

1 HB BILL NO. 99
 2 INTRODUCED BY Lee Hirsch
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE RATE OF
 6 THE CEMENT AND GYPSUM PRODUCER'S LICENSE TAX, TO CHANGE
 7 PENALTY AND INTEREST RATES, AND TO PROVIDE A PROCEDURE FOR
 8 FILING LIENS; AMENDING SECTIONS 84-1202, 84-1207, AND
 9 84-1209, R.C.M. 1947."

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

12 Section 1. Section 84-1202, R.C.M. 1947, is amended to
 13 read as follows:

14 "84-1202. License tax on producers and importers of
 15 gypsum and cement. (1) Every person engaged in or carrying
 16 on the business in the state of Montana of producing or
 17 manufacturing cement, gypsum, gypsum plaster, stucco,
 18 wallboard, and plaster, or other products of cement or
 19 gypsum, and any person who imports into this state any such
 20 products for sale or use, must, for the year 1945 and each
 21 year thereafter, when engaged in or carrying on such
 22 business in this state, pay to the state department of
 23 revenue for the use of the state of Montana, a license tax
 24 for engaging in and carrying on such business in the state
 25 of Montana in an amount equal to the following sums:

1 ~~1~~(a) For ~~for~~ each ~~and every~~ barrel ~~ton~~ of cement
 2 ~~containing 376 pounds~~ produced or manufactured by such
 3 person or used by such person in the manufacture or
 4 production of any of the articles or products hereinabove
 5 enumerated, or imported by such person into this state for
 6 sale or use, ~~four~~ 22 cents.

7 ~~2~~(b) For ~~for~~ each ~~and every~~ ton of ~~2000~~ pounds of
 8 gypsum produced or manufactured by such person or used by
 9 such person in the manufacture or production of any of the
 10 articles or products hereinabove named, or imported by such
 11 person into this state for such sale or use, ~~five~~ 5 cents.

12 ~~3~~(2) The words "products of cement or gypsum" as used
 13 in this section shall, in addition to the articles herein
 14 specifically enumerated, include all manufactured products
 15 into which gypsum enters as a component part to the extent
 16 of not less than ~~fifty per cent~~ 50% by weight. No double
 17 taxation of either cement, gypsum, or the products thereof
 18 is imposed by this act."

19 Section 2. Section 84-1207, R.C.M. 1947, is amended to
 20 read as follows:

21 "84-1207. Quarterly statement and payment of tax. Each
 22 ~~and every~~ person must, ~~within thirty days after the quarter~~
 23 ~~ending March 31, 1945~~ and within ~~thirty~~ 30 days after the
 24 end of each following quarter, make out, on forms prescribed
 25 by the state department of revenue, and deliver to the state

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1 department of revenue a statement showing the total number
 2 of barrels or tons of cement or gypsum produced by such
 3 person or used by him in the manufacture of the respective
 4 articles or products enumerated in section 84-1202 or
 5 imported by such person into the state of Montana for sale
 6 or use during each month of such quarter and during the
 7 whole quarter and such other information as the department
 8 may require, together with the total amount due to the state
 9 as license taxes for such quarter, and must, within such
 10 thirty 30 days, and at the same time such statement is
 11 delivered to the state department of revenue, pay to the
 12 state department of revenue the amount of the license taxes
 13 shown by such statement to be due to the state of Montana
 14 for the quarter for which such statement is made. Such
 15 ~~statement must be signed and verified by the oath of the~~
 16 ~~individual or individuals, or by the president,~~
 17 ~~vice president, treasurer, assistant treasurer, or managing~~
 18 ~~agent in this state of the association, corporation, or~~
 19 ~~joint stock company making the same.~~ Any such person engaged
 20 in carrying on such business at more than one place or
 21 operating more than one factory or plant in this state may
 22 include all thereof in one statement. The department may
 23 grant a reasonable extension of time for filing statements
 24 and payment of taxes due upon good cause shown therefor."

