

1 *H. Armer*  
 2 *H* BILL NO. *151* *Cooney*  
 3 INTRODUCED BY *Vincent* *Nelson* *Hansen* *Bradley*  
 4 *Waldron* BY REQUEST OF THE DEPARTMENT OF REVENUE *Hammerton*  
 5 *Coutray* *Keenan* *Knicker* *Holmes* *Thompson*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE RATE AND  
 6 METHOD OF COMPUTING THE ELECTRICAL ENERGY PRODUCERS' LICENSE  
 7 TAX AND TO PROVIDE FOR QUARTERLY REPORTING; AMENDING  
 8 SECTIONS 84-1601 THROUGH 84-1603 AND 84-1605, R.C.M. 1947."

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

11 Section 1. Section 84-1601, R.C.M. 1947, is amended to  
 12 read as follows:

13 "84-1601. Electrical energy producers' license tax.  
 14 ~~That in~~ In addition to the license tax now provided by law,  
 15 each and every individual, firm, partnership, common-law  
 16 trust, corporation, association, or other organization now  
 17 engaged in the generation, manufacture, or production of  
 18 electricity and electrical energy in the state of Montana,  
 19 either through water power or by any other means, for  
 20 barter, sale, or exchange, and hereinafter referred to as  
 21 the "producer," shall on or before the fifteenth 30th day  
 22 of ~~after~~ each calendar month ~~beginning with the fifteenth~~  
 23 ~~day of May 1969~~ quarter, quarterly periods ending March 31,  
 24 June 30, September 30, and December 31, render a statement  
 25 to the state department of revenue ~~of the state of Montana~~

1 showing the gross amount of ~~money received on account of~~  
 2 ~~sales of~~ electricity and electrical energy produced,  
 3 manufactured, or generated during the preceding calendar  
 4 month quarter without any deduction, and shall pay a license  
 5 tax thereon in the sum of ~~one and four hundred thirty eight~~  
 6 ~~thousandths per cent (1.438%) of such gross amount as shown~~  
 7 on such statement .0002 cent per kilowatt hour on all such  
 8 electricity and electrical energy generated, manufactured,  
 9 or produced, measured at the place of production and as  
 10 shown on the statement required in the manner and within the  
 11 time hereinafter provided; ~~and such tax shall be effective~~  
 12 ~~for the taxable year commencing April 1, 1969, and also for~~  
 13 ~~each taxable year thereafter."~~

14 Section 2. Section 84-1602, R.C.M. 1947, is amended to  
 15 read as follows:

16 "84-1602. Payment of tax -- not to be set out on  
 17 customers' bills. ~~Said the~~ license tax shall be remitted  
 18 with the statement and paid on or before the fifteenth  
 19 ~~15th~~ 30th day of each ~~the~~ month after each calendar  
 20 quarter. No bill, statement, or account rendered or given  
 21 any customer by any organization affected by the provisions  
 22 of this act shall set out or contain, as a separate item,  
 23 any amount on account or by reason of, the license tax  
 24 imposed by this act."

25 Section 3. Section 84-1603, R.C.M. 1947, is amended to

1 read as follows:

2 "84-1603. Disposition of revenue -- interest on  
3 delinquency. The state department of revenue shall receipt  
4 therefor and promptly turn the same over to the state  
5 treasurer. Taxes not met on the due date shall become  
6 delinquent ~~and shall bear interest from said due date at the~~  
7 ~~rate of twelve per cent (12%) per annum, and a penalty of~~  
8 10% plus interest at the rate of 1% per month or fraction of  
9 a month computed on the total of tax and penalty shall be  
10 charged."

11 Section 4. Section 84-1605, R.C.M. 1947, is amended to  
12 read as follows:

13 "84-1605. Producers" ~~monthly statement of gross~~  
14 ~~sales inspection~~ inspection of books of producer. ~~That~~  
15 ~~every such producer shall on or before the fifteenth (15)~~  
16 ~~day of each calendar month beginning with April 15, 1934,~~  
17 ~~and monthly thereafter, render to the state department of~~  
18 ~~revenue of the state of Montana on forms prescribed by the~~  
19 ~~state department of revenue a statement sworn to by the~~  
20 ~~manager, president, secretary or treasurer, showing the~~  
21 ~~gross proceeds received for or on account of all sales of~~  
22 ~~electricity and electrical energy for the preceding calendar~~  
23 ~~month.~~ The books and records of such producer shall be  
24 subject to inspection by the state department of revenue,  
25 its agents or employees, during reasonable hours."

