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 2 INTRODUCTION BY ^H Pauline Lynch ^{BILL NO. 198} Hamilton Mulder
 3 Brand Cosmo Courtney Mendha

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE AD
 5 VALOREM TAXATION OF THE GROSS PROCEEDS OF METAL MINES AT A
 6 PERCENTAGE OF MERCHANTABLE VALUE; DELETING METALS FROM NET
 7 PROCEEDS TAXATION; AMENDING SECTIONS 84-101, 84-301, 84-401,
 8 AND 84-5402, R.C.M. 1947."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 84-101, R.C.M. 1947, is amended to
 12 read as follows:

13 "84-101. Definition of terms. Whenever the terms
 14 mentioned in this section are employed in dealing with the
 15 subject of taxation, they are employed in the sense
 16 hereafter affixed to them.

17 First -- The term "property" includes moneys, credits,
 18 bonds, stocks, franchises, and all other matters and things
 19 real, personal, and mixed, capable of private ownership; but
 20 this must not be construed so as to authorize the taxation
 21 of the stocks of any company or corporation when the
 22 property of such company or corporation represented by such
 23 stocks is within the state and has been taxed.

24 Second -- The term "real estate" includes:

25 1. The possession of, claim to, ownership of, or right

1 to the possession of land.

2 2. All mines, minerals, and quarries in and under the
 3 land, subject to the provisions of section 84-5401 and
 4 ~~84-7702~~, all timber belonging to individuals or corporations
 5 growing or being on the lands of the United States, and all
 6 right and privileges appertaining thereto.

7 3. Improvements.

8 Third -- The term "improvements" includes all
 9 buildings, structures, fixtures, fences, and improvements,
 10 including mobile homes and house trailers situated upon,
 11 erected upon or affixed to land when the department of
 12 revenue or its agent determines that the permanency of
 13 location of the mobile home has been established and for
 14 this purpose any mobile home is presumed to be an
 15 improvement to real property. If the mobile home or house
 16 trailer is an improvement located on land not owned by the
 17 owner of such improvement, the improvement shall be assessed
 18 as a leasehold improvement to real property and delinquent
 19 taxes can be a lien only on the leasehold improvement.

20 Fourth -- The term "personal property" includes
 21 everything which is the subject of ownership, not included
 22 within the meaning of the term "real estate" and
 23 "improvements."

24 Fifth -- The terms "value" and "full cash value" mean
 25 the amount at which the property would be taken in payment

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1 of a just debt due from a solvent debtor.

2 Sixth -- The term "credit" means those solvent debts,
3 secured or unsecured, owing to a person.

4 Seventh -- The term "mobile home" means forms of
5 housing known as "trailers", "house trailers" or "trailer
6 coaches" exceeding ~~eight--{8}~~ feet in width or ~~thirty-two~~
7 ~~{32}~~ feet in length designed to be moved from one place to
8 another by an independent power connected thereto."

9 Section 2. Section 84-301, R.C.M. 1947, is amended to
10 read as follows:

11 "84-301. Classification of property for taxation. For
12 the purpose of taxation the taxable property in the state
13 shall be classified as follows:

14 Class One. The annual net proceeds of all mines and
15 mining claims, except coal and metal mines, after deducting
16 only the expenses specified and allowed by section 84-5403;
17 also where the right to enter upon land, to explore or
18 prospect, or dig for oil, gas, coal or mineral is reserved
19 in land or received by mesne conveyance (exclusive of
20 leasehold interests), devise or succession by any person or
21 corporation, the surface title to which has passed to or
22 remains in another, the state department of revenue shall
23 determine the value of the right to enter upon said tract of
24 land for the purpose of digging, exploring, or prospecting
25 for gas, oil, coal or minerals, and the same shall be placed

1 in this classification for the purpose of taxation.

2 Class Two. All agricultural and other tools, implements
3 and machinery, gas and other engines and boilers, threshing
4 machines and outfits used therewith, automobiles, motor
5 trucks and other power-driven cars, vehicles of all kinds
6 except mobile homes, boats and all watercraft, harness,
7 saddlery and robes and except as provided in Class Five (a)
8 of this section, all poles, lines, transformers, transformer
9 stations, meters, tools, improvements, machinery and other
10 property used and owned by all persons, firms, corporations,
11 and other organizations which are engaged in the business of
12 furnishing telephone communications, exclusively to rural
13 areas, or to rural areas and cities and towns provided that
14 any such city or town has a population of ~~eight--hundred~~
15 ~~{800}~~ persons or less; and provided further, that the
16 average circuit miles for each station on the system is more
17 than ~~one-and-one-quarter--{1 1/4}~~ miles.

