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entle BILL NO. 146 1 INTRODUCED BY 2

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 4 84-2002. 84-2004. 84-2005, 84-2006, 84-2007, 84-2008, 5 84-2009, 84-2010, 84-2011, AND 84-2013, R.C.M. 1947, б RELATING TO THE METALLIFEROUS MINES LICENSE TAX; REPEALING 7 SECTION 84-2012, R.C.M. 1947; AND PROVIDING AN EFFECTIVE я 9 DATE."

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 Section 1. Section 84-2002, R.C.M. 1947, is amended to 13 read as follows:

"84-2002. Persons liable to pay license tax. Every 14 15 person who engages in or carries on the business of working 16 or operating any mine or mining property in the state of Montana from which gold, silver, copper, lead or any other 17 18 metal or metals, or precious or semiprecious gems or stones of any kind shall be mined, extracted or produced, whether 19 such person shall carry on such business or engage in such 20 21 work or operations as owner, lessee, trustee, possessor, 22 receiver, or in any other capacity, must for the year 1925, and each year thereafter, when engaged in or carrying on 23 24 such business, work or operations, pay to the state treasurery department of revenue; for the exclusive use and 25

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1 benefit of the state of Montana, a license tax for engaging 2 in and carrying on such business. work or operation in this З 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 done in prospecting for or locating any mining claims, or 10 11 anv annual assessment work, or work required in the 12 obtaining of title to mining property from the United States, or required by the laws of the United States or of 13 this state in order to hold possessory title to any mining 14 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 84-2004, R.C.M. 1947, is amended to 19 read as follows:

20 *84-2004. 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

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after January 1, 1970 and for each production year 1 2 thereafter, one-dollar-(01)7-together-with be an additional з sum--er 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 and fifty thousand dollars (\$250,000); eighty-six hundredths 13 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 person engaged in or carrying on the business of working or 2 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 produced, must, not later than the fifteenth day of April, 6 in such year when engaged in or carrying on any such 7 business, work or operation, make out a statement of the 8 gross value of product from all mines and mining properties 9 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--persony--or--the-managery 14 superintendenty-agenty-president-or--vice-president--of--the 15 corporationy -- foint -- 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

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or deposits extracted from the mine or mining property
 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.

6. The gross value of product in dollars and cents."
Section 4. Section 84-2006, R.C.M. 1947, is amended to
read as follows:

"84-2006. Computation and notice of tax. The state 17 18 department of revenue shall examine each such statement and return filed and determine and ascertain therefrom, and 19 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 treasurer-the-name-of-each-person-subject-to-the-payment--of 23 license-taxes--under-the-provisions-of-this-acty-the-amount 24 thereof-to-be-paid-by-such-person, The-said-department-shall ∠5

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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 tweive-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 guotations 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

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quotation covering any particular product, then the state department of revenue shall fix the value of such gross product, or such portion thereof, as shall have been sold or otherwise disposed of at a price substantially below the true market price at the time and place of such sale or 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 tweive--per--centum-per-annum one percent (1%) per 18 month or fraction thereof from the date of becoming 19 delinguent until paid."

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

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

immediately after such time has expired, ascertain and 1 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 which the department may be able to obtain, the total gross 5 value of product of such person from such business during 6 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 value of product and shall ascertain and determine and 10 11 compute and assess the amount of the license taxes due from, and to be paid by such person, and shall immediately certify 12 13 the--same--to--the--state-treasurery-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 delinguencies."

Section 7. Section 84-2009, R.C.M. 1947, is amended to
 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 -8-

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

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 with-the-penalty-added-thereto-to-the-state--treasurer,--and 4 shall--et-the-same-time mail to such person a written notice 5 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 collect such license tax with penalty added. and if the same 10 11 has become delinquent he shall also collect interest thereon

12 from the date of delinquency until paid at the rate of 13 tweive-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 treatment in any manner of ores extracted or produced from 18 any mine or mining property in the state of Montana to 19 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,