25 Section 3. Section 84-1209, R.C.M. 1947, is amended to

1 read as follows:

2 "84-1209. Procedure to ascertain tax on failure of
 3 statement -- penalty. (1) If any such person shall fail,
 4 neglect, or refuse to file any statement required by section
 5 84-1207 within the time required, or shall fail to pay the
 6 tax required by this act on or before the date such payment
 7 is due, the state department of revenue shall, immediately
 8 after such time has expired, proceed to inform itself, as
 9 best it may, regarding the amounts of the respective
 10 articles or products enumerated in section 84-1202
 11 manufactured or produced by such person within this state or
 12 imported by such person into the state during such quarter
 13 and during each month thereof and shall determine and fix
 14 the amount of the license taxes due to the state from such
 15 person for such quarter, and shall make out a statement
 16 showing the same, and shall add to the amount of such
 17 license taxes a penalty of twenty-five per cent thereof and
 18 deliver such statement to the attorney general, who shall
 19 proceed to collect the amount of the license taxes with the
 20 penalty added thereto and interest on the whole thereof at
 21 the rate of twelve per cent per annum from the date of the
 22 making of such statement by the state department of revenue
 23 until paid. Upon request of the state department of revenue
 24 it shall be the duty of the attorney general to commence and
 25 prosecute to final determination in any court of competent

1 ~~jurisdiction, an action at law to recover the same.~~

2 ~~(2) The department shall add to the amount of all such~~
 3 ~~delinquent license taxes a penalty of 10% of the amount of~~
 4 ~~such license taxes plus interest at the rate of 1% a month~~
 5 ~~or fraction thereof computed on the total amount of license~~
 6 ~~taxes and penalty. Interest shall be computed from the date~~
 7 ~~the license taxes were due to the date of payment.~~

8 ~~(3) The department shall mail to the person required~~
 9 ~~to file a quarterly statement and pay any license tax a~~
 10 ~~letter setting forth the amount of license tax, penalty, and~~
 11 ~~interest due, and the letter shall further contain a~~
 12 ~~statement that if payment is not made within 15 days a lien~~
 13 ~~may be filed as set forth in 84-1213. Upon receipt of the~~
 14 ~~letter the person shall remit to the department, within 15~~
 15 ~~days, the full amount of license tax, penalty, and interest~~
 16 ~~due. The 10% penalty may be waived by the department if~~
 17 ~~reasonable cause for the failure and neglect to file the~~
 18 ~~statement required by 84-1207 is provided to the~~
 19 ~~department."~~

20 Section 4. There is a new R.C.M. section numbered
 21 84-1213 that reads as follows:

22 84-1213. Procedure for collection of tax. All tax,
 23 penalty, and interest due from any person under this act is
 24 a lien upon any and all real property of such person upon
 25 the filing by the department of revenue of a duplicate of

1 the tax assessment statement in the office of the county
 2 clerk in the county where such real property is situated.
 3 The lien has precedence over any other claim, lien, or
 4 demand thereafter filed and recorded and may be enforced in
 5 the name of the state of Montana in the same manner as
 6 judgment liens are enforced by law.

-End-

STATE OF MONTANA

REQUEST NO. 23-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 10, 19 77, there is hereby submitted a Fiscal Note for House Bill 99 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION

This bill is an act to change the rate of the cement and gypsum producer's license tax, to change penalty and interest rates, and to provide a procedure for filing liens; amending sections 84-1202, 84-1207, and 84-1209, R.C.M. 1947.

FISCAL IMPACT

This bill has no fiscal impact. The bill brings the cement and gypsum producers license tax in line with legislation enacted during the 1975 session. There is a change from 4¢/376 lbs to 22¢/ton, which will have no fiscal impact, since this is approximately the same rate.

PREPARED BY THE DEPARTMENT OF REVENUE

Richard L. Dwyer
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-13-77

Approved by Committee
on Taxation

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6 THE CEMENT AND GYPSUM PRODUCER'S LICENSE TAX, TO CHANGE
7 PENALTY AND INTEREST RATES, AND TO PROVIDE A PROCEDURE FOR
8 FILING LIENS; AMENDING SECTIONS 84-1202, 84-1207, AND
9 84-1209, R.C.M. 1947."
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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 84-1202, R.C.M. 1947, is amended to
13 read as follows:

14 "84-1202. License tax on producers and importers of
15 gypsum and cement. (1) Every person engaged in or carrying
16 on the business in the state of Montana of producing or
17 manufacturing cement, gypsum, gypsum plaster, stucco,
18 wallboard, land plaster, or other products of cement or
19 gypsum and any person who imports into this state any such
20 products for sale or use must ~~for the year 1945 and each~~
21 ~~year thereafter when engaged in or carrying on such~~
22 ~~business in this state~~ pay to the state department of
23 revenue for the use of the state of Montana, a license tax
24 for engaging in and carrying on such business in the state
25 of Montana in an amount equal to the following sums:

1 ~~1~~(a) For ~~for~~ each ~~end--every--barrel ton~~ of cement
2 ~~containing 376--pounds~~ produced or manufactured by such
3 person or used by such person in the manufacture or
4 production of any of the articles or products hereinabove
5 enumerated or imported by such person into this state for
6 sale or use, ~~four-(4)~~ 22 cents.

7 ~~2~~(b) For ~~for~~ each ~~end--every~~ ton of ~~--2000--pounds~~ of
8 gypsum produced or manufactured by such person or used by
9 such person in the manufacture or production of any of the
10 articles or products hereinabove named or imported by such
11 person into this state for such sale or use, ~~five-(5)~~ cents.

12 ~~3~~(2) The words "products of cement or gypsum" as used
13 in this section shall, in addition to the articles herein
14 specifically enumerated, include all manufactured products
15 into which gypsum enters as a component part to the extent
16 of not less than ~~fifty-per-cent-(50%)~~ by weight. No double
17 taxation of either cement, gypsum, or the products thereof
18 is imposed by this act."

19 Section 2. Section 84-1207, R.C.M. 1947, is amended to
20 read as follows:

21 "84-1207. Quarterly statement and payment of tax. Each
22 ~~and--every~~ person must, ~~within thirty days after the quarter~~
23 ~~ending March 31, 1945, and within thirty~~ 30 days after the
24 end of each ~~following~~ quarter, make out, on forms prescribed
25 by the state department of revenue, and deliver to the state

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1 department ~~of revenue~~, a statement showing the total number
 2 of ~~barrels or~~ tons of cement or gypsum produced by such
 3 person or used by him in the manufacture of the respective
 4 articles or products enumerated in section 84-1202 or
 5 imported by such person into the state of Montana for sale
 6 or use~~y~~ during each month of such quarter and during the
 7 whole quarter~~y~~ and such other information as the department
 8 may require, together with the total amount due to the state
 9 as license taxes for such quarter~~s~~ and must, within such
 10 ~~thirty 30~~ days~~y~~ and at the same time such statement is
 11 delivered to the state department ~~of--revenue~~, pay to the
 12 state department ~~of--revenue~~ the amount of the license taxes
 13 shown by such statement to be due to the state of Montana
 14 for the quarter for which such statement is made. Such
 15 ~~statement must be signed and verified by the oath of the~~
 16 ~~individual or individuals, or by the president,~~
 17 ~~vice-president, treasurer, assistant treasurer, or managing~~
 18 ~~agent in this state of the association, corporation, or~~
 19 ~~joint-stock company making the same.~~ Any such person engaged
 20 in carrying on such business at more than one place or
 21 operating more than one factory or plant in this state~~y~~ may
 22 include all thereof in one statement. The department may
 23 grant a reasonable extension of time for filing statements
 24 and payment of taxes due upon good cause shown therefor."

25 Section 3. Section 84-1209, R.C.M. 1947, is amended to

1 read as follows:

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 3 statement -- penalty. (1) If any such person shall fail,
 4 neglect~~s~~ or refuse to file any statement required by section
 5 84-1207 within the time required~~y~~ or shall fail to pay the
 6 tax required by this act on or before the date such payment
 7 is due, the state department of revenue shall, immediately
 8 after such time has expired, proceed to inform itself~~s~~ as
 9 best it may, regarding the amounts of the respective
 10 articles or products enumerated in section 84-1202
 11 manufactured or produced by such person within this state or
 12 imported by such person into the state~~y~~ during such quarter~~y~~
 13 and during each month thereof~~y~~ and shall determine and fix
 14 the amount of the license taxes due to the state from such
 15 person for such quarter~~s~~ and shall ~~make out a statement~~
 16 ~~showing the same and shall add to the amount of such~~
 17 ~~license taxes a penalty of twenty-five per cent thereof and~~
 18 ~~deliver such statement to the attorney general who shall~~
 19 ~~proceed to collect the amount of the license taxes with the~~
 20 ~~penalty added thereto and interest on the whole thereof at~~
 21 ~~the rate of twelve per cent per annum from the date of the~~
 22 ~~making of such statement by the state department of revenue~~
 23 ~~until paid.~~ Upon request of the state department of revenue~~y~~
 24 it shall be the duty of the attorney general to commence and
 25 prosecute to final determination in any court of competent

