

1 *Senators* BILL NO. *186*
 2 INTRODUCED BY *Romney Ferguson*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 84-7012, R.C.M. 1947, TO PROVIDE FOR PENALTY, INTEREST AND
 6 TAX LIENS FOR FAILURE TO FILE A STATEMENT UNDER THE
 7 PROVISIONS OF THE MONTANA RESOURCE INDEMNITY TRUST ACT;
 8 PROVIDING THAT THE ATTORNEY GENERAL ENFORCE THE TAX
 9 COLLECTION PROVISIONS; AND PROVIDING AN EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 84-7012, R.C.M. 1947, is amended to
 13 read as follows:

14 "84-7012. Procedure in case of failure to file
 15 statement -- penalty -- interest -- tax lien. (1) If any
 16 person shall fail, refuse or neglect to make and file a
 17 statement and return within the time prescribed, the
 18 department shall, immediately after such time has expired,
 19 ascertain and determine as nearly as may be possible from
 20 any returns or reports filed with the state or from any
 21 other information which the department may be able to
 22 obtain, the total gross value of product of such person from
 23 such business during the calendar year immediately preceding
 24 the year in which the tax is to be paid, ~~and shall make and~~
 25 ~~file a statement showing the amount of such gross value of~~

1 ~~product--and--shall--ascertain--and--determine--and--compute--and~~
 2 ~~assess--the--amount--of--the--tax--due--from--and--to--be--paid--by~~
 3 ~~such--person, and shall determine and fix the amount of the~~
 4 ~~tax due to the state from such person for such calendar year~~
 5 ~~and shall add to the amount of such tax a penalty of ten~~
 6 ~~percent (10%) thereof plus interest at the rate of one~~
 7 ~~percent (1%) per month or fraction thereof computed on the~~
 8 ~~total amount of tax and penalty. Interest shall be computed~~
 9 ~~from the date the tax was due to the date of payment.~~

10 (2) The state department of revenue shall mail to the
 11 person required to file an annual statement and pay any tax,
 12 a letter setting forth the amount of tax, penalty, and
 13 interest due and may file a copy of such letter in the
 14 office of the county clerk and recorder of the county in
 15 which the mineral was produced.

16 (3) The attorney general shall commence and prosecute
 17 to final determination in any court of competent
 18 jurisdiction, an action at law to collect the tax penalty
 19 and interest due.

20 (4) The ten percent (10%) penalty herein provided may
 21 be waived by the state department of revenue if reasonable
 22 cause for the failure and neglect to file the statement
 23 required by section 84-7005 is provided to the department.

24 (5) The tax assessed against any person under this
 25 act, together with penalties and interest thereon, shall be

1 a lien upon any and all property owned by such person within
2 this state, which lien shall attach on the date the state
3 department of revenue mails a letter assessing tax, penalty,
4 and interest and such lien may be enforced in the name of
5 the state of Montana in the same manner as other liens are
6 enforced at law."

7 Section 2. This act is effective on passage and
8 approval.

-End-

Approved by Committee
on Taxation

SENATE BILL NO. 186

INTRODUCED BY ROMNEY, JERGESON

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 84-7012, R.C.M. 1947, TO PROVIDE FOR PENALTY, INTEREST AND TAX LIENS FOR FAILURE TO FILE A STATEMENT UNDER THE PROVISIONS OF THE MONTANA RESOURCE INDEMNITY TRUST ACT, ~~PROVIDING THAT THE ATTORNEY GENERAL DEPARTMENT OF REVENUE ENFORCE THE TAX COLLECTION PROVISIONS, AND PROVIDING AN EFFECTIVE DATE.~~"

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

Section 1. Section 84-7012, R.C.M. 1947, is amended to read as follows:

"84-7012. Procedure in case of failure to file statement -- penalty -- interest -- tax lien. (1) If any person shall fail, refuse or neglect to make and file a statement and return within the time prescribed, the department shall, immediately after such time has expired, ascertain and determine as nearly as may be possible from any returns or reports filed with the state or from any other information which the department may be able to obtain, the total gross value of product of such person from such business during the calendar year immediately preceding the year in which the tax is to be paid, ~~and shall make and~~

