

1 HOUSE BILL NO. 13
 2 INTRODUCED BY MARKS

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR A STANDARD
 5 DEFINITION OF THE WORD "PERSON" IN THE TAXATION STATUTES;
 6 DELETING INCONSISTENT DEFINITIONS FROM TITLE 84, R.C.M.
 7 1947; AMENDING SECTIONS 84-202, 84-704, 84-1601, 84-2301,
 8 84-2401, 84-2402, 84-2404, 84-2405, 84-2410, 84-2411,
 9 84-3501, 84-3502, 84-3510, 84-3512, 84-4155, 84-4166,
 10 84-5402, 84-5410, 84-5413, 84-6201, 84-6401, AND 84-7003,
 11 R.C.M. 1947; REPEALING SECTIONS 84-1101, 84-1201, 84-2001,
 12 84-2201, AND 84-5901, R.C.M. 1947."

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

15 Section 1. There is a new R.C.M. section in Title 84
 16 that reads as follows:

17 "Person" defined. As used in this title (except
 18 chapters 15 and 49), unless the context indicates otherwise,
 19 the term "person" means an individual, corporation (domestic
 20 or foreign), partnership, association, joint-stock company,
 21 or syndicate.

22 Section 2. Section 84-202, R.C.M. 1947, is amended to
 23 read as follows:

24 "84-202. Exemptions from taxation. (1) (a) The
 25 property of the United States, the state, counties, cities,

1 towns, school districts, municipal corporations, public
 2 libraries, buildings with land they occupy and furnishings
 3 therein owned by a church and used for actual religious
 4 worship and for residences of the clergy, together with
 5 adjacent land reasonably necessary for convenient use of
 6 such buildings owned by a church, such other property as is
 7 used exclusively for agricultural and horticultural
 8 societies, for educational purposes, hospitals and places of
 9 burial not used or held for private or corporate profit, and
 10 institutions of purely public charity, evidence of debt
 11 secured by mortgages of record upon real or personal
 12 property in the state of Montana, and public art galleries
 13 and public observatories not used or held for private or
 14 corporate profit, are exempt from taxation, but no more land
 15 than is necessary for such purpose is exempt.

16 (b) As used in this subsection, the term "institutions
 17 of purely public charity" shall include organizations owning
 18 and operating facilities for the care of the retired or aged
 19 or chronically ill which are not operated for gain or
 20 profit; and the terms "public art galleries and public
 21 observatories" shall mean only such art galleries and
 22 observatories, whether of public or private ownership, as
 23 are open to the public, without charge or fee at all
 24 reasonable hours, and are used for the purpose of education
 25 only.

1 (2) When a clubhouse or building erected by or
 2 belonging to any society or organization of honorably
 3 discharged United States soldiers, sailors, or marines who
 4 served in army or navy of United States, is used exclusively
 5 for educational, fraternal, benevolent, or purely public
 6 charitable purposes, rather than for gain or profit,
 7 together with the library and furniture necessarily used in
 8 any such building, such property is exempt from taxation,
 9 and all property, real or personal, in the possession of
 10 legal guardians of incompetent veterans of the World War or
 11 minor dependents of such veterans, where such property is
 12 funds or derived from funds received from the United States
 13 as pension, compensation, insurance, adjusted compensation,
 14 or gratuity, shall be exempt from all taxation as property
 15 of the United States while held by the guardian, but not
 16 after title passes to the veteran or minor in his or her own
 17 right on account of removal of legal disability.

18 (3) All household goods and furniture, including
 19 clocks, musical instruments, sewing machines, wearing
 20 apparel of members of the family actually used by the owner
 21 for personal and domestic purposes, or for furnishing or
 22 equipping the family residence, are exempt from taxation.

23 (4) (a) Freeport merchandise shall be exempt from
 24 taxation. Freeport merchandise means those stocks of
 25 merchandise manufactured or produced outside this state

1 which are in transit through this state and consigned to a
 2 warehouse or other storage facility, public or private,
 3 within this state, for storage in transit prior to shipment
 4 to a final destination outside the state, and which have
 5 acquired a taxable situs within the state.

6 (b) Stocks of merchandise do not lose their status as
 7 freeport merchandise because while in the storage facility
 8 they are assembled, bound, joined, processed, disassembled,
 9 divided, cut, broken in bulk, relabeled, or repackaged.

10 (c) Any person, ~~corporation, firm, partnership,~~
 11 ~~association,~~ or other group seeking to qualify its property
 12 for inclusion in this class shall make application to the
 13 state department of revenue in such manner or form as may be
 14 required by the department.

15 (5) {The following agricultural products are exempt
 16 from taxation:}

17 (a) ~~All~~ all unprocessed, perishable fruits and
 18 vegetables in farm storage and owned by the producer ~~are~~
 19 ~~except from taxation;~~

20 (b) ~~All~~ all nonperishable unprocessed agricultural
 21 products, except livestock, held in possession of the
 22 original producer for less than ~~seven (7)~~ months following
 23 harvest;

24 (c) ~~Livestock~~ livestock, defined as cattle, sheep,
 25 horses, or mules, which have not attained the age of ~~nine~~

1 ~~(9)~~ months as of the last day of any month.

2 (6) Moneys and credits are exempt from taxation.

3 (7) A capital investment in a recognized nonfossil
4 form of energy generation is exempt to the extent provided
5 under ~~section~~ 84-7403."

6 Section 3. Section 84-704, R.C.M. 1947, is amended to
7 read as follows:

8 "84-704. Definitions. (1) The term "state board" or
9 "board" when used in this act without other qualification,
10 shall mean the state tax appeal board.

11 ~~(2) The term "person," when used in this act, shall~~
12 ~~mean and include any individual, firm, partnership,~~
13 ~~association or corporation unless otherwise expressly~~
14 ~~stated.~~

15 ~~(3) (2)~~ The phrase "municipal corporation" or
16 "municipality" or "taxing unit" when used in this act shall
17 be deemed to include a county, city, incorporated town,
18 township, school district, irrigation district, drainage
19 district, or any person, persons, or organized body
20 authorized by law to establish tax levies for the purpose of
21 raising public revenue."

22 Section 4. Section 84-1601, R.C.M. 1947, is amended to
23 read as follows:

24 "84-1601. Electrical energy producers' license tax.
25 ~~That in~~ In addition to the license tax now provided by law,

1 each and ~~every individual, firm, partnership, common law~~
2 ~~trust, corporation, association~~ person or other organization
3 now engaged in the generation, manufacture, or production of
4 electricity, and electrical energy in the state of Montana,
5 either through water power or by any other means, for
6 barter, sale, or exchange, and hereinafter referred to as
7 the "producer," shall on or before the ~~fifteenth~~ 15th day
8 of each calendar month ~~beginning with the fifteenth day of~~
9 ~~May, 1969,~~ render a statement to the state department of
10 revenue ~~of the state of Montana,~~ showing the gross amount of
11 money received on account of sales of electricity and
12 electrical energy during the preceding calendar month
13 without any deduction, and shall pay a license tax thereon
14 in the sum of ~~one and four hundred thirty eight thousandths~~
15 ~~per cent (1.438%)~~ of such gross amount as shown on such
16 statement in the manner and within the time hereinafter
17 provided, ~~and such~~ Such tax shall be effective for the
18 taxable year commencing April 1, 1969, and also for each
19 taxable year thereafter."

20 Section 5. Section 84-2301, R.C.M. 1947, is amended to
21 read as follows:

22 "84-2301. Definitions. (1) The term "department" when
23 used in this act shall mean the state department of revenue.

24 (2) Any person, ~~persons, copartnership, joint stock~~
25 company, association, or corporation (not being a railroad

1 company or a lessee of a railroad company) wherever
 2 organized or incorporated, owning and operating, or
 3 operating any cars known as dining, buffet, chair, parlor,
 4 palace, or sleeping cars, which are used upon railroads
 5 within this state, unless the ownership of such cars be
 6 identical with that of the lines of railroads on which they
 7 are operated, shall be deemed a "sleeping car company" for
 8 the purposes of this act."

9 Section 6. Section 84-2401, R.C.M. 1947, is amended to
 10 read as follows:

11 "84-2401. Store license from department of revenue
 12 required. ~~That it~~ It shall be unlawful for any person, ~~firm,~~
 13 ~~corporation, association or copartnership, either foreign or~~
 14 ~~domestic,~~ to open, establish, operate, or maintain any store
 15 or stores in this state without first having obtained a
 16 license to do so from the state department of revenue, as
 17 hereinafter provided."

18 Section 7. Section 84-2402, R.C.M. 1947, is amended to
 19 read as follows:

20 "84-2402. Application and fee for license. (1) Any
 21 person, ~~firm, corporation, association, copartnership~~ or
 22 group desiring to open, establish, operate, or maintain a
 23 store in the state of Montana prior to September 1 of that
 24 calendar year shall apply to the state department of revenue
 25 for license to do so. The application shall be made upon a

1 form which shall be prescribed and furnished by the state
 2 department of ~~revenue,~~ and shall set forth the name of the
 3 owner, manager, trustee, lessee, stockholders, receiver, or
 4 other persons desiring said license; the name of such store;
 5 the location, including street number; and all such other
 6 facts as the state department of ~~revenue~~ may require.