1 Section 5. There is a new R.C.M. section numbered  
2 84-1610 that reads as follows:

3 84-1610. Procedure to compute tax in absence of  
4 statement. If any person fails, neglects, or refuses to file  
5 any statement required by 84-1601 within the time therein  
6 required, the department of revenue shall, after such time  
7 has expired, proceed to inform itself, as it best may,  
8 regarding the number of KWH produced by such person in this  
9 state during such quarter and compute the amount of taxes  
10 due to the state from such person for such quarter and add  
11 the penalty and interest as required by 84-1603. The  
12 department shall mail to the person required to file a  
13 quarterly report and pay such tax a letter setting forth the  
14 amount of tax, penalty, and interest due, and the letter  
15 shall further contain a statement that if payment is not  
16 made within such time a lien may be filed. Upon receipt of  
17 the letter, the person shall remit to the department the  
18 full amount of tax, penalty, and interest within 15 days.  
19 The 10% penalty may be waived by the department if  
20 reasonable cause for failure and neglect to file the  
21 statement required by 84-1609 is provided to the department.

22 Section 6. There is a new R.C.M. section numbered  
23 84-1611 that reads as follows:

24 84-1611. Procedure for collection of tax. All tax,  
25 penalty, and interest due from any person under this act is

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

9 Section 7. Repealer. Section 84-1606, R.C.M. 1947, is  
10 repealed.

-End-

STATE OF MONTANA

REQUEST NO. 64-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 13, 19 77, there is hereby submitted a Fiscal Note for House Bill 151 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 changes the rate and method of computing the electrical energy producers' license tax and provides for quarterly reporting.

ASSUMPTIONS

1. A 2% increase in collections of the electrical energy producers tax will occur under present law in FY 77, 78 & 79.
2. The new tax will increase collections by 45% to 50% over collections under the current law.
3. Administrative costs will remain unchanged.

All data provided by Miscellaneous Tax Division

FISCAL IMPACT

	<u>FY 78</u>	<u>FY 79</u>
Estimated Electrical Energy Producers Tax under current law	\$1.109M	\$1.131M
Estimated Electrical Energy Producers Tax under proposed law	<u>\$1.608M-\$1.664</u>	<u>\$1.640M-\$1.697M</u>
ESTIMATED INCREASE	<u>\$ .499M-\$ .555M</u>	<u>\$ .509M-\$ .566M</u>

LONG- RANGE EFFECTS

Electrical energy producers tax collections will increase by 45%-50% over collections under the current law.

TECHNICAL NOTE

This bill would also cause collections under the major facility siting act to increase.

PREPARED BY: Department of Revenue

*Richard L. Franzen*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-17-77

Approved by Committee  
on Taxation

HOUSE BILL NO. 151

INTRODUCED BY VINCENT, MELOY, HUENNEKENS,  
BRADLEY, PALMER, COONEY, WALDRON, COURTNEY,  
ESTENSON, KIMBLE, HOLMES, HARRINGTON, FABREGA  
BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE RATE AND  
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TAX AND TO PROVIDE FOR QUARTERLY REPORTING; AMENDING  
SECTIONS 84-1601 THROUGH 84-1603 AND 84-1605, R.C.M. 1947;  
AND REPEALING SECTION 84-1606, R.C.M. 1947."

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

Section 1. Section 84-1601, R.C.M. 1947, is amended to  
read as follows:

"84-1601. Electrical energy producers' license tax.  
In addition to the license tax now provided by law,  
each and every individual, firm, partnership, common-law  
trust, corporation, association, or other organization now  
engaged in the generation, manufacture, or production of  
electricity and electrical energy in the state of Montana,  
either through water power or by any other means, for  
barter, sale, or exchange, and hereinafter referred to as  
the "producers," shall on or before the fifteenth day  
of each calendar month beginning with the fifteenth

