, refusing or neglecting to
 10 so appear, or refusing to be sworn or to testify, or
 11 refusing to answer any material question propounded by the
 12 director or any of his employees, or refusing to permit the
 13 director, or his employees to examine such books, records,
 14 papers or documents, or any thereof, pertaining to such
 15 business, shall be deemed guilty of a misdemeanor, and upon
 16 conviction thereof shall be punished by a fine of not more
 17 than one thousand dollars, or by imprisonment in the county
 18 jail for a term not exceeding six months, or by both such
 19 fine and imprisonment. If the director, after hearing such
 20 evidence and after such examination of the books, papers,
 21 documents and records of such person, shall find and
 22 determine that such statement and return is erroneous or
 23 false in any material matter, the director shall change and
 24 correct the same so as to show the true gross value of
 25 product and shall reassess the amount of the license tax due

1 from such person, and may add thereto a penalty of not
 2 exceeding fifty ~~per--centum~~ percent (50%), and shall
 3 thereupon immediately ~~certify the amount of such license tax~~
 4 ~~with the penalty added thereto to the state--treasurer,--and~~
 5 ~~shall--at the same time~~ mail to such person a written notice
 6 of the corrections and changes made in such statement and
 7 return and the amount of the license tax and penalty
 8 ~~certified to the state treasurer~~ due and payable.

9 (2) The state treasurer department of revenue shall
 10 collect such license tax with penalty added, and if the same
 11 has become delinquent he shall also collect interest thereon
 12 from the date of delinquency until paid at the rate of
 13 twelve-per-centum-per-annum one percent (1%) per month or
 14 fraction thereof. Provided further, that in order to verify
 15 such statement and return the state department of revenue
 16 may require any person, corporation, association, or company
 17 engaged in the business of smelting, milling, reduction or
 18 treatment in any manner of ores extracted or produced from
 19 any mine or mining property in the state of Montana to
 20 appear before the director of revenue and testify concerning
 21 the gross mineral content of any such ore, or at the request
 22 of said director to furnish sworn statements showing the
 23 gross yield of such ores, mineral products or deposits in
 24 constituents of commercial value, that is to say, the number
 25 of ounces of gold, silver, pounds of copper, lead or zinc,

1 or other commercially valuable constituents of said ores or
 2 mineral products or deposits, measured by standard units of
 3 measurement during the period covered by such statement,
 4 without any deductions whatsoever for smelting, milling,
 5 reduction or treatment of such ores or mineral product.

6 (3) The books, records, papers and documents of such
 7 person, corporation, association or company engaged in the
 8 business of smelting, milling, reduction or treatment in any
 9 manner of ores extracted or produced by any mine or mining
 10 property in the state of Montana shall be open to inspection
 11 and examination by the director of revenue or his employees
 12 at any time or place that the director may designate.

13 (4) If any person required by this act to make or file
 14 any statement, or to verify, under oath any statement, shall
 15 make such statement false in any material respect, or shall
 16 verify, under oath, any statement false in any respect or
 17 shall fail, neglect or refuse to file any statement required
 18 by said state department of revenue or shall refuse to
 19 appear before the director of revenue to testify concerning
 20 the gross mineral content of any such ore, or shall refuse
 21 to allow the director or his employees at any time or place
 22 to inspect or examine the books, records, papers and
 23 documents of such person, corporation, association or
 24 company engaged in the business of smelting, milling,
 25 reduction or treatment in any manner of ores extracted or

1 produced by any mine or mining property in the state of
 2 Montana, shall be deemed guilty of a misdemeanor and shall
 3 be punished by a fine of not exceeding one thousand dollars
 4 (\$1,000), or by imprisonment in the county jail for not
 5 exceeding six months, or by both such fine and
 6 imprisonment."

7 Section 8. Section 84-2010, R.C.M. 1947, is amended to
 8 read as follows:

9 "84-2010. Hearing on determination of value of gross
 10 product or amount of tax. Every person whose license tax has
 11 been determined and assessed by the state department of
 12 revenue under any of the provisions of this act, who shall
 13 feel aggrieved by the determination and assessment of the
 14 department as to the amount of gross value of product, or as
 15 to the amount of the license tax, may, at any time within
 16 ten days after the date of notice thereof, required to be
 17 given to such person, file with the state tax appeal board a
 18 petition for a hearing in which petition must be stated and
 19 set forth particularly and specifically the grounds and
 20 reasons therefor, and the manner in which the amount of the
 21 gross value of product or the amount of the license tax, or
 22 both, should be changed or corrected. Upon the filing of
 23 such petition, if it appears to the satisfaction of the
 24 state tax appeal board therefrom that the department of
 25 revenue has erred in any manner in ascertaining and

1 determining the amount of the gross value of product, or the
 2 amount of the license tax, or both, the board shall
 3 immediately correct such error, or errors, and if such
 4 correction shall be in conformity with the request contained
 5 in the petition for a hearing the board shall take no
 6 further steps in connection with such petition, other than
 7 to ~~certify-to~~ notify the state ~~treasurer~~ department of
 8 revenue of the correct amount of the license tax due from
 9 such person after the making of such correction, and
 10 notifying such person thereof. If, from such examination,
 11 it does not appear to the satisfaction of the state tax
 12 appeal board that the department of revenue has erred in any
 13 manner the board shall grant the hearing, fix a day when the
 14 board will take up and hear such matter, and give notice to
 15 such person of such date of hearing as the board may deem
 16 reasonable. ~~On--such~~ At the hearing of such person, any
 17 taxpayer interested, and the department of revenue may
 18 introduce witnesses and present testimony on any material
 19 matters connected with such return and license tax, and
 20 after considering such evidence the board shall fix and
 21 determine the gross value of product, and reassess the
 22 amount of the license tax to be paid by such person, and
 23 give notice thereof ~~in--the--manner--required--by--section~~
 24 84-2006 to such person and the state department of revenue."

25 Section 9. Section 84-2011, R.C.M. 1947, is amended to

1 read as follows:

2 "84-2011. Lien of tax. The license tax assessed
 3 against any person under this act, together with all
 4 penalties and interest thereon, shall be a lien upon any and
 5 all property owned by such person within this state and used
 6 by such person in connection with such business, which lien
 7 shall attach to such property on the date when the notice of
 8 license tax due is ~~certified-to-the-state-treasurer~~ mailed
 9 to such person by the state department of revenue and such
 10 lien may be enforced in the name of the state of Montana, in
 11 the same manner as other liens are enforced at law."

12 Section 10. Section 84-2013, R.C.M. 1947, is amended
 13 to read as follows:

14 "84-2013. Commencing business. If any person shall,
 15 after the first day of January of any year, engage in or
 16 commence the carrying on of the business of working or
 17 operating a mine or mining property in this state, from
 18 which any merchantable metal, precious, and semiprecious
 19 gems and stones are extracted and produced, such person,
 20 must, within sixty (60) days after so engaging in or
 21 commencing to carry on such business, notify ~~both~~ the state
 22 department of revenue ~~and-the-state-treasurer~~ of such fact."

23 Section 11. Section 84-2012, R.C.M.1947, is repealed.

24 Section 12. This act is effective on passage and
 25 approval.

-End-

-14-

SB146

Approved by Committee
on Taxation

SENATE BILL NO. 146

INTRODUCED BY ROMNEY, CETRONE, MANLEY, JERGESON, CONOVER

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
84-2002, 84-2004, 84-2005, 84-2006, 84-2007, 84-2008,
84-2009, 84-2010, 84-2011, AND 84-2013, R.C.M. 1947,
RELATING TO THE METALLIFEROUS MINES LICENSE TAX; REPEALING
SECTION 84-2012, R.C.M. 1947, ~~AND PROVIDING AN EFFECTIVE
DATE.~~"

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

Section 1. Section 84-2002, R.C.M. 1947, is amended to
read as follows:

"84-2002. Persons liable to pay license tax. Every
person who engages in or carries on the business of working
or operating any mine or mining property in the state of
Montana from which gold, silver, copper, lead or any other
metal or metals, or precious or semiprecious gems or stones
of any kind shall be mined, extracted or produced, whether
such person shall carry on such business or engage in such
work or operations as owner, lessee, trustee, possessor,
receiver, or in any other capacity, must for the year 1925,
and each year thereafter, when engaged in or carrying on
such business, work or operations, pay to the state
~~treasurer,~~ department of revenue; for the exclusive use and

benefit of the state of Montana, a license tax for engaging
in and carrying on such business, work or operation in this
state, ~~and shall pay to such state treasurer for such annual
license the taxes hereinafter prescribed,~~ provided, however,
that nothing contained in this act shall be construed as
requiring laborers or employees hired or employed by any
person to mine or to work in or about any mine or mining
business or property, ~~to procure such license or~~ to pay such
license taxes, nor shall any discovery work required to be
done in prospecting for or locating any mining claims, or
any annual assessment work, or work required in the
obtaining of title to mining property from the United
States, or required by the laws of the United States or of
this state in order to hold possessory title to any mining
claims, be deemed the engaging in or carrying on of the
business of working or operating any such mine or mining
property."