7 (2) If the applicant desires to open, establish,
 8 operate, or maintain more than one such store, he shall make
 9 a separate application for a license to operate, maintain,
 10 open, or establish each such store.

11 (3) Each such application shall be accompanied by the
 12 license fee as prescribed in ~~sections~~ 84-2405 and 84-2407."

13 Section 8. Section 84-2404, R.C.M. 1947, is amended to
 14 read as follows:

15 "84-2404. Expiration and renewal of licenses. (1) All
 16 licenses shall be so issued so as to expire December 31 of
 17 each calendar year. On or before December 31 of each
 18 calendar year, every ~~firm, person, corporation, association,~~
 19 ~~copartnership~~ having a license, shall apply to the state
 20 department of revenue for a renewal license for the calendar
 21 year next ensuing. All applications for a renewal shall be
 22 made upon forms which shall be prescribed and furnished by
 23 the state department of ~~revenue.~~

24 (2) Each such application for a renewal license shall
 25 be accompanied by the license fee as prescribed in ~~sections~~

1 84-2405 and 84-2407.

2 ~~(3) All licenses shall lapse on December 31 of the~~
 3 ~~year for which the license was issued, and if~~ If, by
 4 December 31, an application for a renewal license for the
 5 calendar year next ensuing has not been made, the fee
 6 charged shall be double the rate prescribed in ~~sections~~
 7 84-2405 and 84-2407."

8 Section 9. Section 84-2405, R.C.M. 1947, is amended to
 9 read as follows:

10 "84-2405. Retailers subject to act — license fees
 11 for. (1) Every person, ~~firm, corporation, association,~~
 12 ~~partnership~~ or group opening, establishing, operating, or
 13 maintaining one ~~(4)~~ or more retail stores or mercantile
 14 establishments, within this state, under the same general
 15 management, supervision, or ownership, where a stock of
 16 goods is maintained during any portion of the year,
 17 regardless of whether the stock is held by ownership,
 18 consignment, agency, or any other means, shall pay the
 19 license fee hereinafter prescribed for the privilege of
 20 opening, establishing, operating, or maintaining such stores
 21 or mercantile establishments, provided that the members of
 22 any group, association, or consumer ~~co-operative~~ cooperative
 23 composed of independent units owning their own business and
 24 grouped or associated together by agreement or otherwise for
 25 the purpose of purchasing or selling merchandise or service

1 for the mutual benefit of the members shall not be grouped
 2 for computing the license fee to be paid by the person,
 3 ~~firm, corporation, association, or partnership~~ or retailer
 4 under this act, but the units or members shall be taxed as
 5 individual units. The license fee herein prescribed shall
 6 be paid annually.

7 (2) The annual license fees herein prescribed for
 8 retail stores or mercantile establishments which have gross
 9 receipts in excess of ~~three hundred fifty thousand dollars~~
 10 ~~(\$350,000)~~ per year shall be as follows:

11 1-(a) Upon one store, the annual license fee shall be
 12 ~~eleven dollars (\$11).~~

13 2-(b) Upon the second store, the annual license fee
 14 shall be ~~fifty six dollars (\$56).~~

15 3-(c) Upon the third store, the annual license fee
 16 shall be ~~one hundred and six dollars (\$106).~~

17 4-(d) Upon the fourth store, the annual license fee
 18 shall be ~~one hundred and fifty six dollars (\$156).~~

19 5-(e) Upon the fifth store, and on each store in
 20 excess of five ~~(5)~~ stores, the annual license fee shall be
 21 ~~two hundred and six dollars (\$206).~~

22 (3) The annual license fees herein prescribed for
 23 retail stores or mercantile establishments which do not have
 24 gross receipts in excess of ~~three hundred fifty thousand~~
 25 ~~dollars (\$350,000)~~ per year shall be as follows:

1 ~~1-(a)~~ Upon one store, the annual license fee shall be
2 ~~eleven dollars (\$11).~~

3 ~~2-(b)~~ Upon the second store, the annual license fee
4 shall be ~~thirteen dollars and fifty cents (\$13.50).~~

5 ~~3-(c)~~ Upon the third store, the annual license fee
6 shall be ~~twenty one dollars (\$21).~~

7 ~~4-(d)~~ Upon the fourth store, the annual license fee
8 shall be ~~twenty eight dollars and fifty cents (\$28.50).~~

9 ~~5-(e)~~ Upon the fifth store, the annual license fee
10 shall be ~~thirty six dollars (\$36).~~

11 ~~6-(f)~~ Upon the sixth store, and each store in excess
12 of six ~~(6)~~, the annual license fee shall be ~~forty four~~
13 ~~dollars and fifty cents (\$44.50).~~

14 ~~(4)~~ For the purpose of determining the number of
15 stores or units in the chain, all stores or units in the
16 chain shall be included regardless of size even though one
17 or more stores or units may be included in a different
18 category for this license, provided the larger stores or
19 units shall be counted last."

20 Section 10. Section 84-2410, R.C.M. 1947, is amended
21 to read as follows:

22 "84-2410. "Store" defined. The term "store" as used in
23 this act shall be construed to mean and include any store or
24 stores or any mercantile establishment or establishments
25 which are owned, operated, maintained, or controlled by the

1 same person, ~~firm, corporation, association, copartnership,~~
2 or group, ~~either domestic or foreign,~~ in which goods, wares,
3 or merchandise of any kind are sold, either at retail or
4 wholesale, and subject to the classification contained in
5 sections 84-2405 and 84-2407. Vending machines shall not be
6 considered as places of business per se and are not required
7 to be licensed under the provisions of this act."

8 Section 11. Section 84-2411, R.C.M. 1947, is amended
9 to read as follows:

10 "84-2411. Penalty. Any person, ~~firm, corporation,~~
11 ~~association, copartnership~~ or group who shall violate any of
12 the provisions of this act, shall be deemed guilty of a
13 misdemeanor, and upon conviction thereof, shall be fined in
14 any sum of not less than ~~twenty five dollars (\$25.00)~~ nor ~~or~~
15 more than ~~two hundred dollars (\$200.00)~~, and each and every
16 day that such violation shall continue shall constitute a
17 separate and distinct offense."

18 Section 12. Section 84-3501, R.C.M. 1947, is amended
19 to read as follows:

20 "84-3501. Definitions. The following words, terms, and
21 phrases in this act are, for the purposes hereof, defined as
22 follows:

23 ~~(a) The word "person" includes any individual, firm,~~
24 ~~copartnership, association, corporation or other group or~~
25 ~~combination acting as a unit, and the plural as well as the~~

1 ~~singular number, unless the intent to give a more limited~~
 2 ~~meaning is clearly disclosed by the context hereof.~~

3 (b)(1) A "public contractor" within the meaning of
 4 this act shall include any person who submits a proposal to
 5 or enters into a contract for performing all public
 6 construction work in the state, with the federal government,
 7 state of Montana, or with any board, commission, or
 8 department thereof, or with any board of county
 9 commissioners, or with any city or town council, or with any
 10 agency of any thereof, or with any other public board, body,
 11 commission, or agency, authorized to let or award contracts
 12 for any public work when the contract cost, value, or price
 13 thereof exceeds the sum of ~~one thousand dollars (\$1,000).~~

14 (c)(2) The term "public contractor" includes
 15 subcontractors undertaking to perform the work covered by
 16 the original contract, or any part thereof, the contract
 17 cost, value, or price of which exceeds the sum of ~~one~~
 18 ~~thousand dollars (\$1,000.00).~~

19 (d)(3) "Gross receipts" means all receipts from
 20 sources within the state, whether in the form of money,
 21 credits, or other valuable consideration, received from,
 22 engaging in, or conducting a business, without deduction on
 23 account of the cost of the property sold, the cost of the
 24 materials used, labor or service cost, interest paid, taxes,
 25 losses, or any other expense whatsoever. However, "gross

1 receipts" shall not include cash discounts allowed and taken
 2 on sales and sales refunds, either in cash or by credit,
 3 uncollectible accounts written off from time to time, ~~and~~ or
 4 payments received in final liquidation of accounts included
 5 in the gross receipts of any previous return made by the
 6 person."

7 Section 13. Section 84-3502, R.C.M. 1947, is amended
 8 to read as follows:

9 "84-3502. Unlawful to engage in public contracting
 10 business without license. ~~From and after the passage and~~
 11 ~~approval of this act, it~~ It shall be unlawful for any
 12 person, ~~firm, copartnership, corporation, association~~ or any
 13 combination of ~~any thereof,~~ persons to engage in the
 14 business or act in the capacity of public contractor as
 15 herein defined within the state of Montana without having a
 16 license therefor as herein provided."