1 ~~jurisdiction, an action at law to recover the same.~~
 2 ~~(2) The department shall add to the amount of all such~~
 3 ~~delinquent license taxes a penalty of 10% of the amount of~~
 4 ~~such license taxes plus interest at the rate of 1% a month~~
 5 ~~or fraction thereof computed on the total amount of license~~
 6 ~~taxes and penalty. Interest shall be computed from the date~~
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 11 ~~interest due, and the letter shall further contain a~~
 12 ~~statement that if payment is not made within 15 days a lien~~
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 19 ~~department.*~~

20 Section 4. There is a new R.C.M. section numbered
 21 84-1213 that reads as follows:

22 84-1213. Procedure for collection of tax. All tax,
 23 penalty, and interest due from any person under this act is
 24 a lien upon any and all real property of such person upon
 25 the filing by the department of revenue of a duplicate of

1 the tax assessment statement in the office of the county
 2 clerk in the county where such real property is situated.
 3 The lien has precedence over any other claim, lien, or
 4 demand thereafter filed and recorded and may be enforced in
 5 the name of the state of Montana in the same manner as
 6 judgment liens are enforced by law.

-End-

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

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15 gypsum and cement. (1) Every person engaged in or carrying
16 on the business in the state of Montana of producing or
17 manufacturing cement, gypsum, gypsum plaster, stucco,
18 wallboard, land plaster, or other products of cement or
19 gypsum, and any person who imports into this state any such
20 products for sale or use, ~~must, for the year 1945 and each~~
21 ~~year thereafter when engaged in or carrying on such~~
22 ~~business in this state,~~ pay to the state department of
23 revenue for the use of the state of Montana, a license tax
24 for engaging in and carrying on such business in the state
25 of Montana in an amount equal to the following sums:

1 ~~to (a) for for each and every barrel ton~~ of cement
2 ~~containing 376 pounds~~ produced or manufactured by such
3 person or used by such person in the manufacture or
4 production of any of the articles or products hereinabove
5 enumerated, or imported by such person into this state for
6 sale or use, ~~four (4)~~ 22 cents;

7 ~~to (b) for for each and every ton of 2800 pounds~~ of
8 gypsum produced or manufactured by such person or used by
9 such person in the manufacture or production of any of the
10 articles or products hereinabove named, or imported by such
11 person into this state for such sale or use, ~~five (5)~~ cents.

12 ~~to (2)~~ The words "products of cement or gypsum" as used
13 in this section shall, in addition to the articles herein
14 specifically enumerated, include all manufactured products
15 into which gypsum enters as a component part to the extent
16 of not less than ~~fifty-per-cent (50%)~~ by weight. No double
17 taxation of either cement, gypsum, or the products thereof
18 is imposed by this act."

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22 ~~and every~~ person must, ~~within thirty days after the quarter~~
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 2 of ~~barrels or~~ tons of cement or gypsum produced by such
 3 person or used by him in the manufacture of the respective
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 6 or use, during each month of such quarter and during the
 7 whole quarter, and such other information as the department
 8 may require, together with the total amount due to the state
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 10 thirty ~~30~~ days, and at the same time such statement is
 11 delivered to the state department of ~~revenue~~, pay to the
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 14 for the quarter for which such statement is made. Such
 15 ~~statement must be signed and verified by the oath of the~~
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 21 operating more than one factory or plant in this state, may
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 3 statement -- penalty. (1) If any such person shall fail,
 4 neglect, or refuse to file any statement required by section
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 6 tax required by this act on or before the date such payment
 7 is due, the state department of revenue shall, immediately
 8 after such time has expired, proceed to inform itself, as
 9 best it may, regarding the amounts of the respective
 10 articles or products enumerated in section 84-1202
 11 manufactured or produced by such person within this state or
 12 imported by such person into the state, during such quarter
 13 and during each month thereof, and shall determine and fix
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 15 person for such quarter, and shall make out a statement
 16 showing the same, and shall add to the amount of such
 17 license taxes, a penalty of twenty-five per cent thereof and
 18 deliver such statement to the attorney general, who shall
 19 proceed to collect the amount of the license taxes, with the
 20 penalty added thereto and interest on the whole thereof at
 21 the rate of twelve per cent per annum from the date of the
 22 making of such statement by the state department of revenue
 23 until paid. Upon request of the state department of revenue,
 24 it shall be the duty of the attorney general to commence and
 25 prosecute to final determination in any court of competent