Section 2. Section 84-2004, R.C.M. 1947, is amended to
read as follows:

"84-2004. Amount of tax. The annual license tax to be
paid by such person engaged in or carrying on the business
of working or operating any mine or mining property in this
state from which gold, silver, copper, lead or any other
metal or metals, precious or semiprecious gems or stones are
produced, shall be for the production years commencing on or

1 after January 1, 1970 and for each production year
 2 thereafter, ~~one-dollar-(\$1),-together-with~~ be an additional
 3 ~~sum--or~~ amount computed on the gross value of product which
 4 may have been derived by such person from such business,
 5 work or operation within this state during the calendar year
 6 immediately preceding, at the following rates: The rate of
 7 tax shall be fifteen hundredths of one per cent (0.15 of 1%)
 8 of the first one hundred thousand dollars (\$100,000) of the
 9 gross value of the product, five hundred seventy-five
 10 thousandths of one per cent (0.575 of 1%) of the amount by
 11 which such gross value of product exceeds one hundred
 12 thousand dollars (\$100,000) and does not exceed two hundred
 13 and fifty thousand dollars (\$250,000); eighty-six hundredths
 14 of one per cent (0.86 of 1%) of the amount by which such
 15 gross value of product exceeds two hundred and fifty
 16 thousand dollars (\$250,000) and does not exceed four hundred
 17 thousand dollars (\$400,000); one and fifteen hundredths per
 18 cent (1.15%) of the amount by which the gross value of
 19 product exceeds four hundred thousand dollars (\$400,000) and
 20 does not exceed five hundred thousand dollars (\$500,000) and
 21 one and four hundred thirty-eight thousandths per cent
 22 (1.438%) of the amount by which the gross value of product
 23 exceeds five hundred thousand dollars (\$500,000)."

24 Section 3. Section 84-2005, R.C.M. 1947, is amended to
 25 read as follows:

1 "84-2005. Statement of gross value of product. Every
 2 person engaged in or carrying on the business of working or
 3 operating any mine or mining property in this state from
 4 which gold, silver, copper, lead or any other metal or
 5 metals, precious or semiprecious gems or stones are
 6 produced, must, not later than the fifteenth day of April,
 7 in such year when engaged in or carrying on any such
 8 business, work or operation, make out a statement of the
 9 gross value of product from all mines and mining properties
 10 worked or operated by such person during the calendar year
 11 immediately preceding. Such statement shall be in the form
 12 prescribed by the state department of revenue, ~~and--must--be~~
 13 ~~verified--by--the--oath--of--such--person,--or--the--manager,~~
 14 ~~superintendent,--agent,--president--or--vice-president--of--the~~
 15 ~~corporation,--joint--stock--or--other--company--or--syndicate~~ and
 16 must be delivered to the state department of revenue not
 17 later than the fifteenth day of April. The state department
 18 of revenue may grant a reasonable extension of time for
 19 filing statements upon good cause shown therefor. Such
 20 statement shall show the following:

- 21 1. The name and address of the owner or lessee of the
- 22 mine or mining property.
- 23 2. The description and location of the mine or mining
- 24 property.
- 25 3. The number of tons of ore or other mineral products

1 or deposits extracted from the mine or mining property
2 during the period covered by the statement.

3 4. The name and location of the smelter, mill or
4 reduction works to which such ore has been shipped or sold
5 during the period covered by the statement and such other
6 information as the state department of revenue may require.

7 5. The gross yield of such ores, mineral products or
8 deposits in constituents of commercial value, that is to
9 say, the number of ounces of gold or silver, pounds of
10 copper, lead or zinc, or other commercially valuable
11 constituents of said ores or mineral products or deposits,
12 measured by standard units of measurement during the period
13 covered by the statement.

14 6. The gross value of product in dollars and cents."

15 Section 4. Section 84-2006, R.C.M. 1947, is amended to
16 read as follows:

17 "84-2006. Computation and notice of tax. The state
18 department of revenue shall examine each such statement and
19 return filed and determine and ascertain therefrom, and
20 compute and assess the amount of the license tax to be paid
21 by the person making and filing the same, and shall, not
22 later than the first day of June, ~~certify-to-the-state~~
23 ~~treasurer-the-name-of-each-person-subject-to-the-payment--of~~
24 ~~license--taxes--under-the-provisions-of-this-act,-the-amount~~
25 ~~thereof-to-be-paid-by-such-person,-The-said-department-shall~~

1 ~~at-the-same-time~~ mail to each person making and filing such
2 statement and return, a written notice of the amount of the
3 license tax to be paid by each, respectively, that the same
4 is due and payable ~~to-the-state-treasurer,~~ and that it will
5 become delinquent at five o'clock p. m. on the thirtieth day
6 of June, immediately following, and that if the same becomes
7 delinquent a penalty of ten per-centum percent (10%) will be
8 added thereto, and that the whole amount of such license
9 tax, with penalty added, will bear interest at the rate of
10 twelve-per-centum-per-annum one percent (1%) per month or
11 fraction thereof from the date the same becomes delinquent
12 until paid. If any such person, has sold or otherwise
13 disposed of any of its mine's products at a price
14 substantially below the true market price of such product at
15 the time and place of such sale or disposal, then the state
16 department of revenue shall compute the gross value of such
17 portion of said mine's product, so sold or disposed of
18 substantially below the market price as aforesaid, which
19 gross value shall be based upon the quotations of the price
20 of such mine's product in New York City, at the time such
21 portion of the product was so sold or otherwise disposed of
22 as evidenced by some established authority or market report,
23 such as the Engineering and Mining Journal, of New York, or
24 some other standard publication, giving the market reports
25 for the year covered by such statement. Should there be no

1 quotation covering any particular product, then the state
 2 department of revenue shall fix the value of such gross
 3 product, or such portion thereof, as shall have been sold or
 4 otherwise disposed of at a price substantially below the
 5 true market price at the time and place of such sale or
 6 disposal in such a manner as may seem to be equitable."

7 Section 5. Section 84-2007, R.C.M. 1947, is amended to
 8 read as follows:

9 "84-2007. Delinquent taxes--penalty. All license taxes
 10 assessed under the provisions of this act shall become
 11 delinquent if not paid by five o'clock p.m., on the
 12 thirtieth day of June following the date when the same are
 13 assessed ~~and--certified--to--the--state--treasurer,~~ and as the
 14 same become delinquent a penalty of ten ~~per--centum~~ percent
 15 (10%) shall be added thereto, and the whole amount of said
 16 license tax, with penalty added, shall bear interest at the
 17 rate of ~~twelve--per--centum--per--annum~~ one percent (1%) per
 18 month or fraction thereof from the date of becoming
 19 delinquent until paid."