17 Section 14. Section 84-3510, R.C.M. 1947, is amended
 18 to read as follows:

19 "84-3510. Complaints against licensee — grounds —
 20 investigation — hearing — suspension of license —
 21 appeals. (1) Any person, ~~firm, copartnership, corporation,~~
 22 ~~association~~ or other organization may file a duly verified
 23 complaint with the registrar charging that the licensee is
 24 guilty of one or more of the following acts or omissions:

25 (1)(a) ~~abandonment~~ abandonment of any contract without

1 legal excuse;

2 ~~(3)(b)~~ diversion of funds or property
 3 received under express agreement for prosecution or
 4 completion of a specific contract under this act, or for a
 5 specified purpose in the prosecution or completion of any
 6 contract, and their application or use for any other
 7 contract, obligation, or purpose with intent to defraud or
 8 deceive creditors or the owner;

9 ~~(3)(c)~~ the the doing of any willful fraudulent act by
 10 the licensee as a public contractor in consequence of which
 11 another is substantially injured;

12 ~~(4)(d)~~ the the making of any false statement in any
 13 application for a license or renewal thereof;

14 ~~(5)(e)~~ the the failure to comply with the provisions
 15 of ~~section~~ 82-1926 requiring preference of products
 16 manufactured or produced in this state by Montana industry
 17 and labor.

18 (2) Upon the filing of such complaint, the registrar
 19 shall investigate the charge and within ~~sixty~~ 60 days after
 20 the filing of such complaint shall render and file said
 21 registrar's decision with said registrar's reasons therefor.
 22 If the registrar's decision be that the licensee has been
 23 guilty of any of such acts or omissions, said registrar
 24 shall suspend the contractor's license. At any time within
 25 ~~twenty~~ 20 days thereafter the complainant or the contractor

1 may petition the registrar for a rehearing. In the order
 2 granting or denying such rehearing, the registrar shall set
 3 forth a statement of the particular grounds and reasons for
 4 said registrar's actions on such petition and shall mail a
 5 copy of such order to the parties who have appeared in
 6 support of or in opposition to the petition for rehearing.
 7 If a rehearing be granted, the registrar shall set the
 8 matter for further hearing on due notice to the parties,
 9 and, within ~~thirty~~ 30 days after submission of the matter,
 10 serve said registrar's decision after rehearing in like
 11 manner as an original decision.

12 (3) The filing of such petition for rehearing as to
 13 the registrar's actions in suspending or canceling such
 14 license shall suspend the operation of such action and
 15 permit the licensee to continue to do business as a public
 16 contractor pending final determination of the controversy.

17 (4) Within ~~thirty~~ 30 days after the decision on
 18 rehearing, any party aggrieved by such decision of the
 19 registrar may appeal therefrom to the district court in and
 20 for the county in which the licensee under this act resides
 21 or does business as a public contractor, by serving upon the
 22 registrar a notice of such appeal. The matter shall
 23 thereupon be heard de novo by the district court. An appeal
 24 may be taken from the decision of the district court in the
 25 same manner as appeals in other civil cases.

1 (5) In all cases where the licensee has filed his
 2 notice of appeal from the decision of the registrar or from
 3 the decision of the district court, such licensee shall be
 4 entitled to continue to do business as a public contractor
 5 pending final decision of the controversy."

6 Section 15. Section 84-3512, R.C.M. 1947, is amended
 7 to read as follows:

8 "84-3512. Penalty for acting without license. Any
 9 person, ~~firm, copartnership, corporation, association~~ or
 10 other organization acting in the capacity of public
 11 contractor within the meaning of this act, without a license
 12 as herein provided, shall be guilty of a misdemeanor and
 13 shall, upon conviction thereof, if ~~a person~~ an individual,
 14 be punished by a fine of not to exceed ~~five hundred dollars~~
 15 ~~(\$500.00)~~ or by imprisonment in the county jail for a term
 16 not to exceed ~~six~~ 6 months or by both such fine and
 17 imprisonment, in the discretion of the court. The same
 18 penalties shall apply, upon conviction, to any member of a
 19 ~~copartnership~~, partnership or to any construction, managing,
 20 or directing officer of any corporation or other
 21 organization consenting to, participating in, or aiding or
 22 abetting any such violation of this act."

23 Section 16. Section 84-4155, R.C.M. 1947, is amended
 24 to read as follows:

25 "84-4155. Piecemeal redemption of land sold for taxes.

1 (1) Whenever any person, ~~firm, copartnership, corporation or~~
 2 ~~association~~ shall desire to redeem from a tax sale and pay
 3 all subsequent taxes upon any lots, piece, or parcel of real
 4 estate, which said person, ~~firm, copartnership, corporation~~
 5 ~~or association~~ shall own or hold a mortgage or other lien
 6 against or when such person, ~~firm, copartnership,~~
 7 ~~corporation or association~~ shall be the owner of or have
 8 some interest in such property, it shall be the duty of the
 9 county treasurer of the county in which such real estate is
 10 situated to permit such redemption and payment; and in case
 11 the ~~said~~ real estate shall have been assessed and sold,
 12 together with other real estate, or in case the tax assessed
 13 against any other property shall be a lien thereon, then it
 14 shall be the duty of said county treasurer to compute and
 15 apportion the tax that should have properly been assessed
 16 against the ~~said~~ real estate sought to be redeemed, and upon
 17 which the taxes are sought to be paid, the same as if said
 18 property had been separately assessed.

19 (2) Any personal property tax which is a lien upon
 20 said real estate shall be likewise computed and apportioned
 21 on the same percentage basis as the tax assessed against the
 22 real estate is apportioned."

23 Section 17. Section 84-4166, R.C.M. 1947, is amended
 24 to read as follows:

25 "84-4166. Defense to action — redemption of parcels.

1 Any defendant may appear in said action within the time
 2 provided by law for appearances in civil actions and may set
 3 up any defense to the said action he may have, and may
 4 therein question the legality, validity, or the sufficiency
 5 of any act had in connection with the assessment or sale of
 6 said land, ~~any~~ Any defendant to said action may make
 7 redemption of said lands from said tax sale by paying the
 8 total amount of delinquent taxes and penalties, with
 9 interest thereon at ~~eight per centum (8%)~~ per annum from
 10 date of payment, which plaintiff shall have paid, together
 11 with costs of the action, ~~and upon~~ Upon such payment a
 12 certificate of redemption therefrom shall be issued by the
 13 county treasurer of said county to the defendant so paying,
 14 and thereupon the said action shall be dismissed, ~~whenever~~
 15 Whenever a defendant shall desire to redeem from a tax sale
 16 and pay all subsequent taxes upon any lots, piece, or parcel
 17 of real estate, which said person, ~~firm, copartnership,~~
 18 ~~corporation or association~~ shall own or hold a mortgage or
 19 other lien against or have any interest in such property, it
 20 shall be the duty of the county treasurer of the county in
 21 which such real estate is situated to permit such redemption
 22 and payment, ~~and in~~ In case the said real estate shall have
 23 been assessed against any other property ~~shall be~~ and is a
 24 lien thereon, then it shall be the duty of said county
 25 treasurer to compute and apportion the tax that should have

1 properly been assessed against the said real estate sought
 2 to be redeemed, and upon which the taxes are sought to be
 3 paid, the same as if said property had been separately
 4 assessed. Any personal property tax which is a lien upon
 5 said real estate shall be likewise computed and apportioned
 6 on the same percentage basis as the tax assessed against the
 7 real estate is apportioned."

8 Section 18. Section 84-5402, R.C.M. 1947, is amended
 9 to read as follows:

10 "84-5402. Net proceeds tax — statement of yield,
 11 penalty, extension of time. Every person, ~~partnership,~~
 12 ~~corporation, or association,~~ engaged in mining, extracting
 13 or producing from any quartz vein or lode, placer claim,
 14 dump, or tailings, or other place or sources whatever,
 15 precious stones or gems, gold, silver, copper, lead,
 16 petroleum, natural gas, or other valuable mineral, except
 17 coal, must on or before ~~the thirty-first day of~~ March 31 of
 18 each year make out a statement of the gross yield of the
 19 above-named metals or minerals from each mine owned or
 20 worked by such person, ~~corporation or association~~ during the
 21 year preceding ~~the first day of~~ January 1 of the year in
 22 which such statement is made, and the value thereof. Such
 23 statement shall be in the form prescribed by the state
 24 department of revenue, and must be verified by the oath of
 25 such person or the manager, superintendent, agent,

1 president, or vice-president, ~~of such~~ if a corporation,
2 association, or partnership, and must be delivered to the
3 state department of revenue on or before ~~the thirty-first~~
4 ~~day of~~ March 31. Such statement shall show the following:

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

13 ~~2-~~(2) ~~The~~ the description and location of the mine;

14 ~~3-~~(3) ~~The~~ the number of tons of ore, barrels of
15 petroleum, cubic feet of natural gas, or other mineral
16 products or deposits extracted, produced, and treated or
17 sold from the mine during the period covered by the
18 statement;

19 ~~4-~~(4) ~~The~~ the amount and character of such ores,
20 mineral products, or deposits, and the yield of such ores,
21 mineral products, or deposits from such mine in constituents
22 of commercial value; that is ~~to say~~, the number of ounces of
23 gold or silver, pounds of copper or lead, barrels of
24 petroleum or other crude or mineral oil, cubic feet of
25 natural gas or other commercially valuable constituents of

1 said ores, or mineral products, or deposits, measured by
2 standard units of measurement, yielded to such person,
3 ~~corporation or association~~ so engaged in mining, and to said
4 royalty holders and each of them, if any, during the period
5 covered by the statement;

6 ~~5-~~(5) ~~The~~ the gross yield or value in dollars and
7 cents;

8 ~~6-~~(6) ~~Actual~~ cost of extracting same from mine;

9 ~~7-~~(7) ~~Actual~~ cost of transporting to place of
10 reduction or sale;

11 ~~8-~~(8) ~~Actual~~ cost of reduction or sale;

12 ~~9-~~(9) ~~Actual~~ cost of marketing the product and
13 conversion of same into money;

14 ~~10-~~(10) ~~Cost~~ cost of construction, repairs, and
15 betterments of mines, and cost of repairs and replacements
16 of reduction works;

17 ~~11-~~(11) ~~The~~ the assessed valuation of reduction works
18 for the calendar year for which such return is made;

19 ~~12-~~(12) ~~Actual~~ cost of fire insurance and ~~workmen's~~
20 workers' compensation insurance.