18 Class Three. Livestock, poultry, and unprocessed
19 products of both; furniture and fixtures used in commercial
20 activities; the annual gross proceeds of underground coal
21 mines; and all office or hotel furniture and fixtures,
22 except improvements included in Class Nine.

23 Class Four. (a) All land, town and city lots, with
24 improvements, except improvements included in Class Nine,
25 and all trailers affixed to land owned, leased, or under

1 contract or purchase by the trailer owner, manufacturing and
 2 mining machinery, fixtures and supplies, except as otherwise
 3 provided by the constitution of Montana, and except as such
 4 property may be included in Class Five, Class Seven or Class
 5 Eight.

6 (b) Mobile homes without regard to the ownership of
 7 the land upon which they are situated, except those held by
 8 a distributor or dealer of mobile homes as part of his stock
 9 in trade, and except as such property may be included in
 10 Class Eight.

11 Class Five. (a) All poles, lines, transformers,
 12 transformer stations, meters, tools, improvements, machinery
 13 and other property used and owned by co-operative rural
 14 electrical and co-operative rural telephone associations
 15 organized under the laws of Montana except those within the
 16 incorporated limits of a city or town in which less than
 17 ~~ninety-five-per-cent-(95%)~~ of the electric consumers and/or
 18 telephone users are served by a co-operative organization,
 19 and as to the property enumerated in this sub-section (a)
 20 within incorporated limits of a city or town in which less
 21 than ~~ninety-five-per-cent-(95%)~~ of the electric consumers or
 22 users will be served by a co-operative organization, such
 23 property shall be put in Class Two.

24 (b) All unprocessed agricultural products either on
 25 the farm or in storage, irrespective of whether said

1 products are owned by the elevator, warehouse or flour mill
 2 owner or company storing the same, or any other person
 3 whomsoever, except all perishable fruits and vegetables in
 4 farm storage and owned by the producer, and excepting
 5 livestock and poultry and the unprocessed products of both.

6 (c) The dwelling house, and the lot on which it is
 7 erected, owned and occupied by any resident of the state,
 8 who has been honorably discharged from active service in any
 9 branch of the armed forces, who is rated ~~one-hundred-per~~
 10 ~~cent--(100%)~~ disabled due to a service-connected disability
 11 by the United States veterans administration or its
 12 successors.

13 In the event of the veteran's death, the dwelling
 14 house, and the lot on which it is erected, so long as the
 15 surviving spouse remains unmarried and the owner and
 16 occupant of the property, shall remain within this
 17 classification.

18 Class Six. Property formerly included in this class is
 19 now classified by section 84-308, R.C.M. 1947.

20 Class Seven. (a) All new industrial property. New
 21 industrial property shall mean any new industrial plant,
 22 including land, buildings, machinery and fixtures which, in
 23 the determination of the state department of revenue, is
 24 used by a new industry during the first ~~three-(3)~~ years of
 25 operation not having been assessed prior to July 1, 1961,

1 within the state of Montana. New industry shall mean any
 2 person, corporation, firm, partnership, association, or
 3 other group which establishes a new plant or plants in this
 4 state for the operation of a new industrial endeavor, as
 5 distinguished from a mere expansion, reorganization, or
 6 merger of an existing industry or industries. Provided,
 7 however, that new industrial property shall be limited to
 8 industries that manufacture, mill, mine, produce, process or
 9 fabricate materials, or do similar work in which capital and
 10 labor are employed and in which materials unserviceable in
 11 their natural state are extracted, processed or made fit for
 12 use or are substantially altered or treated so as to create
 13 commercial products or materials; industries that engage in
 14 the mechanical or chemical transformation of materials or
 15 substances into new products in the manner defined as
 16 manufacturing in the 1972 Standard Industrial Classification
 17 Manual, prepared by the United States office of management
 18 and budget; and in no event shall the term new industrial
 19 property be included to mean property used by retail or
 20 wholesale merchants, commercial services of any type,
 21 agriculture, trades or professions. New industrial property
 22 does not include a plant which will create an adverse impact
 23 on existing state, county, or municipal services. The
 24 department shall promulgate regulations for the
 25 determination of what constitutes an adverse impact taking