20 Section 6. Section 84-2008, R.C.M. 1947, is amended to
 21 read as follows:

22 "84-2008. Procedure in case of failure to file
 23 statement. If any person shall fail, refuse or neglect to
 24 make and file such statement and return within the time
 25 prescribed, the state department of revenue, shall,

1 immediately after such time has expired, ascertain and
 2 determine as nearly as may be possible from any returns or
 3 reports filed with any state or county officer or board
 4 under any law of this state, and from any other information
 5 which the department may be able to obtain, the total gross
 6 value of product of such person from such business during
 7 the calendar year immediately preceding the year in which
 8 the license tax is to be paid, ~~and--license--issued,~~ and shall
 9 make and file a statement showing the amount of such gross
 10 value of product and shall ascertain and determine and
 11 compute and assess the amount of the license taxes due from,
 12 and to be paid by such person, and shall immediately ~~certify~~
 13 ~~the--same--to--the--state--treasurer,~~ and give notice to such
 14 person in the same manner as though such statement had been
 15 filed within time, and ~~the--state~~ shall proceed to collect
 16 such license tax, adding thereto and collecting therewith,
 17 if the same is delinquent, the same penalty and interest as
 18 provided for herein for other delinquencies."

19 Section 7. Section 84-2009, R.C.M. 1947, is amended to
 20 read as follows:

21 "84-2009. False or erroneous statements--investigation
 22 concerning. (1) Should the state director of the department
 23 of revenue have reason to believe that any statement and
 24 return is false, or erroneous in any particular, it may
 25 require the person, or if made by a corporation, association

1 or company, the officers thereof, and the employees of any
 2 such person, corporation, association or company, to appear
 3 before the director of revenue or his agent and testify
 4 concerning the same and any statement contained therein, and
 5 may examine all books, records, papers and documents of such
 6 person pertaining to such business, upon giving five days'
 7 written notice to such persons, or officers or employees
 8 thereof having custody of such books, records, papers and
 9 documents, and any person failing, refusing or neglecting to
 10 so appear, or refusing to be sworn or to testify, or
 11 refusing to answer any material question propounded by the
 12 director or any of his employees, or refusing to permit the
 13 director, or his employees to examine such books, records,
 14 papers or documents, or any thereof, pertaining to such
 15 business, shall be deemed guilty of a misdemeanor, and upon
 16 conviction thereof shall be punished by a fine of not more
 17 than one thousand dollars, or by imprisonment in the county
 18 jail for a term not exceeding six months, or by both such
 19 fine and imprisonment. If the director, after hearing such
 20 evidence and after such examination of the books, papers,
 21 documents and records of such person, shall find and
 22 determine that such statement and return is erroneous or
 23 false in any material matter, the director shall change and
 24 correct the same so as to show the true gross value of
 25 product and shall reassess the amount of the license tax due

1 from such person, and may add thereto a penalty of not
 2 exceeding fifty ~~per--centum~~ percent (50%), and shall
 3 thereupon immediately ~~certify-the-amount-of-such-license-tax~~
 4 ~~with--the--penalty-added-thereto-to-the-state-treasurer,-and~~
 5 ~~shall-at-the-same-time~~ mail to such person a written notice
 6 of the corrections and changes made in such statement and
 7 return and the amount of the license tax and penalty
 8 ~~certified-to-the-state-treasurer~~ due and payable.

9 (2) The state ~~treasurer~~ department of revenue shall
 10 collect such license tax with penalty added, and if the same
 11 has become delinquent he shall also collect interest thereon
 12 from the date of delinquency until paid at the rate of
 13 ~~twelve--per--centum--per-annum~~ one percent (1%) per month or
 14 fraction thereof. Provided further, that in order to verify
 15 such statement and return the state department of revenue
 16 may require any person, corporation, association, or company
 17 engaged in the business of smelting, milling, reduction or
 18 treatment in any manner of ores extracted or produced from
 19 any mine or mining property in the state of Montana to
 20 appear before the director of revenue and testify concerning
 21 the gross mineral content of any such ore, or at the request
 22 of said director to furnish sworn statements showing the
 23 gross yield of such ores, mineral products or deposits in
 24 constituents of commercial value, that is to say, the number
 25 of ounces of gold, silver, pounds of copper, lead or zinc,

1 or other commercially valuable constituents of said ores or
 2 mineral products or deposits, measured by standard units of
 3 measurement during the period covered by such statement,
 4 without any deductions whatsoever for smelting, milling,
 5 reduction or treatment of such ores or mineral product.

6 (3) The books, records, papers and documents of such
 7 person, corporation, association or company engaged in the
 8 business of smelting, milling, reduction or treatment in any
 9 manner of ores extracted or produced by any mine or mining
 10 property in the state of Montana shall be open to inspection
 11 and examination by the director of revenue or his employees
 12 at any time or place that the director may designate.

13 (4) If any person required by this act to make or file
 14 any statement, or to verify, under oath any statement, shall
 15 make such statement false in any material respect, or shall
 16 verify, under oath, any statement false in any respect or
 17 shall fail, neglect or refuse to file any statement required
 18 by said state department of revenue or shall refuse to
 19 appear before the director of revenue to testify concerning
 20 the gross mineral content of any such ore, or shall refuse
 21 to allow the director or his employees at any time or place
 22 to inspect or examine the books, records, papers and
 23 documents of such person, corporation, association or
 24 company engaged in the business of smelting, milling,
 25 reduction or treatment in any manner of ores extracted or

1 produced by any mine or mining property in the state of
 2 Montana, shall be deemed guilty of a misdemeanor and shall
 3 be punished by a fine of not exceeding one thousand dollars
 4 (\$1,000), or by imprisonment in the county jail for not
 5 exceeding six months, or by both such fine and
 6 imprisonment."

7 Section 8. Section 84-2010, R.C.M. 1947, is amended to
 8 read as follows:

9 "84-2010. Hearing on determination of value of gross
 10 product or amount of tax. Every person whose license tax has
 11 been determined and assessed by the state department of
 12 revenue under any of the provisions of this act, who shall
 13 feel aggrieved by the determination and assessment of the
 14 department as to the amount of gross value of product, or as
 15 to the amount of the license tax, may, at any time within
 16 ten days after the date of notice thereof, required to be
 17 given to such person, file with the state tax appeal board a
 18 petition for a hearing in which petition must be stated and
 19 set forth particularly and specifically the grounds and
 20 reasons therefor, and the manner in which the amount of the
 21 gross value of product or the amount of the license tax, or
 22 both, should be changed or corrected. Upon the filing of
 23 such petition, if it appears to the satisfaction of the
 24 state tax appeal board therefrom that the department of
 25 revenue has erred in any manner in ascertaining and

1 determining the amount of the gross value of product, or the
 2 amount of the license tax, or both, the board shall
 3 immediately correct such error, or errors, and if such
 4 correction shall be in conformity with the request contained
 5 in the petition for a hearing the board shall take no
 6 further steps in connection with such petition, other than
 7 to ~~certify-to~~ notify the state ~~treasurer~~ department of
 8 revenue of the correct amount of the license tax due from
 9 such person after the making of such correction, and
 10 notifying such person thereof. If, from such examination,
 11 it does not appear to the satisfaction of the state tax
 12 appeal board that the department of revenue has erred in any
 13 manner the board shall grant the hearing, fix a day when the
 14 board will take up and hear such matter, and give notice to
 15 such person of such date of hearing as the board may deem
 16 reasonable. ~~On--such~~ At the hearing of such person, any
 17 taxpayer interested, and the department of revenue may
 18 introduce witnesses and present testimony on any material
 19 matters connected with such return and license tax, and
 20 after considering such evidence the board shall fix and
 21 determine the gross value of product, and reassess the
 22 amount of the license tax to be paid by such person, and
 23 give notice thereof ~~in--the--manner--required--by--section~~
 24 84-2006 to such person and the state department of revenue."

25 Section 9. Section 84-2011, R.C.M. 1947, is amended to

1 read as follows:

2 "84-2011. Lien of tax. The license tax assessed
 3 against any person under this act, together with all
 4 penalties and interest thereon, shall be a lien upon any and
 5 all property owned by such person within this state and used
 6 by such person in connection with such business, which lien
 7 shall attach to such property on the date when the notice of
 8 license tax due is-certified-to-the-state--treasurer mailed
 9 OR OTHER STATEMENT IS FILED to-such-person WITH THE PROPER
 10 COUNTY CLERK by the state department of revenue and such
 11 lien may be enforced in the name of the state of Montana, in
 12 the same manner as other JUDGMENT liens are enforced at
 13 law."