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or other commercially valuable constituents of said ores or
 mineral products or deposits, measured by standard units of
 measurement during the period covered by such statement,
 without any deductions whatsoever for smelting, milling,
 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 company engaged in the business of smelting, milling, 24 25 reduction or treatment in any manner of ores extracted or

produced by any mine or mining property in the state of Montana, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail for not exceeding six months, or by both such fine and 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 state tax appeal board therefrom that the department of 24 25 revenue has erred in any manner in ascertaining and -12-

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1 determining the amount of the gross value of product, or the 2 amount of the license tax, or both, the board shall immediately correct such error, or errors, and if such 3 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 notifying such person thereof. If, from such examination, 10 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 board will take up and hear such matter, and give notice to 14 15 such person of such date of hearing as the board may deem 16 reasonable. On--such At the hearing of such person, any taxpayer interested, and the department of revenue may 17 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 84-3006 to such person and the state department of revenue." 24 Section 9. Section 84-2011, R.C.M. 1947, is amended to 25

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 shall attach to such property on the date when the notice of 7 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, after the first day of January of any year, engage in or 15 16 commence the carrying on of the business of working or 17 operating a mine or mining property in this state, from which any merchantable metal, precious, and semiprecious 18 gems and stones are extracted and produced, such person, 19 must, within sixty (60) days after so engaging in or 20 commencing to carry on such business, notify both the state 21 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.

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Approved by Committee on Taxation

1	SENATE BILL NO. 146
2	INTRODUCED BY ROMNEY, CETRONE, MANLEY, JERGESON, CONOVER
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4	A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
5	84-2002, 84-2004, 84-2005, 84-2006, 84-2007, 84-2008,
6	84-2009, 84-2010, 84-2011, AND 84-2013, R.C.M. 1947,
7	RELATING TO THE METALLIFEROUS MINES LICENSE TAX; REPEALING
8	SECTION 84-2012, R.C.M. 1947ANDPROVIDINGANBPPECTIVE
9	BATE."
10	
11 '	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	Section 1. Section 84-2002, R.C.M. 1947, is amended to
13	read as follows:
14	*84-2002. 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

SECOND READING

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 requiring laborers or employees hired or employed by any 6 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 business of working or operating any such mine or mining 16 property." 17

18 Section 2. Section 84-2004, R.C.M. 1947, is amended to 19 read as follows:

20 *84-2004. 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 produced, shall be for the production years commencing on or 25 -2-SB 146

1 after January 1, 1970 and for each production year 2 thereafter, one-dollar-(\$1);-together-with be an additional 3 sum--er 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 immediately preceding, at the following rates: The rate of 6 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 thousand dollars (\$100,000) and does not exceed two hundred 12 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 thousand dollars (\$400,000); one and fifteen hundredths per 17 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 exceeds five hundred thousand dollars (\$500,000)." 23

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

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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 gross value of product from all mines and mining properties 9 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--personr--of--the-manager, 14 superintendenty-agenty-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
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or deposits extracted from the mine or mining property
 during the period covered by the statement.

4. The name and location of the smelter, mill or 3 reduction works to which such ore has been shipped or sold 4 during the period covered by the statement and such other 5 information as the state department of revenue may require. 6 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 copper, lead or zinc, or other commercially valuable 10 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 department of revenue shall examine each such statement and 18 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 later than the first day of June, certify-to-the-state 22 23 treasurer-the-name-of-each-person-subject-to-the-payment--of 24 license--taxes--under-the-provisions-of-this-act,-the-amount 25 thercof-to-be-paid-by-such-person,-The-said-department-shall -5-SB 146

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 of June, immediately following, and that if the same becomes 6 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 disposed of any of its mine's products at a price 13 14 substantially below the true market price of such product at 15 the time and place of such sale or disposal, then the state department of revenue shall compute the gross value of such 16 17 portion of said mine's product, so sold or disposed of substantially below the market price as aforesaid, which 18 gross value shall be based upon the quotations of the price 19 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 -6-SB 146

quotation covering any particular product, then the state department of revenue shall fix the value of such gross product, or such portion thereof, as shall have been sold or otherwise disposed of at a price substantially below the true market price at the time and place of such sale or 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 delinquent if not paid by five o'clock p.m., on the 11 12 thirtieth day of June following the date when the same are assessed and--certified--to-the-state-treasurer, and as the 13 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, -7- SB 146

1 immediately after such time has expired, ascertain and determine as nearly as may be possible from any returns or 2 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 the calendar year immediately preceding the year in which 7 8 the license tax is to be paidy-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. and to be paid by such person, and shall immediately certify 12 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 such license tax, adding thereto and collecting therewith, 16 17 if the same is delinquent, the same penalty and interest as 18 provided for herein for other delinguencies."