1 into consideration the number of people to be employed and
 2 the size of the community in which the location is
 3 contemplated. Once the department has made an initial
 4 determination that the industrial facility qualifies as new
 5 industrial property, the department shall then upon proper
 6 notice hold a hearing to determine if the new industrial
 7 classification should be retained by the property. The
 8 local taxing authority may appear at the hearing, and it
 9 also may waive its objection to retention of this
 10 classification if the industry agrees to the prepayment of
 11 taxes sufficient to satisfy tax requirements created by the
 12 location and construction of the facility during
 13 construction period.

14 In the event of a prepayment of taxes, the maximum
 15 amount or prepayment shall be the amount without the
 16 application of the Class 7 (a) to such property.

17 If a major new industrial facility qualifies under
 18 Class 7 (a) the reduction of its yearly payment of property
 19 taxes for reimbursement of its prepaid taxes as provided for
 20 in section 84-41-105, R.C.M. 1947, shall not begin until the
 21 Class 7 qualification expires. And provided further, that
 22 new industrial property shall not be included to mean
 23 property which is used or employed in any industrial plant
 24 which has been in operation in this state for three-~~(3)~~
 25 years or longer. Any person, corporation, firm, partnership,

1 association or other group seeking to qualify its property
 2 for inclusion in this class shall make application to the
 3 state department of revenue in such manner and form as may
 4 be required by said department.

5 (b) Business inventories. Business inventories shall
 6 include goods intended for sale or lease in the ordinary
 7 course of business, and shall include raw materials and work
 8 in progress with respect to such goods, but shall not
 9 include goods actually leased or rented on the lien date, or
 10 mobile homes held by a dealer or distributor as a part of
 11 his stock in trade.

12 (c) Air pollution control equipment as defined in
 13 section 69-3923.

14 (d) A capital investment in a recognized nonfossil
 15 form of energy generation, to the extent provided under
 16 section 84-7403.

17 Class Eight. (a) Any improvement on real property,
 18 trailers affixed to land or mobile home belonging to any
 19 person who qualifies under any one or more of the
 20 hereinafter set forth categories, with appurtenant land not
 21 exceeding ~~five~~(5) acres, which together have a market value
 22 of not more than ~~twenty-seven-thousand-five-hundred-dollars~~
 23 ~~(\$27,500)~~, which dwelling is owned or under a contract for
 24 deed, and which is actually occupied for at least ~~ten~~(10)
 25 months per year as the primary residential dwelling of:

1 (1) a widow ~~sixty-two~~(62) years of age or older,
 2 whether with or without minor dependent children, who
 3 qualifies under the income limitations of (4), or

4 (2) a widower ~~sixty-two~~(62) years of age or older,
 5 whether with or without minor dependent children, who
 6 qualifies under the income limitations of (4), or

7 (3) a widow or widower with minor or dependent
 8 children regardless of age, who qualifies under the income
 9 limitations of (4), or

10 (4) a recipient or recipients of retirement or
 11 disability benefits whose income from all sources is not
 12 more than ~~six-thousand-dollars~~(\$6,000) for a single person
 13 and ~~six-thousand-eight-hundred-dollars~~(\$6,800) for a
 14 married couple total per annum whether said dwelling is
 15 occupied by a single person or a married couple. Provided,
 16 further, that one who applies for classification of property
 17 under this class must make an affidavit to the state
 18 department of revenue on a form as may be provided by the
 19 state department of revenue supplied without cost to the
 20 applicant, as to his income, if applicable, as to his
 21 retirement benefits, if applicable, or, as to his marital
 22 status, if applicable, and to the fact that he or she
 23 actually occupies or maintains as his or her primary
 24 residential dwelling, such land and improvements with right
 25 of the county welfare board to investigate the applicant, on

1 the completion of the form, as to answers given on the form.
 2 Provided, further, the assessed value of said property shall
 3 not be increased during the life of the recipient of
 4 retirement benefits or widow or widower covered under this
 5 class, unless the owner-resident makes a substantial
 6 improvement in the dwelling. For the purposes of the
 7 affidavit required for classification of property under this
 8 class, it shall be sufficient if the applicant signs a
 9 statement swearing to or affirming the correctness of the
 10 information supplied, whether or not the statement is signed
 11 before a person authorized to administer oaths, and mails
 12 the application and statement to the department of revenue.
 13 This signed statement shall be treated as a statement under
 14 oath or equivalent affirmation for purposes of section
 15 94-7-203, R.C.M. 1947, relating to the criminal offense of
 16 false swearing.