14 SECTION 10. THERE IS A NEW R.C.M. SECTION THAT READS
 15 AS FOLLOWS:

16 PROCEDURE FOR COLLECTION OF TAX. ALL TAX, PENALTY, AND
 17 INTEREST DUE FROM ANY PERSON UNDER THIS ACT SHALL BE A LIEN
 18 UPON ANY AND ALL REAL PROPERTY OF SUCH PERSON UPON THE
 19 FILING OF THE STATE DEPARTMENT OF REVENUE OF THE DUPLICATE
 20 OF THE STATEMENT SO MADE BY THE STATE DEPARTMENT OF REVENUE,
 21 OR A CERTIFIED COPY OF ANY STATEMENT FILED BY SAID
 22 DEPARTMENT IN THE OFFICE OF THE COUNTY CLERK IN THE COUNTY
 23 WHERE SUCH REAL PROPERTY IS SITUATED WHICH LIEN SHALL HAVE
 24 PRECEDENCE OVER ANY OTHER CLAIM, LIEN OR DEMAND THEREAFTER
 25 FILED AND RECORDED AND WHICH MAY BE ENFORCED IN THE NAME OF

1 THE STATE OF MONTANA IN THE SAME MANNER AS JUDGMENT LIENS
2 ARE ENFORCED BY LAW.

3 Section 11. Section 84-2013, R.C.M. 1947, is amended
4 to read as follows:

5 "84-2013. Commencing business. If any person shall,
6 after the first day of January of any year, engage in or
7 commence the carrying on of the business of working or
8 operating a mine or mining property in this state, from
9 which any merchantable metal, precious, and semiprecious
10 gems and stones are extracted and produced, such person,
11 must, within sixty (60) days after so engaging in or
12 commencing to carry on such business, notify ~~both~~ the state
13 department of revenue ~~and the state treasurer~~ of such fact."

14 Section 12. Section 84-2012, R.C.M. 1947, is repealed.

15 ~~Section 12. This act is effective on passage and~~
16 ~~approval.~~

-End-

SENATE BILL NO. 146

INTRODUCED BY ROMNEY, CETRONE, MANLEY, JERGESON, CONOVER

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 84-2002, 84-2004, 84-2005, 84-2006, 84-2007, 84-2008, 84-2009, 84-2010, 84-2011, AND 84-2013, R.C.M. 1947, RELATING TO THE METALLIFEROUS MINES LICENSE TAX; REPEALING SECTION 84-2012, R.C.M. 1947, ~~AND PROVIDING AN EFFECTIVE DATE.~~"

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

Section 1. Section 84-2002, R.C.M. 1947, is amended to read as follows:

"84-2002. Persons liable to pay license tax. Every person who engages in or carries on the business of working or operating any mine or mining property in the state of Montana from which gold, silver, copper, lead or any other metal or metals, or precious or semiprecious gems or stones of any kind shall be mined, extracted or produced, whether such person shall carry on such business or engage in such work or operations as owner, lessee, trustee, possessor, receiver, or in any other capacity, must for the year 1925, and each year thereafter, when engaged in or carrying on such business, work or operations, pay to the state ~~treasury~~ department of revenue; for the exclusive use and

benefit of the state of Montana, a license tax for engaging in and carrying on such business, work or operation in this state, ~~and shall pay to such state treasurer for such annual license the taxes hereinafter prescribed,~~ provided, however, that nothing contained in this act shall be construed as requiring laborers or employees hired or employed by any person to mine or to work in or about any mine or mining business or property, ~~to procure such license or~~ to pay such license taxes, nor shall any discovery work required to be done in prospecting for or locating any mining claims, or any annual assessment work, or work required in the obtaining of title to mining property from the United States, or required by the laws of the United States or of this state in order to hold possessory title to any mining claims, be deemed the engaging in or carrying on of the business of working or operating any such mine or mining property."

Section 2. Section 84-2004, R.C.M. 1947, is amended to read as follows:

"84-2004. Amount of tax. The annual license tax to be paid by such person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead or any other metal or metals, precious or semiprecious gems or stones are produced, shall be for the production years commencing on or

1 after January 1, 1970 and for each production year
 2 thereafter, ~~one-dollar-(\$1),--together-with~~ be an additional
 3 ~~sum--or~~ amount computed on the gross value of product which
 4 may have been derived by such person from such business,
 5 work or operation within this state during the calendar year
 6 immediately preceding, at the following rates: The rate of
 7 tax shall be fifteen hundredths of one per cent (0.15 of 1%)
 8 of the first one hundred thousand dollars (\$100,000) of the
 9 gross value of the product, five hundred seventy-five
 10 thousandths of one per cent (0.575 of 1%) of the amount by
 11 which such gross value of product exceeds one hundred
 12 thousand dollars (\$100,000) and does not exceed two hundred
 13 and fifty thousand dollars (\$250,000); eighty-six hundredths
 14 of one per cent (0.86 of 1%) of the amount by which such
 15 gross value of product exceeds two hundred and fifty
 16 thousand dollars (\$250,000) and does not exceed four hundred
 17 thousand dollars (\$400,000); one and fifteen hundredths per
 18 cent (1.15%) of the amount by which the gross value of
 19 product exceeds four hundred thousand dollars (\$400,000) and
 20 does not exceed five hundred thousand dollars (\$500,000) and
 21 one and four hundred thirty-eight thousandths per cent
 22 (1.438%) of the amount by which the gross value of product
 23 exceeds five hundred thousand dollars (\$500,000)."

24 Section 3. Section 84-2005, R.C.M. 1947, is amended to
 25 read as follows:

1 "84-2005. Statement of gross value of product. Every
 2 person engaged in or carrying on the business of working or
 3 operating any mine or mining property in this state from
 4 which gold, silver, copper, lead or any other metal or
 5 metals, precious or semiprecious gems or stones are
 6 produced, must, not later than the fifteenth day of April,
 7 in such year when engaged in or carrying on any such
 8 business, work or operation, make out a statement of the
 9 gross value of product from all mines and mining properties
 10 worked or operated by such person during the calendar year
 11 immediately preceding. Such statement shall be in the form
 12 prescribed by the state department of revenue, ~~and--must--be~~
 13 ~~verified--by--the--oath--of--such--person,--or--the--manager~~
 14 ~~superintendent,--agent,--president--or--vice-president--of--the~~
 15 ~~corporation,--joint--stock--or--other--company--or--syndicate~~ and
 16 must be delivered to the state department of revenue not
 17 later than the fifteenth day of April. The state department
 18 of revenue may grant a reasonable extension of time for
 19 filing statements upon good cause shown therefor. Such
 20 statement shall show the following:

- 21 1. The name and address of the owner or lessee of the
- 22 mine or mining property.
- 23 2. The description and location of the mine or mining
- 24 property.
- 25 3. The number of tons of ore or other mineral products

1 or deposits extracted from the mine or mining property
2 during the period covered by the statement.

3 4. The name and location of the smelter, mill or
4 reduction works to which such ore has been shipped or sold
5 during the period covered by the statement and such other
6 information as the state department of revenue may require.

7 5. The gross yield of such ores, mineral products or
8 deposits in constituents of commercial value, that is to
9 say, the number of ounces of gold or silver, pounds of
10 copper, lead or zinc, or other commercially valuable
11 constituents of said ores or mineral products or deposits,
12 measured by standard units of measurement during the period
13 covered by the statement.

14 6. The gross value of product in dollars and cents."