1 jurisdiction-an action-at-law-to-recover-the-same

2 (2) The department shall add to the amount of all such
 3 delinquent license taxes a penalty of 10% of the amount of
 4 such license taxes plus interest at the rate of 1% a month
 5 or fraction thereof computed on the total amount of license
 6 taxes and penalty. Interest shall be computed from the date
 7 the license taxes were due to the date of payment.

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 9 to file a quarterly statement and pay any license tax a
 10 letter setting forth the amount of license tax, penalty, and
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 12 statement that if payment is not made within 15 days a lien
 13 may be filed as set forth in 84-1213. Upon receipt of the
 14 letter the person shall remit to the department, within 15
 15 days, the full amount of license tax, penalty, and interest
 16 due. The 10% penalty may be waived by the department if
 17 reasonable cause for the failure and neglect to file the
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 21 84-1213 that reads as follows:

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1 the tax assessment statement in the office of the county
 2 clerk in the county where such real property is situated.
 3 The lien has precedence over any other claim, lien, or
 4 demand thereafter filed and recorded and may be enforced in
 5 the name of the state of Montana in the same manner as
 6 judgment liens are enforced by law.

-End-

1 HOUSE BILL NO. 99
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 23 revenue for the use of the state of Montana, a license tax
 24 for engaging in and carrying on such business in the state
 25 of Montana in an amount equal to the following sums:

1 ~~1. (a) For for each and every barrel ton of cement~~
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 3 ~~person or used by such person in the manufacture or~~
 4 ~~production of any of the articles or products hereinabove~~
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 6 ~~sale or use, four (4) 22 cents;~~
 7 ~~2. (b) For for each and every ton of 2000 pounds of~~
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 15 statement must be signed and verified by the oath of the
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 18 agent in this state of the association, corporation or
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 16 showing the same and shall add to the amount of such
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 21 the rate of twelve per cent per annum from the date of the
 22 making of such statement by the state department of revenue
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 2 ~~(2) The department shall add to the amount of all such~~
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 5 ~~or fraction thereof computed on the total amount of license~~
 6 ~~taxes and penalty. Interest shall be computed from the date~~
 7 ~~the license taxes were due to the date of payment.~~

8 ~~(3) The department shall mail to the person required~~
 9 ~~to file a quarterly statement and pay any license tax a~~
 10 ~~letter setting forth the amount of license tax, penalty, and~~
 11 ~~interest due, and the letter shall further contain a~~
 12 ~~statement that if payment is not made within 15 days a lien~~
 13 ~~may be filed as set forth in 84-1213. Upon receipt of the~~
 14 ~~letter the person shall remit to the department, within 15~~
 15 ~~days, the full amount of license tax, penalty, and interest~~
 16 ~~due. The 10% penalty may be waived by the department if~~
 17 ~~reasonable cause for the failure and neglect to file the~~
 18 ~~statement required by 84-1207 is provided to the~~
 19 ~~department."~~

20 Section 4. There is a new R.C.M. section numbered
 21 84-1213 that reads as follows:

22 84-1213. Procedure for collection of tax. All tax,
 23 penalty, and interest due from any person under this act is
 24 a lien upon any and all real property of such person upon
 25 the filing by the department of revenue of a duplicate of

1 the tax assessment statement in the office of the county
 2 clerk in the county where such real property is situated.
 3 The lien has precedence over any other claim, lien, or
 4 demand thereafter filed and recorded and may be enforced in
 5 the name of the state of Montana in the same manner as
 6 judgment liens are enforced by law.

-End-