~~file a statement showing the amount of such gross value of product and shall ascertain and determine and compute and assess the amount of the tax due from, and to be paid by such person, and shall determine and fix the amount of the tax due to the state from such person for such calendar year and shall add to the amount of such tax a penalty of ten percent (10%) thereof plus interest at the rate of one percent (1%) per month or fraction thereof computed on the total amount of tax and penalty. Interest shall be computed from the date the tax was due to the date of payment.~~

(2) ~~The state department of revenue shall mail to the person required to file an annual statement and pay any tax, a letter setting forth the amount of tax, penalty, and interest due and may file a copy of such letter in the office of the county clerk and recorder of the county in which the mineral was produced.~~ UPON RECEIPT OF THIS LETTER THE PERSON SHALL REMIT TO THE DEPARTMENT THE FULL AMOUNT OF LICENSE TAX, PENALTY AND INTEREST DUE WITHIN FIFTEEN (15) DAYS.

~~(3) The attorney general DEPARTMENT OF REVENUE shall commence and prosecute to final determination in any court of competent jurisdiction an action at law to collect the tax penalty and interest due.~~

~~(4) (3) The ten percent (10%) penalty herein provided may be waived by the state department of revenue.~~

SECOND READING

SECOND PRINTING 4/21/75

1 reasonable cause for the failure and neglect to file the
2 statement required by section 84-7005 is provided to the
3 department.

4 (5) (4) The tax assessed against any person under
5 this act, together with penalties and interest thereon,
6 shall be a lien upon any and all property owned by such
7 person within this state, which lien shall attach on the
8 date the state department of revenue mails--a--letter
9 assessing-tax,penalty,and-interest-and-such--lien--may--be
10 enforced--in--the--name--of--the--state--of--Montana--in--the--same
11 manner-as-other-liens-are-enforced-at-law FILES A DUPLICATE
12 OF THE STATEMENT SO MADE BY THE DEPARTMENT, OR A CERTIFIED
13 COPY OF ANY STATEMENT FILED BY THE DEPARTMENT IN THE OFFICE
14 OF THE COUNTY CLERK IN THE COUNTY WHERE SUCH PROPERTY IS
15 SITUATED WHICH LIEN SHALL HAVE PRECEDENCE OVER ANY OTHER
16 CLAIM, LIEN OR DEMAND THEREAFTER FILED AND RECORDED AND
17 WHICH MAY BE ENFORCED IN THE NAME OF THE STATE OF MONTANA IN
18 THE SAME MANNER AS JUDGMENT LIENS ARE ENFORCED BY LAW."

19 Section-2---This--act--is--effective--on--passage---and
20 approval:

-End-

SENATE BILL NO. 186

INTRODUCED BY ROMNEY, JERGSON

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 84-7012, R.C.M. 1947, TO PROVIDE FOR PENALTY, INTEREST AND TAX LIENS FOR FAILURE TO FILE A STATEMENT UNDER THE PROVISIONS OF THE MONTANA RESOURCE INDEMNITY TRUST ACT, PROVIDING THAT THE ATTORNEY-GENERAL DEPARTMENT OF REVENUE ENFORCE THE TAX COLLECTION PROVISIONS, AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 84-7012, R.C.M. 1947, is amended to read as follows:

"84-7012. Procedure in case of failure to file statement -- penalty -- interest -- tax lien. (1) If any person shall fail, refuse or neglect to make and file a statement and return within the time prescribed, the department shall, immediately after such time has expired, ascertain and determine as nearly as may be possible from any returns or reports filed with the state or from any other information which the department may be able to obtain, the total gross value of product of such person from such business during the calendar year immediately preceding the year in which the tax is to be paid, and shall make and

file a statement showing the amount of such gross value of product and shall ascertain and determine and compute and assess the amount of the tax due from, and to be paid by such person, and shall determine and fix the amount of the tax due to the state from such person for such calendar year and shall add to the amount of such tax a penalty of ten percent (10%) thereof plus interest at the rate of one percent (1%) per month or fraction thereof computed on the total amount of tax and penalty. Interest shall be computed from the date the tax was due to the date of payment.