21 If any person shall fail, neglect or refuse to file the
22 statement required by this section within the time required,
23 or within any extended period of time allowed, the state
24 department of revenue when transmitting the net proceeds
25 valuations to the counties shall inform the county assessor

1 of such failure, neglect or refusal and the county assessor
 2 in addition to the net proceeds tax, if any, shall assess a
 3 penalty of 2/3 of 1% of such tax for each calendar month or
 4 fraction thereof that the required statement is not filed,
 5 deducting therefrom any moneys collected by the state
 6 department of revenue required by this section. The state
 7 department of revenue shall assess a penalty of \$25 for each
 8 calendar month or fraction thereof, not exceeding four
 9 months, that the required statement is not filed, to be
 10 collected by the state department of revenue and deposited
 11 to the credit of the general fund of the state of Montana.

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

16 Section 19. Section 84-5410, R.C.M. 1947, is amended
 17 to read as follows:

18 "84-5410. Penalty for failure to make statement —
 19 estimate of net proceeds. (1) If any person, ~~partnership,~~
 20 ~~association, or corporation~~ shall refuse or neglect to make
 21 and deliver, under oath, to the ~~state~~ department of revenue
 22 any statement required by this act, or to comply with any
 23 requirements of this act, the ~~state~~ department of ~~revenue~~
 24 ~~must~~ cause such refusal to be noted upon the assessment roll
 25 opposite the name of such person, ~~partnership, association,~~

1 ~~or corporation, and must~~ make an estimate of the ores,
 2 mineral products, or deposit mined and treated or sold by
 3 such person, ~~partnership, association, or corporation,~~ and,
 4 upon such estimate, shall fix and determine the value of the
 5 net proceeds of said mine or mining claim, ~~as hereinbefore~~
 6 ~~set forth.~~

7 (2) In making an estimate of the value of the net
 8 proceeds under this section, the ~~state department of revenue~~
 9 shall have the power to subpoena and examine, under oath,
 10 any ~~person~~ individual, members of a partnership or
 11 association, officers or agents of a corporation, and the
 12 employees of such person, ~~partnership, association, or~~
 13 ~~corporation,~~ and every person who refuses or neglects to
 14 appear and testify, when required so to do by the ~~state~~
 15 ~~board of equalization as herein provided~~ department, for
 16 each and every refusal shall be deemed guilty of a
 17 misdemeanor, and upon conviction thereof shall be punished
 18 by a fine of not more than ~~one thousand dollars,~~ \$1,000 or
 19 by imprisonment in the county jail for not more than ~~one~~ 1
 20 ~~year,~~ or both such fine and imprisonment."

21 Section 20. Section 84-5413, R.C.M. 1947, is amended
 22 to read as follows:

23 "84-5413. Lien of tax — enforcement of payment. (1)
 24 The taxes on such net proceeds must be levied as the levy of
 25 other taxes ~~are~~ is provided for, and every such tax is a

1 lien upon the mine or mining claim from which the ore or
 2 mineral products or deposits are mined or extracted, and is
 3 a prior lien upon all personal property and improvements
 4 used in the process of extracting such ore or mineral
 5 products or deposits, provided, however, that such personal
 6 or real property is owned by or under lease by the person,
 7 partnership, association, or corporation who extracted said
 8 ore, or mineral products, or deposits.

9 (2) The tax on such net proceeds may be collected, and
 10 the payment thereof, enforced, by the seizure and sale of
 11 the personal property upon which the said tax is a lien, in
 12 the same manner as other personal property is seized and
 13 sold for delinquent taxes, or by the sale of the mine or
 14 mining claim and improvements, as provided for the sale of
 15 real property for delinquent taxes, or by the institution of
 16 a civil action for its collection in any court of competent
 17 jurisdiction, provided, however, that a resort to any one
 18 of the methods of enforcing collection, as herein provided
 19 for, shall not bar the right to resort to either or both of
 20 the other methods, but that any two or all of the methods
 21 herein provided for may be used until the full amount of
 22 such tax is collected."

23 Section 21. Section 84-6201, R.C.M. 1947, is amended
 24 to read as follows:

25 "84-6201. Definitions. ~~The term "person," as used in~~

1 ~~this act, shall mean and include any individual, firm,~~
 2 ~~copartnership, and every corporation, joint stock company,~~
 3 ~~syndicate and association.~~

4 The terms "operator" and "producer" shall mean any
 5 person as defined above who engages in the business of
 6 mining, or drilling for, or extracting, or producing any
 7 natural gas, petroleum, or other crude or mineral oil."

8 Section 22. Section 84-6401, R.C.M. 1947, is amended
 9 to read as follows:

10 "84-6401. Definitions. The following words and
 11 phrases, when used in this act, unless the context clearly
 12 indicates otherwise, shall have the meanings ascribed to
 13 them in this section:

14 ~~(a) "Person" means any individual, corporation, firm,~~
 15 ~~copartnership, company, or association, and includes any~~
 16 ~~guardian, trustee, executor, administrator, receiver,~~
 17 ~~conservator, or any person acting in any fiduciary capacity~~
 18 ~~therefor.~~

19 ~~(b)(1)~~ "Scheduled airline company" means any person or
 20 company who undertakes directly or indirectly to engage in
 21 the business of scheduled air commerce.

22 ~~(c)(2)~~ "Aircraft" means any contrivance now known or
 23 hereafter invented, used, or designed for navigation of or
 24 flight in the air.

25 ~~(d)(3)~~ "Flight property" means aircraft fully equipped

1 ready for flight used in air commerce.

2 ~~(e)~~(4) "Air commerce" means the transportation by
3 aircraft of persons or property for hire in interstate,
4 intrastate, or international transportation on regularly
5 scheduled flights.

6 ~~(f)~~(5) "Equated plane hours" means hours spent by
7 aircraft in flight or on the ground weighted according to
8 the cargo capacity of each aircraft.

9 ~~(g)~~(6) "Operating" or "operated" means landings or
10 ~~take-offs~~ takeoffs during interstate flight."

11 Section 23. Section 84-7003, R.C.M. 1947, is amended
12 to read as follows:

13 "84-7003. Definitions. As used in this act:

14 ~~(1) "Person" means and includes every individual,~~
15 ~~partnership, firm, association, joint stock company,~~
16 ~~syndicate and corporation.~~

17 ~~(2)~~(1) "Mineral" means any precious stones or gems,
18 gold, silver, copper, coal, lead, petroleum, natural gas,
19 oil, uranium, or other nonrenewable merchantable products
20 extracted from the surface or subsurface of the state of
21 Montana.

22 ~~(3)~~(2) "Gross value of product" means the market value
23 of any merchantable mineral extracted or produced during the
24 taxable year.

25 ~~(4)~~(3) "Total environment" means air, water, soil,

1 flora, and fauna, and ~~also~~ the social, economic, and
2 cultural conditions that influence communities and
3 individual citizens.

4 ~~(5)~~(4) "Department" means department of revenue."

5 Section 24. Repealer. Sections 84-1101, 84-1201,
6 84-2001, 84-2201, and 84-5901, R.C.M. 1947, are repealed.

-End-

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LC 0043

1977 Legislature
Code Commissioner Bill - Summary

_____ Bill No. _____

FOR A STANDARD DEFINITION OF THE WORD "PERSON" IN TAX
TITLE.

(This summary does not include discussion of routine form
or grammatical changes.)

This bill enacts a section to provide a standard definition
of person for most of the taxation statutes in Title 84, to
include individuals, partnerships, corporations, syndicates,
associations, and joint-stock companies. The taxes on indivi-
dual and corporate income are expressly excluded from the
scope of this definition.

The remainder of the bill either repeals separate definitions
of "person" now scattered throughout the title (sections 3,
12, 21, 22, 23, and 24 do this), or delete enumerations which
would be redundant under the title-wide definition. A typical
enumeration is: "It shall be unlawful for any person, firm,
association, corporation, or copartnership to...". The
remaining sections of the bill make such deletions.