19 Section 7. Section 84-2009, R.C.M. 1947, is amended to20 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 -8- SB 146

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1 or company, the officers thereof, and the employees of any 2 such person, corporation, association or company, to appear before the director of revenue or his agent and testify 3 concerning the same and any statement contained therein, and 4 may examine all books, records, papers and documents of such 5 person pertaining to such business, upon giving five days' 6 written notice to such persons, or officers or employees 7 thereof having custody of such books, records, papers and 8 9 documents, and any person failing, refusing or neglecting to so appear, or refusing to be sworn or to testify, or 10 11 refusing to answer any material question propounded by the 12 director or any of his employees, or refusing to permit the director, or his employees to examine such books, records, 13 papers or documents, or any thereof, pertaining to such 14 15 business, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more 16 17 than one thousand dollars, or by imprisonment in the county jail for a term not exceeding six months, or by both such 18 fine and imprisonment. If the director, after hearing such 19 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 -9-SB 146

from such person, and may add thereto a penalty of not exceeding fifty per--centum percent (50%), and shall thereupon immediately certify-the-amount-of-such-license-tax with--the--penalty-added-thereto-to-the-state-treasurer, and shall-at-the-same-time mail to such person a written notice of the corrections and changes made in such statement and

return and the amount of the license tax and penalty
eertified-to-the-state-treasurer <u>due and payable</u>.

9 (2) The state treasurer department of revenue shall 10 collect such license tax with penalty added, and if the same has become delinquent he shall also collect interest thereon 11 12 from the date of delinguency 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 may require any person, corporation, association, or company 16 17 engaged in the business of smelting, milling, reduction or treatment in any manner of ores extracted or produced from 18 19 any mine or mining property in the state of Montana to appear before the director of revenue and testify concerning 20 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. -10-SB 146

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or other commercially valuable constituents of said ores or
 mineral products or deposits, measured by standard units of
 measurement during the period covered by such statement,
 without any deductions whatsoever for smelting, milling,
 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 -11-SB 146 produced by any mine or mining property in the state of
Montana, shall be deemed guilty of a misdemeanor and shall
be punished by a fine of not exceeding one thousand dollars
(<u>\$1,000</u>), or by imprisonment in the county jail for not
exceeding six months, or by both such fine and
imprisonment."

/ Section 8. Section 84-2010, R.C.M. 1947, is amended to
// 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 revenue under any of the provisions of this act, who shall 12 13 feel aggrieved by the determination and assessment of the department as to the amount of gross value of product, or as 14 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 -12-SB 146

determining the amount of the gross value of product, or the 1 amount of the license tax, or both, the board shall 2 immediately correct such error, or errors, and if such 3 correction shall be in conformity with the request contained 4 in the petition for a hearing the board shall take no 5 further steps in connection with such petition, other than 6 to certify-to notify the state treasurer department of 7 revenue of the correct amount of the license tax due from 8 such person after the making of such correction, and 9 notifying such person thereof. If, from such examination, 10 it does not appear to the satisfaction of the state tax 11 appeal board that the department of revenue has erred in any 12 manner the board shall grant the hearing, fix a day when the 13 board will take up and hear such matter, and give notice to 14 such person of such date of hearing as the board may deem 15 On--such At the hearing of such person, any reasonable. 16 taxpayer interested, and the department of revenue may 17 introduce witnesses and present testimony on any material 18 matters connected with such return and license tax, and 19 after considering such evidence the board shall fix and 20 determine the gross value of product, and reassess the 21 amount of the license tax to be paid by such person, and 22 give notice thereof in--the--manner--required--by--section 23 84-2006 to such person and the state department of revenue." 24 Section 9. Section 84-2011, R.C.M. 1947, is amended to 25 SB 146 -131 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-statetreasurer 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 <u>JUDGMENT</u> 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
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<u>THE STATE OF MONTANA IN THE SAME MANNER AS JUDGMENT LIENS</u>
 <u>ARE ENFORCED BY LAW.</u>
 Section <u>11</u>. Section 84-2013, R.C.M. 1947, is amended
 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." Section 12. Section 84-2012, R.C.M. 1947, is repealed. 14 15 Section-12---This--act--is--effective--on--passage--and 16 approval.