15 Section 4. Section 84-2006, R.C.M. 1947, is amended to
16 read as follows:

17 "84-2006. Computation and notice of tax. The state
18 department of revenue shall examine each such statement and
19 return filed and determine and ascertain therefrom, and
20 compute and assess the amount of the license tax to be paid
21 by the person making and filing the same, and shall, not
22 later than the first day of June, ~~certify-to-the-state~~
23 ~~treasurer-the-name-of-each-person-subject-to-the-payment--of~~
24 ~~license--taxes--under-the-provisions-of-this-act,-the-amount~~
25 ~~thereof-to-be-paid-by-such-person.-The-said-department-shall~~

1 ~~at-the-same-time~~ mail to each person making and filing such
2 statement and return, a written notice of the amount of the
3 license tax to be paid by each, respectively, that the same
4 is due and payable ~~to-the-state-treasurer,~~ and that it will
5 become delinquent at five o'clock p. m. on the thirtieth day
6 of June, immediately following, and that if the same becomes
7 delinquent a penalty of ten ~~per-centum~~ percent (10%) will be
8 added thereto, and that the whole amount of such license
9 tax, with penalty added, will bear interest at the rate of
10 ~~twelve-per-centum-per-annum~~ one percent (1%) per month or
11 fraction thereof from the date the same becomes delinquent
12 until paid. If any such person, has sold or otherwise
13 disposed of any of its mine's products at a price
14 substantially below the true market price of such product at
15 the time and place of such sale or disposal, then the state
16 department of revenue shall compute the gross value of such
17 portion of said mine's product, so sold or disposed of
18 substantially below the market price as aforesaid, which
19 gross value shall be based upon the quotations of the price
20 of such mine's product in New York City, at the time such
21 portion of the product was so sold or otherwise disposed of
22 as evidenced by some established authority or market report,
23 such as the Engineering and Mining Journal, of New York, or
24 some other standard publication, giving the market reports
25 for the year covered by such statement. Should there be no

1 quotation covering any particular product, then the state
 2 department of revenue shall fix the value of such gross
 3 product, or such portion thereof, as shall have been sold or
 4 otherwise disposed of at a price substantially below the
 5 true market price at the time and place of such sale or
 6 disposal in such a manner as may seem to be equitable."

7 Section 5. Section 84-2007, R.C.M. 1947, is amended to
 8 read as follows:

9 "84-2007. Delinquent taxes--penalty. All license taxes
 10 assessed under the provisions of this act shall become
 11 delinquent if not paid by five o'clock p.m., on the
 12 thirtieth day of June following the date when the same are
 13 assessed ~~and--certified--to-the-state-treasurer~~, and as the
 14 same become delinquent a penalty of ten ~~per--centum~~ percent
 15 (10%) shall be added thereto, and the whole amount of said
 16 license tax, with penalty added, shall bear interest at the
 17 rate of ~~twelve--per--centum-per-annum~~ one percent (1%) per
 18 month or fraction thereof from the date of becoming
 19 delinquent until paid."

20 Section 6. Section 84-2008, R.C.M. 1947, is amended to
 21 read as follows:

22 "84-2008. Procedure in case of failure to file
 23 statement. If any person shall fail, refuse or neglect to
 24 make and file such statement and return within the time
 25 prescribed, the state department of revenue, shall,

1 immediately after such time has expired, ascertain and
 2 determine as nearly as may be possible from any returns or
 3 reports filed with any state or county officer or board
 4 under any law of this state, and from any other information
 5 which the department may be able to obtain, the total gross
 6 value of product of such person from such business during
 7 the calendar year immediately preceding the year in which
 8 the license tax is to be paid, ~~and--license-issued~~, and shall
 9 make and file a statement showing the amount of such gross
 10 value of product and shall ascertain and determine and
 11 compute and assess the amount of the license taxes due from,
 12 and to be paid by such person, and shall immediately ~~certify~~
 13 ~~the-same-to-the-state-treasurer~~, and give notice to such
 14 person in the same manner as though such statement had been
 15 filed within time, and ~~the-state~~ shall proceed to collect
 16 such license tax, adding thereto and collecting therewith,
 17 if the same is delinquent, the same penalty and interest as
 18 provided for herein for other delinquencies."

19 Section 7. Section 84-2009, R.C.M. 1947, is amended to
 20 read as follows:

21 "84-2009. False or erroneous statements--investigation
 22 concerning. (1) Should the state director of the department
 23 of revenue have reason to believe that any statement and
 24 return is false, or erroneous in any particular, it may
 25 require the person, or if made by a corporation, association

1 or company, the officers thereof, and the employees of any
 2 such person, corporation, association or company, to appear
 3 before the director of revenue or his agent and testify
 4 concerning the same and any statement contained therein, and
 5 may examine all books, records, papers and documents of such
 6 person pertaining to such business, upon giving five days'
 7 written notice to such persons, or officers or employees
 8 thereof having custody of such books, records, papers and
 9 documents, and any person failing, refusing or neglecting to
 10 so appear, or refusing to be sworn or to testify, or
 11 refusing to answer any material question propounded by the
 12 director or any of his employees, or refusing to permit the
 13 director, or his employees to examine such books, records,
 14 papers or documents, or any thereof, pertaining to such
 15 business, shall be deemed guilty of a misdemeanor, and upon
 16 conviction thereof shall be punished by a fine of not more
 17 than one thousand dollars, or by imprisonment in the county
 18 jail for a term not exceeding six months, or by both such
 19 fine and imprisonment. If the director, after hearing such
 20 evidence and after such examination of the books, papers,
 21 documents and records of such person, shall find and
 22 determine that such statement and return is erroneous or
 23 false in any material matter, the director shall change and
 24 correct the same so as to show the true gross value of
 25 product and shall reassess the amount of the license tax due

1 from such person, and may add thereto a penalty of not
 2 exceeding fifty ~~per--centum~~ percent (50%), and shall
 3 thereupon immediately ~~certify-the-amount-of-such-license-tax~~
 4 ~~with--the--penalty-added-thereto-to-the-state-treasurer,-and~~
 5 ~~shall-at-the-same-time~~ mail to such person a written notice
 6 of the corrections and changes made in such statement and
 7 return and the amount of the license tax and penalty
 8 ~~certified-to-the-state-treasurer~~ due and payable.

9 (2) The state ~~treasurer~~ department of revenue shall
 10 collect such license tax with penalty added, and if the same
 11 has become delinquent he shall also collect interest thereon
 12 from the date of delinquency until paid at the rate of
 13 ~~twelve--per--centum--per-annum~~ one percent (1%) per month or
 14 fraction thereof. Provided further, that in order to verify
 15 such statement and return the state department of revenue
 16 may require any person, corporation, association, or company
 17 engaged in the business of smelting, milling, reduction or
 18 treatment in any manner of ores extracted or produced from
 19 any mine or mining property in the state of Montana to
 20 appear before the director of revenue and testify concerning
 21 the gross mineral content of any such ore, or at the request
 22 of said director to furnish sworn statements showing the
 23 gross yield of such ores, mineral products or deposits in
 24 constituents of commercial value, that is to say, the number
 25 of ounces of gold, silver, pounds of copper, lead or zinc,

1 or other commercially valuable constituents of said ores or
 2 mineral products or deposits, measured by standard units of
 3 measurement during the period covered by such statement,
 4 without any deductions whatsoever for smelting, milling,
 5 reduction or treatment of such ores or mineral product.

6 (3) The books, records, papers and documents of such
 7 person, corporation, association or company engaged in the
 8 business of smelting, milling, reduction or treatment in any
 9 manner of ores extracted or produced by any mine or mining
 10 property in the state of Montana shall be open to inspection
 11 and examination by the director of revenue or his employees
 12 at any time or place that the director may designate.

13 (4) If any person required by this act to make or file
 14 any statement, or to verify, under oath any statement, shall
 15 make such statement false in any material respect, or shall
 16 verify, under oath, any statement false in any respect or
 17 shall fail, neglect or refuse to file any statement required
 18 by said state department of revenue or shall refuse to
 19 appear before the director of revenue to testify concerning
 20 the gross mineral content of any such ore, or shall refuse
 21 to allow the director or his employees at any time or place
 22 to inspect or examine the books, records, papers and
 23 documents of such person, corporation, association or
 24 company engaged in the business of smelting, milling,
 25 reduction or treatment in any manner of ores extracted or

1 produced by any mine or mining property in the state of
 2 Montana, shall be deemed guilty of a misdemeanor and shall
 3 be punished by a fine of not exceeding one thousand dollars
 4 (\$1,000), or by imprisonment in the county jail for not
 5 exceeding six months, or by both such fine and
 6 imprisonment."