Approved by Committee
on Taxation

1 HOUSE BILL NO. 13

2 INTRODUCED BY MARKS

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR A STANDARD

5 DEFINITION OF THE WORD "PERSON" IN THE TAXATION STATUTES;

6 DELETING INCONSISTENT DEFINITIONS FROM TITLE 84, R.C.M.

7 1947; AMENDING SECTIONS 84-202, 84-704, 84-1601, 84-2301,

8 84-2401, 84-2402, 84-2404, 84-2405, 84-2410, 84-2411,

9 84-3501, 84-3502, 84-3510, 84-3512, 84-4155, 84-4166,

10 84-5402, 84-5410, 84-5413, 84-6201, 84-6401, AND 84-7003,

11 R.C.M. 1947; REPEALING SECTIONS 84-1101, 84-1201, 84-2001,

12 84-2201, AND 84-5901, R.C.M. 1947."

13

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

15 Section 1. There is a new R.C.M. section in Title 84

16 that reads as follows:

17 "Person" defined. As used in this title (except

18 chapters 15 and 49), unless the context indicates otherwise,

19 the term "person" means an individual, corporation (domestic

20 or foreign), partnership, association, joint-stock company,

21 or syndicate.

22 Section 2. Section 84-202, R.C.M. 1947, is amended to

23 read as follows:

24 "84-202. Exemptions from taxation. (1) (a) The

25 property of the United States, the state, counties, cities,

1 towns, school districts, municipal corporations, public

2 libraries, buildings with land they occupy and furnishings

3 therein owned by a church and used for actual religious

4 worship and for residences of the clergy, together with

5 adjacent land reasonably necessary for convenient use of

6 such buildings owned by a church, such other property as is

7 used exclusively for agricultural and horticultural

8 societies, for educational purposes, hospitals and places of

9 burial not used or held for private or corporate profit, and

10 institutions of purely public charity, evidence of debt

11 secured by mortgages of record upon real or personal

12 property in the state of Montana, and public art galleries

13 and public observatories not used or held for private or

14 corporate profit, are exempt from taxation, but no more land

15 than is necessary for such purpose is exempt.

16 (b) As used in this subsection, the term "institutions

17 of purely public charity" shall include organizations owning

18 and operating facilities for the care of the retired or aged

19 or chronically ill which are not operated for gain or

20 profit; and the terms "public art galleries and public

21 observatories" shall mean only such art galleries and

22 observatories, whether of public or private ownership, as

23 are open to the public, without charge or fee at all

24 reasonable hours, and are used for the purpose of education

25 only.

There are no changes in HB 13, & will not be re-run.

Please refer to white copy for complete text. SECOND READING

1 (2) When a clubhouse or building erected by or
 2 belonging to any society or organization of honorably
 3 discharged United States soldiers, sailors, or marines who
 4 served in army or navy of United States, is used exclusively
 5 for educational, fraternal, benevolent, or purely public
 6 charitable purposes, rather than for gain or profit,
 7 together with the library and furniture necessarily used in
 8 any such building, such property is exempt from taxation,
 9 and all property, real or personal, in the possession of
 10 legal guardians of incompetent veterans of the World War or
 11 minor dependents of such veterans, where such property is
 12 funds or derived from funds received from the United States
 13 as pension, compensation, insurance, adjusted compensation,
 14 or gratuity, shall be exempt from all taxation as property
 15 of the United States while held by the guardian, but not
 16 after title passes to the veteran or minor in his or her own
 17 right on account of removal of legal disability.

18 (3) All household goods and furniture, including
 19 clocks, musical instruments, sewing machines, wearing
 20 apparel of members of the family actually used by the owner
 21 for personal and domestic purposes, or for furnishing or
 22 equipping the family residence, are exempt from taxation.

23 (4) (a) Freeport merchandise shall be exempt from
 24 taxation. Freeport merchandise means those stocks of
 25 merchandise manufactured or produced outside this state

1 which are in transit through this state and consigned to a
 2 warehouse or other storage facility, public or private,
 3 within this state, for storage in transit prior to shipment
 4 to a final destination outside the state, and which have
 5 acquired a taxable situs within the state.

6 (b) Stocks of merchandise do not lose their status as
 7 freeport merchandise because while in the storage facility
 8 they are assembled, bound, joined, processed, disassembled,
 9 divided, cut, broken in bulk, relabeled, or repackaged.

10 (c) Any person, ~~corporation, firm, partnership,~~
 11 ~~association,~~ or other group seeking to qualify its property
 12 for inclusion in this class shall make application to the
 13 state department of revenue in such manner or form as may be
 14 required by the department.

15 (5) {The following agricultural products are exempt
 16 from taxation:}

17 (a) ~~All~~ all unprocessed, perishable fruits and
 18 vegetables in farm storage and owned by the producer ~~are~~
 19 ~~except from taxation.~~

20 (b) ~~All~~ all nonperishable unprocessed agricultural
 21 products, except livestock, held in possession of the
 22 original producer for less than ~~seven~~ (7) months following
 23 harvest.

24 (c) ~~Livestock~~ livestock, defined as cattle, sheep,
 25 horses, or mules, which have not attained the age of ~~six~~

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4 worship and for residences of the clergy, together with

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17 of purely public charity" shall include organizations owning

18 and operating facilities for the care of the retired or aged

19 or chronically ill which are not operated for gain or

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25 only.

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Please refer to white copy for complete text. THIRD READING

HB 13

1 (2) When a clubhouse or building erected by or
 2 belonging to any society or organization of honorably
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 7 together with the library and furniture necessarily used in
 8 any such building, such property is exempt from taxation,
 9 and all property, real or personal, in the possession of
 10 legal guardians of incompetent veterans of the World War or
 11 minor dependents of such veterans, where such property is
 12 funds or derived from funds received from the United States
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 9 divided, cut, broken in bulk, relabeled, or repackaged.

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 11 ~~association,~~ or other group seeking to qualify its property
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 13 state department of revenue in such manner or form as may be
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15 (5) {The following agricultural products are exempt
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 19 ~~exempt from taxation;~~

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 21 products, except livestock, held in possession of the
 22 original producer for less than seven ~~(7)~~ months following
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1 HOUSE BILL NO. 13
 2 INTRODUCED BY MARKS
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21 products, except livestock, held in possession of the
22 original producer for less than ~~seven~~ {7} months following
23 harvest.

24 (c) ~~livestock~~ livestock, defined as cattle, sheep,
25 horses, or mules, which have not attained the age of nine

1 {9} months as of the last day of any month.
 2 (6) Moneys and credits are exempt from taxation.
 3 (7) A capital investment in a recognized nonfossil
 4 form of energy generation is exempt to the extent provided
 5 under section 84-7403."
 6 Section 3. Section 84-704, R.C.M. 1947, is amended to
 7 read as follows:
 8 "84-704. Definitions. (1) The term "state board" or
 9 "board" when used in this act without other qualification
 10 shall mean the state tax appeal board.
 11 ~~{2} The term "person," when used in this act, shall~~
 12 ~~mean and include any individual, firm, partnership,~~
 13 ~~association, or corporation unless otherwise expressly~~
 14 ~~stated.~~
 15 {3}{2} The phrase "municipal corporation" or
 16 "municipality" or "taxing unit" when used in this act shall
 17 be deemed to include a county, city, incorporated town,
 18 township, school district, irrigation district, drainage
 19 district, or any person, persons, or organized body
 20 authorized by law to establish tax levies for the purpose of
 21 raising public revenue."
 22 Section 4. Section 84-1601, R.C.M. 1947, is amended to
 23 read as follows:
 24 "84-1601. Electrical energy producers' license tax.
 25 ~~That in~~ In addition to the license tax now provided by law,

1 each ~~and every individual, firm, partnership, common-law~~
 2 ~~trust, corporation, association~~ person or other organization
 3 now engaged in the generation, manufacture, or production of
 4 electricity, and electrical energy in the state of Montana,
 5 either through water power or by any other means, for
 6 barter, sale, or exchange, and hereinafter referred to as
 7 the "producer," shall on or before the ~~fifteenth~~ 15th day
 8 of each calendar month ~~beginning with the fifteenth day of~~
 9 ~~May, 1969,~~ render a statement to the state department of
 10 revenue ~~of the state of Montana,~~ showing the gross amount of
 11 money received on account of sales of electricity and
 12 electrical energy during the preceding calendar month
 13 without any deduction, and shall pay a license tax thereon
 14 in the sum of ~~one and four hundred thirty-eight thousandths~~
 15 ~~per cent (1.438%)~~ of such gross amount as shown on such
 16 statement in the manner and within the time hereinafter
 17 provided, ~~and such~~ Such tax shall be effective for the
 18 taxable year commencing April 1, 1969, and also for each
 19 taxable year thereafter."
 20 Section 5. Section 84-2301, R.C.M. 1947, is amended to
 21 read as follows:
 22 "84-2301. Definitions. (1) The term "department" when
 23 used in this act shall mean the state department of revenue.
 24 (2) Any person, ~~persons, copartnership, joint-stock~~
 25 ~~company, association, or corporation~~ (not being a railroad

1 company or a lessee of a railroad company) wherever
 2 organized or incorporated, owning and operating, or
 3 operating any cars known as dining, buffet, chair, parlor,
 4 palace, or sleeping cars, which are used upon railroads
 5 within this state, unless the ownership of such cars be
 6 identical with that of the lines of railroads on which they
 7 are operated, shall be deemed a "sleeping car company" for
 8 the purposes of this act."