-End-

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S3 146

1 SENATE BILL NO. 146 2 INTRODUCED BY ROMNEY, CETRONE, MANLEY, JERGESON, CONOVER 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 4 84-2004, 84-2005, 84-2006, 84-2007, 84-2008, 5 84-2002, 84-2009, 84-2010, 84-2011, AND 84-2013, R.C.M. 1947. 6 RELATING TO THE METALLIFEROUS MINES LICENSE TAX: REPEALING 7 SECTION 84-2012, R.C.M. 1947--AND--PROVIDING--AN--BPFECTIVE 8 BATE." 9 10 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 84-2002, R.C.M. 1947, is amended to 12 read as follows: 13 "84-2002, Persons liable to pay license tax, Every 14 15 person who engages in or carries on the business of working or operating any mine or mining property in the state of 16 Montana from which gold, silver, copper, lead or any other 17

metal or metals, or precious or semiprecious gems or stones 18 of any kind shall be mined, extracted or produced, whether 19 such person shall carry on such business or engage in such 20 work or operations as owner, lessee, trustee, possessor, 21 receiver. or in any other capacity, must for the year 1925, 22 and each year thereafter, when engaged in or carrying on 23 such business, work or operations, pay to the state 24 treasurer, department of revenue; for the exclusive use and 25

THIRD READING

benefit of the state of Montana, a license tax for engaging 1 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-preseribed, provided, however, 5 that nothing contained in this act shall be construed as requiring laborers or employees hired or employed by any 6 7 person to mine or to work in or about any mine or mining 8 business or property, to-presure-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 States, or required by the laws of the United States or of 13 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 84-2004, R.C.M. 1947, is amended to 19 read as follows:

20 "84-2004. 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 -2- SB 146

1 after January 1, 1970 and for each production year thereafter, one-dollar-(61), together-with be an additional 2 sum--os amount computed on the gross value of product which 3 4 may have been derived by such person from such business. 5 work or operation within this state during the calendar year immediately preceding, at the following rates: The rate of 6 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 thousandths of one per cent (0.575 of 1%) of the amount by 10 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 product exceeds four hundred thousand dollars (\$400,000) and 19 does not exceed five hundred thousand dollars (\$500,000) and 20 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

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25

read as follows:

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"84-2005. Statement of gross value of product. Every 1 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, in such year when engaged in or carrying on any such 7 business, work or operation, make out a statement of the 8 gross value of product from all mines and mining properties 9 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-managery 14 superintendenty-agenty-president-or--vice-president--of--the 15 corporationy -- toint -- 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 statement shall show the following: 20 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 -4-SB 146

or deposits extracted from the mine or mining property
 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 information as the state department of revenue may require. 6 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 copper, lead or zinc, or other commercially valuable 10 constituents of said ores or mineral products or deposits, 11 12 measured by standard units of measurement during the period covered by the statement. 13

6. The gross value of product in dollars and cents."
Section 4. Section 84-2006, R.C.M. 1947, is amended to
read as follows:

*84-2006. Computation and notice of tax. The state 17 18 department of revenue shall examine each such statement and return filed and determine and ascertain therefrom, and 19 compute and assess the amount of the license tax to be paid 20 21 by the person making and filing the same, and shall, not later than the first day of June, certify-to-the-state 22 23 treasurer-the-name-of-each-person-subject-to-the-payment--of 24 license--taxes--under-the-provisions-of-this-acty-the-amount thereof-to-be-paid-by-such-person,-The-said-department-shall 25 ~5~ SB 146

at-the-same-time mail to each person making and filing such 1 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 twelve-per-centum-per-annum one percent (1%) per month or 10 fraction thereof from the date the same becomes delinquent 11 12 until paid. If any such person, has sold or otherwise disposed of any of its mine's products at a price 13 substantially below the true market price of such product at 14 the time and place of such sale or disposal, then the state 15 department of revenue shall compute the gross value of such 16 portion of said mine's product, so sold or disposed of 17 18 substantially below the market price as aforesaid, which 19 gross value shall be based upon the guotations 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 -6-SB 146

1 quotation covering any particular product, then the state 2 department of revenue shall fix the value of such gross product, or such portion thereof, as shall have been sold or 3 otherwise disposed of at a price substantially below the 4 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 delinguent if not paid by five o'clock p.m., on the 11 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 delinguent 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. -7-

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 value of product of such person from such business during 6 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, and to be paid by such person, and shall immediately certify 12 13 the-same-to-the-state-treasurery-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 -8-SB 146

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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 concerning the same and any statement contained therein, and 4 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 director, or his employees to examine such books, records, 13 14 papers or documents, or any thereof, pertaining to such 15 business, shall be deemed quilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more 16 than one thousand dollars, or by imprisonment in the county 17 jail for a term not exceeding six months, or by both such 18 fine and imprisonment. If the director, after hearing such 19 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 -9-SB 146

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-treasurery-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 pavable.

9 (2) The state treasurer department of revenue shall 10 collect such license tax with penalty added, and if the same 11 has become delinguent he shall also collect interest thereon 12 from the date of delinguency until paid at the rate of 13 tweive--per--centum--per-annum one percent (1%) per month or 14 fraction thereof. Provided further, that in order to verify such statement and return the state department of revenue 15 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, -10-SB 146

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or other commercially valuable constituents of said ores or
 mineral products or deposits, measured by standard units of
 measurement during the period covered by such statement,
 without any deductions whatsoever for smelting, milling,
 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 verify, under oath, any statement false in any respect or 16 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 the gross mineral content of any such ore, or shall refuse 20 to allow the director or his employees at any time or place 21 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 -11-SB 146 produced by any mine or mining property in the state of Montana, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail for not exceeding six months, or by both such fine and 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 to the amount of the license tax, may, at any time within 15 ten days after the date of notice thereof, required to be 16 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 gross value of product or the amount of the license tax, or 21 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 revenue has erred in any manner in ascertaining and 25 -12-SB 146

determining the amount of the gross value of product, or the 1 2 amount of the license tax, or both, the board shall immediately correct such error, or errors, and if such 3 correction shall be in conformity with the request contained 4 in the petition for a hearing the board shall take no 5 6 further steps in connection with such petition, other than to certify-to notify the state treasurer department of 7 revenue of the correct amount of the license tax due from 8 such person after the making of such correction, and 9 10 notifying such person thereof. If, from such examination, it does not appear to the satisfaction of the state tax 11 appeal board that the department of revenue has erred in any 12 manner the board shall grant the hearing, fix a day when the 13 board will take up and hear such matter, and give notice to 14 such person of such date of hearing as the board may deem 15 reasonable. On--such At the hearing of such person, any 16 taxpayer interested, and the department of revenue may 17 introduce witnesses and present testimony on any material 18 matters connected with such return and license tax, and 19 after considering such evidence the board shall fix and 20 determine the gross value of product, and reassess the 21 amount of the license tax to be paid by such person, and 22 give notice thereof in--the--manner--required--by--section 23 84-2006 to such person and the state department of revenue." 24 Section 9. Section 84-2011, R.C.M. 1947, is amended to 25 SB 146 -131 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 INTEREST DUE FROM ANY PERSON UNDER THIS ACT SHALL BE A LIEN 17 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 DEPARTMENT IN THE OFFICE OF THE COUNTY CLERK IN THE COUNTY 22 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 SB 146 -14-