7 Section 8. Section 84-2010, R.C.M. 1947, is amended to
 8 read as follows:

9 "84-2010. Hearing on determination of value of gross
 10 product or amount of tax. Every person whose license tax has
 11 been determined and assessed by the state department of
 12 revenue under any of the provisions of this act, who shall
 13 feel aggrieved by the determination and assessment of the
 14 department as to the amount of gross value of product, or as
 15 to the amount of the license tax, may, at any time within
 16 ten days after the date of notice thereof, required to be
 17 given to such person, file with the state tax appeal board a
 18 petition for a hearing in which petition must be stated and
 19 set forth particularly and specifically the grounds and
 20 reasons therefor, and the manner in which the amount of the
 21 gross value of product or the amount of the license tax, or
 22 both, should be changed or corrected. Upon the filing of
 23 such petition, if it appears to the satisfaction of the
 24 state tax appeal board therefrom that the department of
 25 revenue has erred in any manner in ascertaining and

1 determining the amount of the gross value of product, or the
 2 amount of the license tax, or both, the board shall
 3 immediately correct such error, or errors, and if such
 4 correction shall be in conformity with the request contained
 5 in the petition for a hearing the board shall take no
 6 further steps in connection with such petition, other than
 7 to ~~certify-to~~ notify the state ~~treasurer~~ department of
 8 revenue of the correct amount of the license tax due from
 9 such person after the making of such correction, and
 10 notifying such person thereof. If, from such examination,
 11 it does not appear to the satisfaction of the state tax
 12 appeal board that the department of revenue has erred in any
 13 manner the board shall grant the hearing, fix a day when the
 14 board will take up and hear such matter, and give notice to
 15 such person of such date of hearing as the board may deem
 16 reasonable. ~~On--such~~ At the hearing of such person, any
 17 taxpayer interested, and the department of revenue may
 18 introduce witnesses and present testimony on any material
 19 matters connected with such return and license tax, and
 20 after considering such evidence the board shall fix and
 21 determine the gross value of product, and reassess the
 22 amount of the license tax to be paid by such person, and
 23 give notice thereof ~~in--the--manner--required--by--section~~
 24 84-2006 to such person and the state department of revenue."

25 Section 9. Section 84-2011, R.C.M. 1947, is amended to

1 read as follows:

2 "84-2011. Lien of tax. The license tax assessed
 3 against any person under this act, together with all
 4 penalties and interest thereon, shall be a lien upon any and
 5 all property owned by such person within this state and used
 6 by such person in connection with such business, which lien
 7 shall attach to such property on the date when the notice of
 8 license tax due is-certified-to-the-state--treasurer mailed
 9 OR OTHER STATEMENT IS FILED to-such-person WITH THE PROPER
 10 COUNTY CLERK by the state department of revenue and such
 11 lien may be enforced in the name of the state of Montana, in
 12 the same manner as other JUDGMENT liens are enforced at
 13 law."

14 SECTION 10. THERE IS A NEW R.C.M. SECTION THAT READS
 15 AS FOLLOWS:

16 PROCEDURE FOR COLLECTION OF TAX. ALL TAX, PENALTY, AND
 17 INTEREST DUE FROM ANY PERSON UNDER THIS ACT SHALL BE A LIEN
 18 UPON ANY AND ALL REAL PROPERTY OF SUCH PERSON UPON THE
 19 FILING OF THE STATE DEPARTMENT OF REVENUE OF THE DUPLICATE
 20 OF THE STATEMENT SO MADE BY THE STATE DEPARTMENT OF REVENUE,
 21 OR A CERTIFIED COPY OF ANY STATEMENT FILED BY SAID
 22 DEPARTMENT IN THE OFFICE OF THE COUNTY CLERK IN THE COUNTY
 23 WHERE SUCH REAL PROPERTY IS SITUATED WHICH LIEN SHALL HAVE
 24 PRECEDENCE OVER ANY OTHER CLAIM, LIEN OR DEMAND THEREAFTER
 25 FILED AND RECORDED AND WHICH MAY BE ENFORCED IN THE NAME OF

1 THE STATE OF MONTANA IN THE SAME MANNER AS JUDGMENT LIENS
2 ARE ENFORCED BY LAW.

3 Section 11. Section 84-2013, R.C.M. 1947, is amended
4 to read as follows:

5 "84-2013. Commencing business. If any person shall,
6 after the first day of January of any year, engage in or
7 commence the carrying on of the business of working or
8 operating a mine or mining property in this state, from
9 which any merchantable metal, precious, and semiprecious
10 gems and stones are extracted and produced, such person,
11 must, within sixty (60) days after so engaging in or
12 commencing to carry on such business, notify both the state
13 department of revenue ~~and the state treasurer~~ of such fact."

14 Section 12. Section 84-2012, R.C.M. 1947, is repealed.

15 ~~Section 12. This act is effective on passage and~~
16 ~~approval.~~

-End-

1 SENATE BILL NO. 146
2 INTRODUCED BY ROMNEY, CETRONE, MANLEY, JERGESON, CONOVER
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
5 34-2002, 34-2004, 34-2005, 34-2006, 34-2007, 34-2008,
6 34-2009, 34-2010, 34-2011, AND 34-2013, R.C.M. 1947,
7 RELATING TO THE METALLIFEROUS MINES LICENSE TAX; REPEALING
8 SECTION 34-2012, R.C.M. 1947;~~AND PROVIDING AN EFFECTIVE~~
9 DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 34-2002, R.C.M. 1947, is amended to
13 read as follows:

14 "34-2002. Persons liable to pay license tax. Every
15 person who engages in or carries on the business of working
16 or operating any mine or mining property in the state of
17 Montana from which gold, silver, copper, lead or any other
18 metal or metals, or precious or semiprecious gems or stones
19 of any kind shall be mined, extracted or produced, whether
20 such person shall carry on such business or engage in such
21 work or operations as owner, lessee, trustee, possessor,
22 receiver, or in any other capacity, must for the year 1925,
23 and each year thereafter, when engaged in or carrying on
24 such business, work or operations, pay to the state
25 ~~treasurer,~~ department of revenue; for the exclusive use and

1 benefit of the state of Montana, a license tax for engaging
2 in and carrying on such business, work or operation in this
3 state, ~~and shall pay to such state treasurer for such annual~~
4 ~~license the taxes hereinafter prescribed,~~ provided, however,
5 that nothing contained in this act shall be construed as
6 requiring laborers or employees hired or employed by any
7 person to mine or to work in or about any mine or mining
8 business or property, ~~to procure such license or~~ to pay such
9 license taxes, nor shall any discovery work required to be
10 done in prospecting for or locating any mining claims, or
11 any annual assessment work, or work required in the
12 obtaining of title to mining property from the United
13 States, or required by the laws of the United States or of
14 this state in order to hold possessory title to any mining
15 claims, be deemed the engaging in or carrying on of the
16 business of working or operating any such mine or mining
17 property."

18 Section 2. Section 34-2004, R.C.M. 1947, is amended to
19 read as follows:

20 "34-2004. Amount of tax. The annual license tax to be
21 paid by such person engaged in or carrying on the business
22 of working or operating any mine or mining property in this
23 state from which gold, silver, copper, lead or any other
24 metal or metals, precious or semiprecious gems or stones are
25 produced, shall be for the production years commencing on or

1 after January 1, 1970 and for each production year
 2 thereafter, ~~one-dollar-(\$1)-together-with~~ be an additional
 3 ~~sum--or~~ amount computed on the gross value of product which
 4 may have been derived by such person from such business,
 5 work or operation within this state during the calendar year
 6 immediately preceding, at the following rates: The rate of
 7 tax shall be fifteen hundredths of one per cent (0.15 of 1%)
 8 of the first one hundred thousand dollars (\$100,000) of the
 9 gross value of the product, five hundred seventy-five
 10 thousandths of one per cent (0.575 of 1%) of the amount by
 11 which such gross value of product exceeds one hundred
 12 thousand dollars (\$100,000) and does not exceed two hundred
 13 and fifty thousand dollars (\$250,000); eighty-six hundredths
 14 of one per cent (0.86 of 1%) of the amount by which such
 15 gross value of product exceeds two hundred and fifty
 16 thousand dollars (\$250,000) and does not exceed four hundred
 17 thousand dollars (\$400,000); one and fifteen hundredths per
 18 cent (1.15%) of the amount by which the gross value of
 19 product exceeds four hundred thousand dollars (\$400,000) and
 20 does not exceed five hundred thousand dollars (\$500,000) and
 21 one and four hundred thirty-eight thousandths per cent
 22 (1.438%) of the amount by which the gross value of product
 23 exceeds five hundred thousand dollars (\$500,000)."