~~day of May, 1969 quarter, quarterly periods ending March 31,  
June 30, September 30, and December 31, render a statement  
to the state department of revenue of the state of Montana  
showing the gross NEI amount of money received on account of  
sales of electricity and electrical energy produced,  
manufactured, or generated during the preceding calendar  
month quarter without any deduction and shall pay a license  
tax thereon in the sum of one and four hundred thirty-eight  
thousandths per cent (1.438%) of such gross amount as shown  
on such statement .0002 cent per kilowatt hour on all such  
electricity and electrical energy generated, manufactured,  
or produced, measured at the place of production and as  
shown on the statement required in the manner and within the  
time hereinafter provided, and such tax shall be effective  
for the taxable year commencing April 1, 1969, and also for  
each taxable year thereafter. THE AMOUNT OF ELECTRICITY AND  
ELECTRICAL ENERGY GENERATED, MANUFACTURED, OR PRODUCED SHALL  
BE THE TOTAL ENERGY PRODUCED EXCLUSIVE OF GENERATING PLANT  
USE."~~

Section 2. Section 84-1602, R.C.M. 1947, is amended to  
read as follows:

"84-1602. Payment of tax -- not to be set out on  
customers' bills. Said license tax shall be remitted  
with the statement and paid on or before the fifteenth  
(15th) 30th day of each the month after each calendar

1 ~~quarter~~. No bill, statement, or account rendered or given  
 2 any customer by any organization affected by the provisions  
 3 of this act shall set out or contain, as a separate item,  
 4 any amount on account or by reason of the license tax  
 5 imposed by this act."

6 Section 3. Section 84-1603, R.C.M. 1947, is amended to  
 7 read as follows:

8 "84-1603. Disposition of revenue -- interest on  
 9 delinquency. The state department of revenue shall receipt  
 10 therefor and promptly turn the same over to the state  
 11 treasurer. Taxes not met on the due date shall become  
 12 delinquent ~~and shall bear interest from said due date at the~~  
 13 ~~rate of twelve per cent (12%) per annum, and a penalty of~~  
 14 10% plus interest at the rate of 1% per month or fraction of  
 15 a month computed on the total of tax and penalty shall be  
 16 charged."

17 Section 4. Section 84-1605, R.C.M. 1947, is amended to  
 18 read as follows:

19 "84-1605. ~~Producers' monthly statement of gross~~  
 20 ~~sales inspection~~ Inspection of books of producer. ~~That~~  
 21 ~~every such producer shall on or before the fifteenth (15)~~  
 22 ~~day of each calendar month beginning with April 15, 1934,~~  
 23 ~~and monthly thereafter, render to the state department of~~  
 24 ~~revenue of the state of Montana on forms prescribed by the~~  
 25 ~~state department of revenue, a statement sworn to by the~~

1 ~~manager, president, secretary or treasurer, showing the~~  
 2 ~~gross proceeds received for or on account of, all sales of~~  
 3 ~~electricity and electrical energy for the preceding calendar~~  
 4 ~~month.~~ The books and records of such producer shall be  
 5 subject to inspection by the state department of revenue,  
 6 its agents or employees, during reasonable hours."

7 Section 5. There is a new R.C.M. section numbered  
 8 84-1610 that reads as follows:

9 84-1610. Procedure to compute tax in absence of  
 10 statement. If any person fails, neglects, or refuses to file  
 11 any statement required by 84-1601 within the time therein  
 12 required, the department of revenue shall, after such time  
 13 has expired, proceed to inform itself, as it best may,  
 14 regarding the number of KWH produced by such person in this  
 15 state during such quarter and compute the amount of taxes  
 16 due to the state from such person for such quarter and add  
 17 the penalty and interest as required by 84-1603. The  
 18 department shall mail to the person required to file a  
 19 quarterly report and pay such tax a letter setting forth the  
 20 amount of tax, penalty, and interest due, and the letter  
 21 shall further contain a statement that if payment is not  
 22 made within such time a lien may be filed. Upon receipt of  
 23 the letter, the person shall remit to the department the  
 24 full amount of tax, penalty, and interest within 15 days.  
 25 The 10% penalty may be waived by the department if

1 reasonable cause for failure and neglect to file the  
 2 statement required by 84-1609 is provided to the department.

1 repealed.

-End-

3 Section 6. There is a new R.C.M. section numbered  
 4 84-1611 that reads as follows:

5 84-1611. Procedure for collection of tax. All tax,  
 6 penalty, and interest due from any person under this act is  
 7 a lien upon any and all real property of such person upon  
 8 the filing by the department of revenue of the duplicate tax  
 9 assessment statement in the office of the county clerk in  
 10 the county where such real property is situated. The lien  
 11 has precedence over any other claim, lien, or demand  
 12 thereafter filed and recorded and may be enforced in the  
 13 name of the state of Montana in the same manner as judgment  
 14 liens are enforced by law.