1 THE STATE OF MONTANA IN THE SAME MANNER AS JUDGMENT LIENS

2 ARE ENFORCED BY LAW.

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

5 *84-2013. Commencing business. If any person shall, after the first day of January of any year, engage in or 6 7 commence the carrying on of the business of working or operating a mine or mining property in this state, from 8 9 which any merchantable metal, precious, and semiprecious gems and stones are extracted and produced; such person, 10 11 must, within sixty (60) days after so engaging in or 12 commencing to carry on such business, notify both the state department of revenue and-the-state-treasurer of such fact." 13 Section 12. Section 84-2012, R.C.M. 1947, is repealed. 14 15 16 approvalt

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SB 0146/03

SENATE BILL NO. 146 1 . INTRODUCED BY ROMNEY, CETRONE, MANLEY, JERGESON, CONOVER 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 4 34-2002, 34-2004, 84-2005, 34-2006, 34-2007, 34-2008. 5 6 84-2009. 34-2010. 84-2011, AND 84-2013, R.C.M. 1947, RELATING TO THE METALLIFEROUS MINES LICENSE TAX; REPEALING 7 SECTION 84-2012, R.C.M. 1947;--AND--PROVIDING--AN--BFFECTIVE 8 BATE." 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 12 Section 1. Section 34-2002, R.C.M. 1947, is amended to 13 read as follows: "84-2002. Persons liable to pay license tax. Every 14 person who engages in or carries on the business of working 15 or operating any mine or mining property in the state of 16 Montana from which gold, silver, copper, lead or any other 17 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 treasurer; department of revenue; for the exclusive use and 25

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 claims, be deemed the engaging in or carrying on of the 15 business of working or operating any such mine or mining 16 property." 17 Section 2. Section 84-2004, R.C.M. 1947, is amended to 18

19 read as follows:
20 "84-2004. 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

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after January 1, 1970 and for each production year 1 2 thereafter, one-dollar-(61)7-together-with be an additional sum--of amount computed on the gross value of product which 3 may have been derived by such person from such business. 4 work or operation within this state during the calendar year 5 immediately preceding, at the following rates: The rate of 6 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 of one per cent (0.86 of 1%) of the amount by which such 14 15 gross value of product exceeds two hundred and fifty thousand dollars (\$250.000) and does not exceed four hundred 16 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 exceeds five hundred thousand dollars (\$500,000)." 23

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

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1 "84-2005. Statement of gross value of product. Every 2 person engaged in or carrying on the business of working or operating any mine or mining property in this state from 3 4 which gold, silver, copper, lead or any other metal or 5 metals, precious or semiprecious gems or stones are produced, must, not later than the fifteenth day of April, 6 in such year when engaged in or carrying on any such 7 business, work or operation, make out a statement of the 8 9 gross value of product from all mines and mining properties worked or operated by such person during the calendar year 10 immediately preceding. Such statement shall be in the form 11 prescribed by the state department of revenue,-and--must--be 12 verified--by--the--onth--of--such--persony--or--the-managery 13 superintendenty-agenty-president-or--vice-president--of--the 14 15 corporation,--;oint--stock-or-other-company-or-syndicate and must be delivered to the state department of revenue not 16 later than the fifteenth day of April. The state department 17 of revenue may grant a reasonable extension of time for 18 filing statements upon good cause shown therefor. Such 19 20 statement shall show the following: 21 1. The name and address of the owner or lessee of the 22 mine or mining property. 2. The description and location of the mine or mining 23 24 property. 3. The number of tons of ore or other mineral products 25

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or deposits extracted from the mine or mining property
 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 information as the state department of revenue may require. 6 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 copper, lead or zinc, or other commercially valuable 10 constituents of said ores or mineral products or deposits, 11 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 return filed and determine and ascertain therefrom, and 19 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 license--taxes--under-the-provisions-of-this-act7-the-amount 24 25 thereof-to-be-paid-by-such-person--The-said-department-shall -5-SB 146

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 fraction thereof from the date the same becomes delinquent 11 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 guotations of the price of such mine's product in New York City, at the time such 20 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 -6-SB 146

quotation covering any particular product, then the state department of revenue shall fix the value of such gross product, or such portion thereof, as shall have been sold or otherwise disposed of at a price substantially below the true market price at the time and place of such sale or 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 same become delinquent a penalty of ten per--centum percent 14 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 delinguent until paid."