24 Section 3. Section 84-2005, R.C.M. 1947, is amended to
 25 read as follows:

1 "84-2005. Statement of gross value of product. Every
 2 person engaged in or carrying on the business of working or
 3 operating any mine or mining property in this state from
 4 which gold, silver, copper, lead or any other metal or
 5 metals, precious or semiprecious gems or stones are
 6 produced, must, not later than the fifteenth day of April,
 7 in such year when engaged in or carrying on any such
 8 business, work or operation, make out a statement of the
 9 gross value of product from all mines and mining properties
 10 worked or operated by such person during the calendar year
 11 immediately preceding. Such statement shall be in the form
 12 prescribed by the state department of revenue, ~~and--must--be~~
 13 ~~verified--by--the--oath--of--such--person;--or--the--manager,~~
 14 ~~superintendent, agent, president or vice-president of the~~
 15 ~~corporation,--joint--stock--or--other--company--or--syndicate~~ and
 16 must be delivered to the state department of revenue not
 17 later than the fifteenth day of April. The state department
 18 of revenue may grant a reasonable extension of time for
 19 filing statements upon good cause shown therefor. Such
 20 statement shall show the following:

- 21 1. The name and address of the owner or lessee of the
 22 mine or mining property.
- 23 2. The description and location of the mine or mining
 24 property.
- 25 3. The number of tons of ore or other mineral products

1 or deposits extracted from the mine or mining property
2 during the period covered by the statement.

3 4. The name and location of the smelter, mill or
4 reduction works to which such ore has been shipped or sold
5 during the period covered by the statement and such other
6 information as the state department of revenue may require.

7 5. The gross yield of such ores, mineral products or
8 deposits in constituents of commercial value, that is to
9 say, the number of ounces of gold or silver, pounds of
10 copper, lead or zinc, or other commercially valuable
11 constituents of said ores or mineral products or deposits,
12 measured by standard units of measurement during the period
13 covered by the statement.

14 6. The gross value of product in dollars and cents."

15 Section 4. Section 84-2006, R.C.M. 1947, is amended to
16 read as follows:

17 "84-2006. Computation and notice of tax. The state
18 department of revenue shall examine each such statement and
19 return filed and determine and ascertain therefrom, and
20 compute and assess the amount of the license tax to be paid
21 by the person making and filing the same, and shall, not
22 later than the first day of June, ~~certify to the state~~
23 ~~treasurer the name of each person subject to the payment of~~
24 ~~license taxes under the provisions of this act, the amount~~
25 ~~thereof to be paid by such person. The said department shall~~

1 ~~at the same time~~ mail to each person making and filing such
2 statement and return, a written notice of the amount of the
3 license tax to be paid by each, respectively, that the same
4 is due and payable ~~to the state treasurer,~~ and that it will
5 become delinquent at five o'clock p. m. on the thirtieth day
6 of June, immediately following, and that if the same becomes
7 delinquent a penalty of ten ~~per centum~~ percent (10%) will be
8 added thereto, and that the whole amount of such license
9 tax, with penalty added, will bear interest at the rate of
10 ~~twelve per centum per annum~~ one percent (1%) per month or
11 fraction thereof from the date the same becomes delinquent
12 until paid. If any such person, has sold or otherwise
13 disposed of any of its mine's products at a price
14 substantially below the true market price of such product at
15 the time and place of such sale or disposal, then the state
16 department of revenue shall compute the gross value of such
17 portion of said mine's product, so sold or disposed of
18 substantially below the market price as aforesaid, which
19 gross value shall be based upon the quotations of the price
20 of such mine's product in New York City, at the time such
21 portion of the product was so sold or otherwise disposed of
22 as evidenced by some established authority or market report,
23 such as the Engineering and Mining Journal, of New York, or
24 some other standard publication, giving the market reports
25 for the year covered by such statement. Should there be no

1 quotation covering any particular product, then the state
 2 department of revenue shall fix the value of such gross
 3 product, or such portion thereof, as shall have been sold or
 4 otherwise disposed of at a price substantially below the
 5 true market price at the time and place of such sale or
 6 disposal in such a manner as may seem to be equitable."

7 Section 5. Section 84-2007, R.C.M. 1947, is amended to
 8 read as follows:

9 "84-2007. Delinquent taxes--penalty. All license taxes
 10 assessed under the provisions of this act shall become
 11 delinquent if not paid by five o'clock p.m., on the
 12 thirtieth day of June following the date when the same are
 13 assessed ~~and--certified--to-the-state-treasurer~~, and as the
 14 same become delinquent a penalty of ten ~~per--centum~~ percent
 15 (10%) shall be added thereto, and the whole amount of said
 16 license tax, with penalty added, shall bear interest at the
 17 rate of ~~twelve--per--centum-per-annum~~ one percent (1%) per
 18 month or fraction thereof from the date of becoming
 19 delinquent until paid."

20 Section 6. Section 84-2008, R.C.M. 1947, is amended to
 21 read as follows:

22 "84-2008. Procedure in case of failure to file
 23 statement. If any person shall fail, refuse or neglect to
 24 make and file such statement and return within the time
 25 prescribed, the state department of revenue, shall,

1 immediately after such time has expired, ascertain and
 2 determine as nearly as may be possible from any returns or
 3 reports filed with any state or county officer or board
 4 under any law of this state, and from any other information
 5 which the department may be able to obtain, the total gross
 6 value of product of such person from such business during
 7 the calendar year immediately preceding the year in which
 8 the license tax is to be paidy-~~and-license-issued~~y and shall
 9 make and file a statement showing the amount of such gross
 10 value of product and shall ascertain and determine and
 11 compute and assess the amount of the license taxes due from,
 12 and to be paid by such person, and shall immediately ~~certify~~
 13 ~~the-same-to-the-state-treasurer~~, and give notice to such
 14 person in the same manner as though such statement had been
 15 filed within time, and ~~the-state~~ shall proceed to collect
 16 such license tax, adding thereto and collecting therewith,
 17 if the same is delinquent, the same penalty and interest as
 18 provided for herein for other delinquencies."

19 Section 7. Section 84-2009, R.C.M. 1947, is amended to
 20 read as follows:

21 "84-2009. False or erroneous statements --
 22 investigation concerning. (1) Should the state director of
 23 the department of revenue have reason to believe that any
 24 statement and return is false, or erroneous in any
 25 particular, it may require the person, or if made by a

1 corporation, association or company, the officers thereof,
 2 and the employees of any such person, corporation,
 3 association or company, to appear before the director of
 4 revenue or his agent and testify concerning the same and any
 5 statement contained therein, and may examine all books,
 6 records, papers and documents of such person pertaining to
 7 such business, upon giving five days' written notice to such
 8 persons, or officers or employees thereof having custody of
 9 such books, records, papers and documents, and any person
 10 failing, refusing or neglecting to so appear, or refusing to
 11 be sworn or to testify, or refusing to answer any material
 12 question propounded by the director or any of his employees,
 13 or refusing to permit the director, or his employees to
 14 examine such books, records, papers or documents, or any
 15 thereof, pertaining to such business, shall be deemed guilty
 16 of a misdemeanor, and upon conviction thereof shall be
 17 punished by a fine of not more than one thousand dollars, or
 18 by imprisonment in the county jail for a term not exceeding
 19 six months, or by both such fine and imprisonment. If the
 20 director, after hearing such evidence and after such
 21 examination of the books, papers, documents and records of
 22 such person, shall find and determine that such statement
 23 and return is erroneous or false in any material matter, the
 24 director shall change and correct the same so as to show the
 25 true gross value of product and shall reassess the amount of

1 the license tax due from such person, and may add thereto a
 2 penalty of not exceeding fifty per-centum percent (50%), and
 3 shall thereupon immediately ~~certify--the--amount--of--such~~
 4 ~~license-tax-with-the-penalty--added--thereto--to--the--state~~
 5 ~~treasurer,--and-shall-at-the-same-time~~ mail to such person a
 6 written notice of the corrections and changes made in such
 7 statement and return and the amount of the license tax and
 8 penalty ~~certified-to-the-state-treasurer~~ due and payable.