9 Section 6. Section 84-2401, R.C.M. 1947, is amended to
 10 read as follows:

11 "84-2401. Store license from department of revenue
 12 required. ~~That it~~ It shall be unlawful for any person, firm,
 13 corporation, association or copartnership, either foreign or
 14 domestic, to open, establish, operate, or maintain any store
 15 or stores in this state without first having obtained a
 16 license to do so from the state department of revenue, as
 17 hereinafter provided."

18 Section 7. Section 84-2402, R.C.M. 1947, is amended to
 19 read as follows:

20 "84-2402. Application and fee for license. (1) Any
 21 person, firm, corporation, association, or copartnership or
 22 group desiring to open, establish, operate, or maintain a
 23 store in the state of Montana prior to September 1 of that
 24 calendar year shall apply to the state department of revenue
 25 for license to do so. The application shall be made upon a

1 form which shall be prescribed and furnished by the state
 2 department of revenue, and shall set forth the name of the
 3 owner, manager, trustee, lessee, stockholders, receiver, or
 4 other persons desiring said license; the name of such store;
 5 the location, including street number; and all such other
 6 facts as the state department of revenue may require.

7 (2) If the applicant desires to open, establish,
 8 operate, or maintain more than one such store, he shall make
 9 a separate application for a license to operate, maintain,
 10 open, or establish each such store.

11 (3) Each such application shall be accompanied by the
 12 license fee as prescribed in sections 84-2405 and 84-2407."

13 Section 8. Section 84-2404, R.C.M. 1947, is amended to
 14 read as follows:

15 "84-2404. Expiration and renewal of licenses. (1) All
 16 licenses shall be so issued so as to expire December 31 of
 17 each calendar year. On or before December 31 of each
 18 calendar year, every firm, person, corporation, association,
 19 copartnership having a license, shall apply to the state
 20 department of revenue for a renewal license for the calendar
 21 year next ensuing. All applications for a renewal shall be
 22 made upon forms which shall be prescribed and furnished by
 23 the state department of revenue.

24 (2) Each such application for a renewal license shall
 25 be accompanied by the license fee as prescribed in sections

1 84-2405 and 84-2407.

2 ~~(3) All licenses shall lapse on December 31 of the~~
 3 ~~year for which the license was issued, and if~~ If, by
 4 December 31, an application for a renewal license for the
 5 calendar year next ensuing has not been made, the fee
 6 charged shall be double the rate prescribed in sections
 7 84-2405 and 84-2407."

8 Section 9. Section 84-2405, R.C.M. 1947, is amended to
 9 read as follows:

10 "84-2405. Retailers subject to act -- license fees
 11 for. (1) Every person~~y~~ ~~firm~~ ~~corporation~~ ~~association~~
 12 ~~copartnership~~ or group opening, establishing, operating~~s~~ or
 13 maintaining one ~~fi~~ or more retail stores or mercantile
 14 establishments~~y~~ within this state~~y~~ under the same general
 15 management, supervision~~s~~ or ownership, where a stock of
 16 goods is maintained during any portion of the year~~y~~
 17 regardless of whether the stock is held by ownership,
 18 consignment, agency~~s~~ or any other means, shall pay the
 19 license fee hereinafter prescribed for the privilege of
 20 opening, establishing, operating, or maintaining such stores
 21 or mercantile establishments, provided that the members of
 22 any group, association~~s~~ or consumer co-operative cooperative
 23 composed of independent units owning their own business and
 24 grouped or associated together by agreement or otherwise for
 25 the purpose of purchasing or selling merchandise or service

1 for the mutual benefit of the members shall not be grouped
 2 for computing the license fee to be paid by the person~~y~~
 3 ~~firm~~ ~~corporation~~ ~~association~~ or copartnership or retailer
 4 under this act, but the units or members shall be taxed as
 5 individual units. The license fee herein prescribed shall
 6 be paid annually.

7 (2) The annual license fees herein prescribed for
 8 retail stores or mercantile establishments which have gross
 9 receipts in excess of ~~three hundred fifty thousand dollars~~
 10 ~~(\$350,000)~~ per year shall be as follows:

11 1. (a) Upon one store~~s~~, the annual license fee shall be
 12 ~~eleven dollars (\$11).~~

13 2. (b) Upon the second store, the annual license fee
 14 shall be ~~fifty six dollars (\$56).~~

15 3. (c) Upon the third store, the annual license fee
 16 shall be ~~one hundred and six dollars (\$106).~~

17 4. (d) Upon the fourth store, the annual license fee
 18 shall be ~~one hundred and fifty six dollars (\$156).~~

19 5. (e) Upon the fifth store~~y~~ and on each store in
 20 excess of five ~~(5)~~ stores, the annual license fee shall be
 21 ~~two hundred and six dollars (\$206).~~

22 (3) The annual license fees herein prescribed for
 23 retail stores or mercantile establishments which do not have
 24 gross receipts in excess of ~~three hundred fifty thousand~~
 25 ~~dollars (\$350,000)~~ per year shall be as follows:

1 1*(a) Upon one store, the annual license fee shall be
2 eleven-dollars-(\$11).

3 2*(b) Upon the second store, the annual license fee
4 shall be thirteen-dollars-and-fifty-cents-(\$13.50).

5 3*(c) Upon the third store, the annual license fee
6 shall be twenty-one-dollars-(\$21).

7 4*(d) Upon the fourth store, the annual license fee
8 shall be twenty-eight-dollars-and-fifty-cents-(\$28.50).

9 5*(e) Upon the fifth store, the annual license fee
10 shall be thirty-six-dollars-(\$36).

11 6*(f) Upon the sixth store, and each store in excess
12 of six (6), the annual license fee shall be forty-four
13 dollars-and-fifty-cents-(\$44.50).

14 (4) For the purpose of determining the number of
15 stores or units in the chain, all stores or units in the
16 chain shall be included regardless of size even though one
17 or more stores or units may be included in a different
18 category for this license, provided the larger stores or
19 units shall be counted last."

20 Section 10. Section 84-2410, R.C.M. 1947, is amended
21 to read as follows:

22 "84-2410. "Store" defined. The term "store" as used in
23 this act shall be construed to mean and include any store or
24 stores or any mercantile establishment or establishments
25 which are owned, operated, maintained, or controlled by the

1 same person, firm, corporation, association, copartnership
2 or group, either domestic or foreign, in which goods, wares,
3 or merchandise of any kind are sold, either at retail or
4 wholesale, and subject to the classification contained in
5 sections 84-2405 and 84-2407. Vending machines shall not be
6 considered as places of business per se and are not required
7 to be licensed under the provisions of this act."

8 Section 11. Section 84-2411, R.C.M. 1947, is amended
9 to read as follows:

10 "84-2411. Penalty. Any person, firm, corporation,
11 association, copartnership or group who shall violate any of
12 the provisions of this act shall be deemed guilty of a
13 misdemeanor and upon conviction thereof shall be fined in
14 any sum of not less than twenty-five-dollars-(\$25.00) nor
15 more than two-hundred-dollars-(\$200.00), and each and every
16 day that such violation shall continue shall constitute a
17 separate and distinct offense."

18 Section 12. Section 84-3501, R.C.M. 1947, is amended
19 to read as follows:

20 "84-3501. Definitions. The following words, terms, and
21 phrases in this act are, for the purposes hereof, defined as
22 follows:

23 (a) --The word "person" includes any individual, firm,
24 copartnership, association, corporation or other group or
25 combination acting as a unity and the plural as well as the

1 ~~singular number, unless the intent to give a more limited~~
 2 ~~meaning is clearly disclosed by the context hereof.~~

3 ~~(b)(1)~~ A "public contractor" within the meaning of
 4 this act shall include any person who submits a proposal to
 5 or enters into a contract for performing all public
 6 construction work in the state, with the federal government,
 7 state of Montana, or with any board, commission, or
 8 department thereof, or with any board of county
 9 commissioner, or with any city or town council, or with any
 10 agency of any thereof, or with any other public board, body,
 11 commission, or agency, authorized to let or award contracts
 12 for any public work when the contract cost, value, or price
 13 thereof exceeds the sum of ~~one thousand dollars (\$1,000).~~

14 ~~(c)(2)~~ The term "public contractor" includes
 15 subcontractors undertaking to perform the work covered by
 16 the original contract, or any part thereof, the contract
 17 cost, value, or price of which exceeds the sum of ~~one~~
 18 ~~thousand dollars (\$1,000.00).~~

19 ~~(d)(1)~~ "Gross receipts" means all receipts from
 20 sources within the state, whether in the form of money,
 21 credits, or other valuable consideration, received from,
 22 engaging in, or conducting a business, without deduction on
 23 account of the cost of the property sold, the cost of the
 24 materials used, labor or service cost, interest paid, taxes,
 25 losses, or any other expense whatsoever. However, "gross

1 receipts" shall not include cash discounts allowed and taken
 2 on sales and sales refunds, either in cash or by credit,
 3 uncollectible accounts written off from time to time, and ~~or~~
 4 payments received in final liquidation of accounts included
 5 in the gross receipts of any previous return made by the
 6 person."