(2) The state department of revenue shall mail to the person required to file an annual statement and pay any tax, a letter setting forth the amount of tax, penalty, and interest due and may file a copy of such letter in the office of the county clerk and recorder of the county in which the mineral was produced. UPON RECEIPT OF THIS LETTER THE PERSON SHALL REMIT TO THE DEPARTMENT THE FULL AMOUNT OF LICENSE TAX, PENALTY AND INTEREST DUE WITHIN FIFTEEN (15) DAYS.

(3) The attorney-general DEPARTMENT OF REVENUE shall commence and prosecute to final determination in any court of competent jurisdiction an action at law to collect the tax penalty and interest due.

(4) (3) The ten percent (10%) penalty herein provided may be waived by the state department of revenue if

1 reasonable cause for the failure and neglect to file the
2 statement required by section 84-7005 is provided to the
3 department.

4 ~~(5)~~ (4) The tax assessed against any person under
5 this act, together with penalties and interest thereon,
6 shall be a lien upon any and all property owned by such
7 person within this state, which lien shall attach on the
8 date the state department of revenue ~~mails--a--letter~~
9 ~~assessing tax, penalty and interest and such--lien--may--be~~
10 ~~enforced--in--the--name--of--the--state--of--Montana--in--the--same~~
11 ~~manner--as--other--liens--are--enforced--at--law~~ FILES A DUPLICATE
12 OF THE STATEMENT SO MADE BY THE DEPARTMENT, OR A CERTIFIED
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16 CLAIM, LIEN OR DEMAND THEREAFTER FILED AND RECORDED AND
17 WHICH MAY BE ENFORCED IN THE NAME OF THE STATE OF MONTANA IN
18 THE SAME MANNER AS JUDGMENT LIENS ARE ENFORCED BY LAW."

19 ~~Section 2,--This--act--is--effective--on--passage---and~~
20 ~~approval~~

-End-

SENATE BILL NO. 186

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file a statement showing the amount of such gross value of product and shall ascertain and determine and compute and assess the amount of the tax due from, and to be paid by such person, and shall determine and fix the amount of the tax due to the state from such person for such calendar year and shall add to the amount of such tax a penalty of ten percent (10%) thereof plus interest at the rate of one percent (1%) per month or fraction thereof computed on the total amount of tax and penalty. Interest shall be computed from the date the tax was due to the date of payment.

(2) The state department of revenue shall mail to the person required to file an annual statement and pay any tax, a letter setting forth the amount of tax, penalty, and interest due and may file a copy of such letter in the office of the county clerk and recorder of the county in which the mineral was produced. UPON RECEIPT OF THIS LETTER THE PERSON SHALL REMIT TO THE DEPARTMENT THE FULL AMOUNT OF LICENSE TAX, PENALTY AND INTEREST DUE WITHIN FIFTEEN (15) DAYS.

~~(3) The attorney general DEPARTMENT OF REVENUE shall commence and prosecute to final determination in any court of competent jurisdiction, an action at law to collect the tax penalty and interest due.~~

~~(4)~~(3) The ten percent (10%) penalty herein provided may be waived by the state department of revenue if

1 reasonable cause for the failure and neglect to file the
2 statement required by section 84-7005 is provided to the
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4 ~~{5}--(4) The tax assessed against any person under~~
5 this act, together with penalties and interest thereon,
6 shall be a lien upon any and all property owned by such
7 person within this state, which lien shall attach on the
8 date the state department of revenue ~~maiss--a--letter~~
9 ~~assessing-tax, penalty, and interest and such--lien--may--be~~
10 ~~enforced--in--the--name--of--the--state--of--Montana--in--the--same~~
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-End-