9 (2) The state ~~treasurer~~ department of revenue shall
 10 collect such license tax with penalty added, and if the same
 11 has become delinquent he shall also collect interest thereon
 12 from the date of delinquency until paid at the rate of
 13 ~~twelve-per-centum-per-annum~~ one percent (1%) per month or
 14 fraction thereof. Provided further, that in order to verify
 15 such statement and return the state department of revenue
 16 may require any person, corporation, association, or company
 17 engaged in the business of smelting, milling, reduction or
 18 treatment in any manner of ores extracted or produced from
 19 any mine or mining property in the state of Montana to
 20 appear before the director of revenue and testify concerning
 21 the gross mineral content of any such ore, or at the request
 22 of said director to furnish sworn statements showing the
 23 gross yield of such ores, mineral products or deposits in
 24 constituents of commercial value, that is to say, the number
 25 of ounces of gold, silver, pounds of copper, lead or zinc,

1 or other commercially valuable constituents of said ores or
 2 mineral products or deposits, measured by standard units of
 3 measurement during the period covered by such statement,
 4 without any deductions whatsoever for smelting, milling,
 5 reduction or treatment of such ores or mineral product.

6 (3) The books, records, papers and documents of such
 7 person, corporation, association or company engaged in the
 8 business of smelting, milling, reduction or treatment in any
 9 manner of ores extracted or produced by any mine or mining
 10 property in the state of Montana shall be open to inspection
 11 and examination by the director of revenue or his employees
 12 at any time or place that the director may designate.

13 (4) If any person required by this act to make or file
 14 any statement, or to verify, under oath any statement, shall
 15 make such statement false in any material respect, or shall
 16 verify, under oath, any statement false in any respect or
 17 shall fail, neglect or refuse to file any statement required
 18 by said state department of revenue or shall refuse to
 19 appear before the director of revenue to testify concerning
 20 the gross mineral content of any such ore, or shall refuse
 21 to allow the director or his employees at any time or place
 22 to inspect or examine the books, records, papers and
 23 documents of such person, corporation, association or
 24 company engaged in the business of smelting, milling,
 25 reduction or treatment in any manner of ores extracted or

1 produced by any mine or mining property in the state of
 2 Montana, shall be deemed guilty of a misdemeanor and shall
 3 be punished by a fine of not exceeding one thousand dollars
 4 (\$1,000), or by imprisonment in the county jail for not
 5 exceeding six months, or by both such fine and
 6 imprisonment."

7 Section 8. Section 84-2010, R.C.M. 1947, is amended to
 8 read as follows:

9 "84-2010. Hearing on determination of value of gross
 10 product or amount of tax. Every person whose license tax has
 11 been determined and assessed by the state department of
 12 revenue under any of the provisions of this act, who shall
 13 feel aggrieved by the determination and assessment of the
 14 department as to the amount of gross value of product, or as
 15 to the amount of the license tax, may, at any time within
 16 ten days after the date of notice thereof, required to be
 17 given to such person, file with the state tax appeal board a
 18 petition for a hearing in which petition must be stated and
 19 set forth particularly and specifically the grounds and
 20 reasons therefor, and the manner in which the amount of the
 21 gross value of product or the amount of the license tax, or
 22 both, should be changed or corrected. Upon the filing of
 23 such petition, if it appears to the satisfaction of the
 24 state tax appeal board therefrom that the department of
 25 revenue has erred in any manner in ascertaining and

1 determining the amount of the gross value of product, or the
 2 amount of the license tax, or both, the board shall
 3 immediately correct such error, or errors, and if such
 4 correction shall be in conformity with the request contained
 5 in the petition for a hearing the board shall take no
 6 further steps in connection with such petition, other than
 7 to ~~certify-to~~ notify the state ~~treasurer~~ department of
 8 revenue of the correct amount of the license tax due from
 9 such person after the making of such correction, and
 10 notifying such person thereof. If, from such examination,
 11 it does not appear to the satisfaction of the state tax
 12 appeal board that the department of revenue has erred in any
 13 manner the board shall grant the hearing, fix a day when the
 14 board will take up and hear such matter, and give notice to
 15 such person of such date of hearing as the board may deem
 16 reasonable. ~~On--such~~ At the hearing of such person, any
 17 taxpayer interested, and the department of revenue may
 18 introduce witnesses and present testimony on any material
 19 matters connected with such return and license tax, and
 20 after considering such evidence the board shall fix and
 21 determine the gross value of product, and reassess the
 22 amount of the license tax to be paid by such person, and
 23 give notice thereof ~~in--the--manner--required--by--section~~
 24 ~~84-2006~~ to such person and the state department of revenue."

25 Section 9. Section 84-2011, R.C.M. 1947, is amended to

1 read as follows:

2 "84-2011. Lien of tax. The license tax assessed
 3 against any person under this act, together with all
 4 penalties and interest thereon, shall be a lien upon any and
 5 all property owned by such person within this state and used
 6 by such person in connection with such business, which lien
 7 shall attach to such property on the date when the notice of
 8 license tax due is-certified-to-the-state--treasurer mailed
 9 OR OTHER STATEMENT IS FILED to-such-person WITH THE PROPER
 10 COUNTY CLERK by the state department of revenue and such
 11 lien may be enforced in the name of the state of Montana, in
 12 the same manner as other JUDGMENT liens are enforced at
 13 law."

14 SECTION 10. THERE IS A NEW R.C.M. SECTION THAT READS
 15 AS FOLLOWS:

16 PROCEDURE FOR COLLECTION OF TAX. ALL TAX, PENALTY, AND
 17 INTEREST DUE FROM ANY PERSON UNDER THIS ACT SHALL BE A LIEN
 18 UPON ANY AND ALL REAL PROPERTY OF SUCH PERSON UPON THE
 19 FILING OF THE STATE DEPARTMENT OF REVENUE OF THE DUPLICATE
 20 OF THE STATEMENT SO MADE BY THE STATE DEPARTMENT OF REVENUE,
 21 OR A CERTIFIED COPY OF ANY STATEMENT FILED BY SAID
 22 DEPARTMENT IN THE OFFICE OF THE COUNTY CLERK IN THE COUNTY
 23 WHERE SUCH REAL PROPERTY IS SITUATED WHICH LIEN SHALL HAVE
 24 PRECEDENCE OVER ANY OTHER CLAIM, LIEN OR DEMAND THEREAFTER
 25 FILED AND RECORDED AND WHICH MAY BE ENFORCED IN THE NAME OF

1 THE STATE OF MONTANA IN THE SAME MANNER AS JUDGMENT LIENS
2 ARE ENFORCED BY LAW.

3 Section 11. Section 84-2013, R.C.M. 1947, is amended
4 to read as follows:

5 "84-2013. Commencing business. If any person shall,
6 after the first day of January of any year, engage in or
7 commence the carrying on of the business of working or
8 operating a mine or mining property in this state, from
9 which any merchantable metal, precious, and semiprecious
10 gems and stones are extracted and produced, such person,
11 must, within sixty (60) days after so engaging in or
12 commencing to carry on such business, notify both the state
13 department of revenue ~~and the state treasurer~~ of such fact."

14 Section 12. Section 84-2012, R.C.M. 1947, is repealed.

15 ~~Section 12. This act is effective on passage and~~
16 ~~approval.~~

-End-