7 Section 13. Section 84-3502, R.C.M. 1947, is amended
 8 to read as follows:

9 "84-3502. Unlawful to engage in public contracting
 10 business without license. ~~From and after the passage and~~
 11 ~~approval of this act, it~~ It shall be unlawful for any
 12 person, ~~firm, copartnership, corporation, association~~ or any
 13 combination of any ~~thereof~~ persons to engage in the
 14 business or act in the capacity of public contractor as
 15 herein defined within the state of Montana without having a
 16 license therefor as herein provided."

17 Section 14. Section 84-3510, R.C.M. 1947, is amended
 18 to read as follows:

19 "84-3510. Complaints against licensee -- grounds --
 20 investigation -- hearing -- suspension of license --
 21 appeals. (1) Any person, ~~firm, copartnership, corporation,~~
 22 ~~association~~ or other organization may file a duly verified
 23 complaint with the registrar charging that the licensee is
 24 guilty of one or more of the following acts or omissions:

25 ~~(1)(a)~~ ~~Abandonment~~ abandonment of any contract without

1 legal excuse;

2 ~~(2)(b)~~ Diversion ~~diversion~~ of funds or property
 3 received under express agreement for prosecution or
 4 completion of a specific contract under this act, or for a
 5 specified purpose in the prosecution or completion of any
 6 contract, and their application or use for any other
 7 contract, obligation, or purpose with intent to defraud or
 8 deceive creditors or the owner;

9 ~~(3)(c)~~ The ~~the~~ doing of any willful fraudulent act by
 10 the licensee as a public contractor in consequence of which
 11 another is substantially injured;

12 ~~(4)(d)~~ The ~~the~~ making of any false statement in any
 13 application for a license or renewal thereof;

14 ~~(5)(e)~~ The ~~the~~ failure to comply with the provisions
 15 of ~~section~~ 82-1926 requiring preference of products
 16 manufactured or produced in this state by Montana industry
 17 and labor.

18 (2) Upon the filing of such complaint, the registrar
 19 shall investigate the charge and within ~~sixty~~ 60 days after
 20 the filing of such complaint shall render and file said
 21 registrar's decision with said registrar's reasons therefor.
 22 If the registrar's decision be that the licensee has been
 23 guilty of any of such acts or omissions, said registrar
 24 shall suspend the contractor's license. At any time within
 25 ~~twenty~~ 20 days thereafter the complainant or the contractor

1 may petition the registrar for a rehearing. In the order
 2 granting or denying such rehearing, the registrar shall set
 3 forth a statement of the particular grounds and reasons for
 4 said registrar's actions on such petition and shall mail a
 5 copy of such order to the parties who have appeared in
 6 support of or in opposition to the petition for rehearing.
 7 If a rehearing be granted, the registrar shall set the
 8 matter for further hearing on due notice to the parties,
 9 and, within ~~thirty~~ 30 days after submission of the matter,
 10 serve said registrar's decision after rehearing in like
 11 manner as an original decision.

12 (3) The filing of such petition for rehearing as to
 13 the registrar's actions in suspending or canceling such
 14 license shall suspend the operation of such action and
 15 permit the licensee to continue to do business as a public
 16 contractor pending final determination of the controversy.

17 (4) Within ~~thirty~~ 30 days after the decision on
 18 rehearing, any party aggrieved by such decision of the
 19 registrar may appeal therefrom to the district court in and
 20 for the county in which the licensee under this act resides
 21 or does business as a public contractor, by serving upon the
 22 registrar a notice of such appeal. The matter shall
 23 thereupon be heard de novo by the district court. An appeal
 24 may be taken from the decision of the district court in the
 25 same manner as appeals in other civil cases.

1 ~~(5)~~ In all cases where the licensee has filed his
 2 notice of appeal from the decision of the registrar or from
 3 the decision of the district court, such licensee shall be
 4 entitled to continue to do business as a public contractor
 5 pending final decision of the controversy."

6 Section 15. Section 84-3512, R.C.M. 1947, is amended
 7 to read as follows:

8 "84-3512. Penalty for acting without license. Any
 9 ~~person, firm, copartnership, corporation, or association~~ or
 10 other organization acting in the capacity of public
 11 contractor within the meaning of this act without a license
 12 as herein provided, shall be guilty of a misdemeanor and
 13 shall, upon conviction thereof, if ~~a person an individual,~~
 14 be punished by a fine of not to exceed ~~five hundred dollars~~
 15 ~~(\$500.00)~~ or by imprisonment in the county jail for a term
 16 not to exceed ~~six~~ 6 months or by both such fine and
 17 imprisonment, in the discretion of the court. The same
 18 penalties shall apply upon conviction to any member of a
 19 ~~copartnership~~ partnership or to any construction, managing,
 20 or directing officer of any corporation or other
 21 organization consenting to, participating in, or aiding or
 22 abetting any such violation of this act."

23 Section 16. Section 84-4155, R.C.M. 1947, is amended
 24 to read as follows:

25 "84-4155. Piecemeal redemption of land sold for taxes.

1 ~~(1)~~ Whenever any person ~~firm, copartnership, corporation or~~
 2 ~~association~~ shall desire to redeem from a tax sale and pay
 3 all subsequent taxes upon any lots, piece, or parcel of real
 4 estate, which said person ~~firm, copartnership, corporation~~
 5 ~~or association~~ shall own or hold a mortgage or other lien
 6 against or when such person ~~firm, copartnership,~~
 7 ~~corporation or association~~ shall be the owner of or have
 8 some interest in such property, it shall be the duty of the
 9 county treasurer of the county in which such real estate is
 10 situated to permit such redemption and payment; and in case
 11 the ~~said~~ real estate shall have been assessed and sold,
 12 together with other real estate, or in case the tax assessed
 13 against any other property shall be a lien thereon, then it
 14 shall be the duty of said county treasurer to compute and
 15 apportion the tax that should have properly been assessed
 16 against the ~~said~~ real estate sought to be redeemed, and upon
 17 which the taxes are sought to be paid, the same as if said
 18 property had been separately assessed.

19 ~~(2)~~ Any personal property tax which is a lien upon
 20 said real estate shall be likewise computed and apportioned
 21 on the same percentage basis as the tax assessed against the
 22 real estate is apportioned."

23 Section 17. Section 84-4166, R.C.M. 1947, is amended
 24 to read as follows:

25 "84-4166. Defense to action -- redemption of parcels.

1 Any defendant may appear in said action within the time
 2 provided by law for appearances in civil actions and may set
 3 up any defense to the said action he may have and may
 4 therein question the legality, validity, or the sufficiency
 5 of any act had in connection with the assessment or sale of
 6 said lands. ~~any~~ Any defendant to said action may make
 7 redemption of said lands from said tax sale by paying the
 8 total amount of delinquent taxes and penalties, with
 9 interest thereon at ~~eight per centum--(8%)~~ per annum from
 10 date of payment, which plaintiff shall have paid, together
 11 with costs of the action, ~~and--upon~~ Upon such payment a
 12 certificate of redemption therefrom shall be issued by the
 13 county treasurer of said county to the defendant so paying,
 14 and thereupon the said action shall be dismissed, ~~whenever~~
 15 whenever a defendant shall desire to redeem from a tax sale
 16 and pay all subsequent taxes upon any lots, piece, or parcel
 17 of real estate, which said person, ~~firm, copartnership,~~
 18 corporation or association shall own or hold a mortgage or
 19 other lien against or have any interest in such property, it
 20 shall be the duty of the county treasurer of the county in
 21 which such real estate is situated to permit such redemption
 22 and payment, ~~and--in~~ In case the said real estate shall have
 23 been assessed against any other property ~~shall be~~ and is a
 24 lien thereon, then it shall be the duty of said county
 25 treasurer to compute and apportion the tax that should have

1 properly been assessed against the said real estate sought
 2 to be redeemed, and upon which the taxes are sought to be
 3 paid, the same as if said property had been separately
 4 assessed. Any personal property tax which is a lien upon
 5 said real estate shall be likewise computed and apportioned
 6 on the same percentage basis as the tax assessed against the
 7 real estate is apportioned."