15 ~~SECTION 7. THERE IS A NEW R.C.M. SECTION NUMBERED~~  
 16 ~~84-1612 THAT READS AS FOLLOWS:~~

17 84-1612. Disposition of license tax money. All license  
 18 taxes collected under the provisions of this act shall be  
 19 deposited into the state treasury as follows:

20 (1) 15% of total collections to the earmarked revenue  
 21 fund, to the credit of the major facility siting earned  
 22 revenue account; and

23 (2) 85% of total collections to the credit of the  
 24 general fund of the state.

25 Section 8. Repealer. Section 84-1606, R.C.M. 1947, is

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INTRODUCED BY VINCENT, MELOY, HUENNEKENS,  
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Section 1. Section 84-1601, R.C.M. 1947, is amended to  
read as follows:

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each and every individual, firm, partnership, common-law  
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electricity, and electrical energy in the state of Montana,  
either through water power or by any other means, for  
barter, sale, or exchange, and hereinafter referred to as  
the "producer," shall on or before the fifteenth 30th day  
of ~~after~~ each calendar month ~~beginning with the fifteenth~~

THIRD READING

~~day of May, 1969 quarter, quarterly periods ending March 31,  
June 30, September 30, and December 31,~~ render a statement  
to the state department of revenue ~~of the state of Montana~~  
showing the gross NEI amount of money ~~received on account of~~  
~~sales~~ of electricity and electrical energy produced,  
manufactured, or generated during the preceding calendar  
month ~~quarter~~ without any deduction, and shall pay a license  
tax thereon in the sum of ~~one and four hundred thirty eight~~  
~~thousandths per cent (1.438%) of such gross amount as shown~~  
~~on such statement \$ .0002 cent~~ per kilowatt hour on all such  
electricity and electrical energy generated, manufactured,  
or produced, measured at the place of production and as  
shown on the statement required in the manner and within the  
time hereinafter provided; ~~and such tax shall be effective~~  
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~~BE THE TOTAL ENERGY PRODUCED EXCLUSIVE OF GENERATING PLANT~~  
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Section 2. Section 84-1602, R.C.M. 1947, is amended to  
read as follows:

"84-1602. Payment of tax -- not to be set out on  
customers' bills. ~~Said~~ The license tax shall be remitted  
with the statement and paid on or before the ~~fifteenth~~  
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1 ~~quarter.~~ No bill, statement, or account rendered or given  
 2 any customer by any organization affected by the provisions  
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6 Section 3. Section 84-1603, R.C.M. 1947, is amended to  
 7 read as follows:

8 "84-1603. Disposition of revenue -- interest on  
 9 delinquency. The state department of revenue shall receipt  
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 14 10% plus interest at the rate of 1% per month or fraction of  
 15 a month computed on the total of tax and penalty shall be  
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17 Section 4. Section 84-1605, R.C.M. 1947, is amended to  
 18 read as follows:

19 "~~84-1605. Producers' monthly statement of gross~~  
 20 ~~sales--inspection~~ Inspection of books of producer. ~~That~~  
 21 ~~every such producer shall on or before the fifteenth (15)~~  
 22 ~~day of each calendar month beginning with April 15, 1934,~~  
 23 ~~and monthly thereafter, render to the state department of~~  
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 4 ~~month.~~ The books and records of such producer shall be  
 5 subject to inspection by the state department of revenue,  
 6 its agents or employees, during reasonable hours."

7 Section 5. There is a new R.C.M. section numbered  
 8 84-1610 that reads as follows:

9 84-1610. Procedure to compute tax in absence of  
 10 statement. If any person fails, neglects, or refuses to file  
 11 any statement required by 84-1601 within the time therein  
 12 required, the department of revenue shall, after such time  
 13 has expired, proceed to inform itself, as it best may,  
 14 regarding the number of KWH produced by such person in this  
 15 state during such quarter and compute the amount of taxes  
 16 due to the state from such person for such quarter and add  
 17 the penalty and interest as required by 84-1603. The  
 18 department shall mail to the person required to file a  
 19 quarterly report and pay such tax a letter setting forth the  
 20 amount of tax, penalty, and interest due, and the letter  
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 22 made within such time a lien may be filed. Upon receipt of  
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10 the county where such real property is situated. The lien  
11 has precedence over any other claim, lien, or demand  
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13 name of the state of Montana in the same manner as judgment  
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15 SECTION 7. THERE IS A NEW R.C.M. SECTION NUMBERED  
16 84-1612 THAT READS AS FOLLOWS:

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18 taxes collected under the provisions of this act shall be  
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21 fund, to the credit of the major facility siting earned  
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24 general fund of the state.