Section 6. Section 34-2008, R.C.M. 1947, is amended to
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, -7- SB 146

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 the license tax is to be paidy-and-license-issuedy and shall 8 9 make and file a statement showing the amount of such gross value of product and shall ascertain and determine and 10 11 compute and assess the amount of the license taxes due from, and to be paid by such person, and shall immediately certify 12 13 the-same-to-the-state-treasurer, and give notice to such person in the same manner as though such statement had been 14 15 filed within time, and the-state shall proceed to collect 16 such license tax. adding thereto and collecting therewith. if the same is delinquent, the same penalty and interest as 17 provided for herein for other delinquencies." 18

19 Section 7. Section 94-2009, 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 statement and return is false, or erroneous in 24 any particular. it may require the person, or if made by a 25 -3-SB 146

corporation, association or company, the officers thereof, 1 2 and the employees of any such person, corporation, association or company, to appear before the director of 3 4 revenue or his agent and testify concerning the same and any 5 statement contained therein, and may examine all books, records, papers and documents of such person pertaining to 6 7 such business, upon giving five days' written notice to such 8 persons, or officers or employees thereof having custody of such books, records, papers and documents, and any person 9 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 quilty 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 -9-SB 146

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 written notice of the corrections and changes made in such 6 7 statement and return and the amount of the license tax and я 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 from the date of delinquency until paid at the rate of 12 13 twelve-per-centum-per-annum one percent (1%) per month or fraction thereof. Provided further, that in order to verify 14 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 the gross mineral content of any such ore, or at the request 21 22 of said director to furnish sworn statements showing the 23 gross yield of such ores, mineral products or deposits in constituents of commercial value, that is to say, the number 24 25 of ounces of gold, silver, pounds of copper, lead or zinc, -10-SB 146 or other commercially valuable constituents of said ores or
 mineral products or deposits, measured by standard units of
 measurement during the period covered by such statement,
 without any deductions whatsoever for smelting, milling,
 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 by said state department of revenue or shall refuse to 18 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

read as follows: 8 9 "84-2010. Hearing on determination of value of gross product or amount of tax. Every person whose license tax has 10 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 petition for a hearing in which petition must be stated and 18 set forth particularly and specifically the grounds and 19 reasons therefor, and the manner in which the amount of the 20 21 gross value of product or the amount of the license tax, or 22 both, should be changed or corrected. Upon the filing of such petition, if it appears to the satisfaction of the 23 24 state tax appeal board therefrom that the department of 25 revenue has erred in any manner in ascertaining and -12-SB 146

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determining the amount of the gross value of product, or the 1 amount of the license tax, or both, the board shall 2 3 immediately correct such error, or errors, and if such correction shall be in conformity with the request contained 4 in the petition for a hearing the board shall take no 5 further steps in connection with such petition, other than 6 7 to certify-to notify the state treasurer department of revenue of the correct amount of the license tax due from 8 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 13 introduce witnesses and present testimony on any material matters connected with such return and license tax, and 19 after considering such evidence the board shall fix and 20 21 determine the gross value of product, and reassess the 22 amount of the license tax to be paid by such person, and give notice thereof in-the--manner--required--by--section 23 84-2006 to such person and the state department of revenue." 24 Section 9. Section 34-2011, R.C.M. 1947, is amended to 25 SB 146 -13-

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 COUNTY CLERK by the state department of revenue and such 10 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." SECTION 10. THERE IS A NEW R.C.M. SECTION THAT READS 14 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

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 THE STATE OF MONTANA IN THE SAME MANNER AS JUDGMENT LIENS

 ARE ENFORCED BY LAW.

 Section 11. Section 84-2013, R.C.M. 1947, is amended

4 to read as follows:

*84-2013. Commencing business. If any person shall, 5 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 gems and stones are extracted and produced, such person, 10 must, within sixty (60) days after so engaging in or 11 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 approvalt

-End-

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