8 Section 18. Section 84-5402, R.C.M. 1947, is amended
 9 to read as follows:

10 "84-5402. Net proceeds tax -- statement of yield,
 11 penalty, extension of time. Every person, ~~partnership~~
 12 corporation, ~~or--association,~~ engaged in mining, extracting
 13 or producing from any quartz vein or lode, placer claim,
 14 dump, or tailings, or other place or sources whatever,
 15 precious stones or gems, gold, silver, copper, lead,
 16 petroleum, natural gas, or other valuable mineral, except
 17 coal, must on or before ~~the thirty-first day of~~ March 31 of
 18 each year make out a statement of the gross yield of the
 19 above-named metals or minerals from each mine owned or
 20 worked by such person, ~~corporation or association~~ during the
 21 year preceding ~~the first day of~~ January 1 of the year in
 22 which such statement is made, and the value thereof. Such
 23 statement shall be in the form prescribed by the state
 24 department of revenue, and must be verified by the oath of
 25 such person or the manager, superintendent, agent,

1 president, or vice-president, of such if a corporation,
2 association, or partnership, and must be delivered to the
3 state department of revenue on or before the thirty-first
4 day of March 31. Such statement shall show the following:

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

13 2*(2) The the description and location of the mine;

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

19 4*(4) The the amount and character of such ores,
20 mineral products, or deposits, and the yield of such ores,
21 mineral products, or deposits from such mine in constituents
22 of commercial value; that is to say, the number of ounces of
23 gold or silver, pounds of copper or lead, barrels of
24 petroleum or other crude or mineral oil, cubic feet of
25 natural gas or other commercially valuable constituents of

1 said ores, or mineral products, or deposits, measured by
2 standard units of measurement, yielded to such person
3 corporation or association so engaged in mining, and to said
4 royalty holders and each of them, if any, during the period
5 covered by the statement;

6 5*(5) The the gross yield or value in dollars and
7 cents;

8 6*(6) Actual cost of extracting same from mine;

9 7*(7) Actual cost of transporting to place of
10 reduction or sale;

11 8*(8) Actual cost of reduction or sale;

12 9*(9) Actual cost of marketing the product and
13 conversion of same into money;

14 10*(10) Cost cost of construction, repairs, and
15 betterments of mines, and cost of repairs and replacements
16 of reduction works;

17 11*(11) The the assessed valuation of reduction works
18 for the calendar year for which such return is made;

19 12*(12) Actual cost of fire insurance and workmen's
20 workers' compensation insurance.

21 If any person shall fail, neglect or refuse to file the
22 statement required by this section within the time required,
23 or within any extended period of time allowed, the state
24 department of revenue when transmitting the net proceeds
25 valuations to the counties shall inform the county assessor

1 of such failure, neglect or refusal and the county assessor
 2 in addition to the net proceeds tax, if any, shall assess a
 3 penalty of 2/3 of 1% of such tax for each calendar month or
 4 fraction thereof that the required statement is not filed,
 5 deducting therefrom any moneys collected by the state
 6 department of revenue required by this section. The state
 7 department of revenue shall assess a penalty of \$25 for each
 8 calendar month or fraction thereof, not exceeding four
 9 months, that the required statement is not filed, to be
 10 collected by the state department of revenue and deposited
 11 to the credit of the general fund of the state of Montana.

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

16 Section 19. Section 84-5410, R.C.M. 1947, is amended
 17 to read as follows:

18 "84-5410. Penalty for failure to make statement --
 19 estimate of net proceeds. (1) If any person~~y~~--~~partnership~~
 20 ~~association~~--~~or~~--~~corporation~~ shall refuse or neglect to make
 21 and deliver, under oath, to the state department of revenue
 22 any statement required by this act or to comply with any
 23 requirements of this act, the state department of--revenue
 24 must cause such refusal to be noted upon the assessment roll
 25 opposite the name of such person, ~~partnership~~--~~association~~

1 ~~or~~--~~corporation~~--~~and~~--~~must~~ make an estimate of the ores,
 2 mineral products, or deposit mined and treated or sold by
 3 such person, ~~partnership~~--~~association~~--~~or~~--~~corporation~~ and,
 4 upon such estimate, shall fix and determine the value of the
 5 net proceeds of said mine or mining claim~~y~~--~~as~~--~~hereinbefore~~
 6 ~~set~~--~~forth~~.

7 (2) In making an estimate of the value of the net
 8 proceeds under this section, the ~~state~~ department of--revenue
 9 shall have the power to subpoena and examine, under oath,
 10 any person individual, members of a partnership or
 11 association, officers or agents of a corporation, and the
 12 employees of such person, ~~partnership~~--~~association~~--~~or~~
 13 ~~corporation~~ and every person who refuses or neglects to
 14 appear and testify, when required so to do by the ~~state~~
 15 ~~board~~--~~of~~--~~equalization~~--~~as~~--~~herein~~--~~provided~~ department, for
 16 each and every refusal shall be deemed guilty of a
 17 misdemeanor and upon conviction thereof shall be punished
 18 by a fine of not more than ~~one thousand dollars~~, \$1,000 or
 19 by imprisonment in the county jail for not more than ~~one~~ 1
 20 ~~year~~ or both such fine and imprisonment."

21 Section 20. Section 84-5413, R.C.M. 1947, is amended
 22 to read as follows:

23 "84-5413. Lien of tax -- enforcement of payment. (1)
 24 The taxes on such net proceeds must be levied as the levy of
 25 other taxes are is provided for, and every such tax is a

1 lien upon the mine or mining claim from which the ore or
 2 mineral products or deposits are mined or extracted, and is
 3 a prior lien upon all personal property and improvements
 4 used in the process of extracting such ore or mineral
 5 products or deposits, ~~provided, however, that~~ such personal
 6 or real property is owned by or under lease by the person
 7 ~~partnership, association, or corporation~~ who extracted said
 8 ore, or mineral products, or deposits.

9 ~~(2)~~ The tax on such net proceeds may be collected, and
 10 the payment thereof, enforced, by the seizure and sale of
 11 the personal property upon which the ~~said~~ tax is a lien, in
 12 the same manner as other personal property is seized and
 13 sold for delinquent taxes, or by the sale of the mine or
 14 mining claim and improvements, as provided for the sale of
 15 real property for delinquent taxes, or by the institution of
 16 a civil action for its collection in any court of competent
 17 jurisdiction, ~~provided, however, that~~ a resort to any one
 18 of the methods of enforcing collection, as herein provided
 19 for, shall not bar the right to resort to either or both of
 20 the other methods, but ~~that~~ any two or all of the methods
 21 herein provided for may be used until the full amount of
 22 such tax is collected."

23 Section 21. Section 84-6201, R.C.M. 1947, is amended
 24 to read as follows:

25 "84-6201. Definitions. ~~The term "person" as used in~~

1 ~~this act shall mean and include any individual, firm,~~
 2 ~~copartnership, and every corporation, joint stock company,~~
 3 ~~syndicate and association.~~

4 The terms "operator" and "producer" shall mean any
 5 person ~~as defined above~~ who engages in the business of
 6 mining, or drilling for, or extracting, or producing any
 7 natural gas, petroleum, or other crude or mineral oil."

8 Section 22. Section 84-6401, R.C.M. 1947, is amended
 9 to read as follows:

10 "84-6401. Definitions. The following words and
 11 phrases, when used in this act, unless the context clearly
 12 indicates otherwise, shall have the meanings ascribed to
 13 them in this section:

14 ~~(a) "Person" means any individual, corporation, firm,~~
 15 ~~copartnership, company, or association, and includes any~~
 16 ~~guardian, trustee, executor, administrator, receiver,~~
 17 ~~conservator, or any person acting in any fiduciary capacity~~
 18 ~~therefor.~~

19 ~~(b)(1)~~ "Scheduled airline company" means any person or
 20 company who undertakes directly or indirectly to engage in
 21 the business of scheduled air commerce.

22 ~~(c)(2)~~ "Aircraft" means any contrivance now known or
 23 hereafter invented, used, or designed for navigation of or
 24 flight in the air.

25 ~~(d)(3)~~ "Flight property" means aircraft fully equipped

1 ready for flight used in air commerce.

2 ~~(e)(4)~~ "Air commerce" means the transportation by
3 aircraft of persons or property for hire in interstate,
4 intrastate, or international transportation on regularly
5 scheduled flights.

6 ~~(f)(5)~~ "Equated plane hours" means hours spent by
7 aircraft in flight or on the ground weighted according to
8 the cargo capacity of each aircraft.

9 ~~(g)(6)~~ "Operating" or "operated" means landings or
10 ~~take-offs takeoffs~~ during interstate flight."

11 Section 23. Section 84-7003, R.C.M. 1947, is amended
12 to read as follows:

13 "84-7003. Definitions. As used in this act:

14 ~~(1) "Person" means and includes every individual,~~
15 ~~partnership, firm, association, joint stock company,~~
16 ~~syndicate and corporation.~~

17 ~~(2)(1)~~ "Mineral" means any precious stones or gems,
18 gold, silver, copper, coal, lead, petroleum, natural gas,
19 oil, uranium, or other nonrenewable merchantable products
20 extracted from the surface or subsurface of the state of
21 Montana.

22 ~~(3)(2)~~ "Gross value of product" means the market value
23 of any merchantable mineral extracted or produced during the
24 taxable year.

25 ~~(4)(3)~~ "Total environment" means air, water, soil,

1 flora, ~~and~~ fauna, and ~~also~~ the social, economic, and
2 cultural conditions that influence communities and
3 individual citizens.

4 ~~(5)(4)~~ "Department" means department of revenue."

5 Section 24. Repealer. Sections 84-1101, 84-1201,
6 84-2001, 84-2201, and 84-5901, R.C.M. 1947, are repealed.

-End-