25 Section 8. Repealer. Section 84-1606, R.C.M. 1947, is

1 repealed.

-End-

April 4, 1977

STANDING COMMITTEE REPORT  
Senate Committee on Taxation

That House Bill No. 151 be amended as follows:

1. Amend the title, line 11.

Following: "REPEALING"

Strike: "SECTION"

Insert: "sections"

Following: "84-1606"

Insert: "and 70-805"

2. Amend page 2, section 1, line 4.

Following: "showing the"

Strike: "NET"

Insert: "gross"

Following: "amount"

Insert: "except for actual and necessary plant use required to produce the energy"

3. Amend page 2, section 1, lines 16 through 19.

Following: "thereafter."

Strike: "THE AMOUNT OF ELECTRICITY AND ELECTRICAL ENERGY GENERATED, MANUFACTURED, OR PRODUCED SHALL BE THE TOTAL ENERGY PRODUCED EXCLUSIVE OF GENERATING PLANT USE."

4. Amend page 5, section 7, lines 15 through 24.

Following: line 14

Strike: Section 7 in its entirety

Renumber: following section

5. Amend page 5, section 8, line 25.

Following: "Repealer."

Strike: "Section"

Insert: "Sections"

Following: "84-1606"

Insert: "and 70-805"

Following: "1947,"

Strike: "is"

Insert: "are"

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to the state department of revenue ~~of the state of Montana~~  
showing the gross ~~NET GROSS~~ amount EXCEPT FOR ACTUAL AND  
NECESSARY PLANT USE REQUIRED TO PRODUCE THE ENERGY of money  
~~received on account of sales of~~ electricity and electrical  
energy produced, manufactured, or generated during the  
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~~hundred thirty eight thousandths per cent (1.438%)~~ of such  
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 10 84-1610 that reads as follows:

11 84-1610. Procedure to compute tax in absence of  
 12 statement. If any person fails, neglects, or refuses to file  
 13 any statement required by 84-1601 within the time therein  
 14 required, the department of revenue shall, after such time  
 15 has expired, proceed to inform itself, as it best may,  
 16 regarding the number of KWH produced by such person in this  
 17 state during such quarter and compute the amount of taxes  
 18 due to the state from such person for such quarter and add  
 19 the penalty and interest as required by 84-1603. The  
 20 department shall mail to the person required to file a  
 21 quarterly report and pay such tax a letter setting forth the  
 22 amount of tax, penalty, and interest due, and the letter  
 23 shall further contain a statement that if payment is not  
 24 made within such time a lien may be filed. Upon receipt of  
 25 the letter, the person shall remit to the department the

1 full amount of tax, penalty, and interest within 15 days.  
 2 The 10% penalty may be waived by the department if  
 3 reasonable cause for failure and neglect to file the  
 4 statement required by 84-1609 is provided to the department.

5 Section 6. There is a new R.C.M. section numbered  
 6 84-1611 that reads as follows:

7 84-1611. Procedure for collection of tax. All tax,  
 8 penalty, and interest due from any person under this act is  
 9 a lien upon any and all real property of such person upon  
 10 the filing by the department of revenue of the duplicate tax  
 11 assessment statement in the office of the county clerk in  
 12 the county where such real property is situated. The lien  
 13 has precedence over any other claim, lien, or demand  
 14 thereafter filed and recorded and may be enforced in the  
 15 name of the state of Montana in the same manner as judgment  
 16 liens are enforced by law.

17 ~~SECTION 7. THERE IS A NEW R.C.M. SECTION NUMBERED~~  
 18 ~~84-1612 THAT READS AS FOLLOWS:~~

19 ~~84-1612. Disposition of license tax moneys. All~~  
 20 ~~license taxes collected under the provisions of this act~~  
 21 ~~shall be deposited into the state treasury as follows:~~

22 ~~(1) 15% of total collections to the earmarked revenue~~  
 23 ~~fund to the credit of the major facility siting earned~~  
 24 ~~revenue account and~~

25 ~~(2) 85% of total collections to the credit of the~~

1 ~~general fund of the states~~

2 Section 7. Repealer. ~~Section~~ SECTIONS 84-1606 AND  
 3 10-805, R.C.M. 1947, ~~is~~ ARE repealed.

-End-