17 (b) A capital investment in a building for an energy
 18 conservation purpose, to the extent provided under section
 19 84-7403.

20 (c) The annual gross proceeds of metal mines.

21 Class Nine. The incremental increase in the value of
 22 real estate attributable to repairing, maintaining or
 23 improving existing improvements.

24 Class Ten. The annual gross proceeds of coal mines
 25 using the strip mining method.

1 Class Eleven. Centrally assessed utility allocations
 2 after deductions of locally assessed properties and except
 3 as provided in Class Two for rural telephones and Class Five
 4 (a) for cooperatives, and all other property not included in
 5 the ten (10) preceding classes."

6 Section 3. Section 84-5402, R.C.M. 1947, is amended to
 7 read as follows:

8 "84-5402. Net proceeds tax -- statement of yield,
 9 penalty, extension of time. Every person, partnership,
 10 corporation, or association, engaged in mining, extracting
 11 or producing from any quartz vein or lode, placer claim,
 12 dump or tailings, or other place or sources whatever,
 13 precious stones or gems, ~~gold, silver, copper, lead,~~
 14 vermiculite, bentonite, petroleum, natural gas, or other
 15 valuable mineral, except coal, ~~and metals,~~ must on or before
 16 ~~the thirty-first day of~~ March 31 of each year make out a
 17 statement of the gross yield of the above-named metals or
 18 minerals from each mine owned or worked by such person,
 19 corporation or association during the year preceding the
 20 ~~first day of~~ January 1 of the year in which such statement
 21 is made, and the value thereof. Such statement shall be in
 22 the form prescribed by the state department of revenue, and
 23 must be verified by the oath of such person or the manager,
 24 superintendent, agent, president or vice-president of such
 25 corporation, association or partnership, and must be

1 delivered to the state department of revenue on or before
2 ~~the-thirty-first-day-of~~ March 31. Such statement shall show
3 the following:

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

12 2. The description and location of the mine.

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

17 4. The amount and character of such ores, mineral
18 products or deposits, and the yield of such ores, mineral
19 products or deposits from such mine in constituents of
20 commercial value; that is to say, ~~the-number-of-ounces-of~~
21 ~~gold-or-silvery--pounds--of--copper--or--lead,~~ barrels of
22 petroleum or other crude or mineral oil, cubic feet of
23 natural gas or other commercially valuable constituents of
24 said ores or mineral products or deposits measured by
25 standard units of measurement, yielded to such person,

1 corporation or association so engaged in mining, and to said
2 royalty holders and each of them, if any, during the period
3 covered by the statement.

4 5. The gross yield or value in dollars and cents.

5 6. Actual cost of extracting same from mine.

6 7. Actual cost of transporting to place of reduction
7 or sale.

8 8. Actual cost of reduction or sale.

9 9. Actual cost of marketing the product and conversion
10 of same into money.

11 10. Cost of construction, repairs and betterments of
12 mines, and cost of repairs and replacements of reduction
13 works.

14 11. The assessed valuation of reduction works for the
15 calendar year for which such return is made.

16 12. Actual cost of fire insurance and workmen's
17 compensation insurance.

18 If any person shall fail, neglect or refuse to file the
19 statement required by this section within the time required,
20 or within any extended period of time allowed, the state
21 department of revenue when transmitting the net proceeds
22 valuations to the counties shall inform the county assessor
23 of such failure, neglect or refusal and the county assessor
24 in addition to the net proceeds tax, if any, shall assess a
25 penalty of 2/3 of 1% of such tax for each calendar month or

1 fraction thereof that the required statement is not filed,
 2 deducting therefrom any moneys collected by the state
 3 department of revenue required by this section. The state
 4 department of revenue shall assess a penalty of \$25 for each
 5 calendar month or fraction thereof, not exceeding four
 6 months, that the required statement is not filed, to be
 7 collected by the state department of revenue and deposited
 8 to the credit of the general fund of the state of Montana.

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

13 Section 4. Section 84-401, R.C.M. 1947, is amended to
 14 read as follows:

15 "84-401. Property assessed at ~~forty-percent-(40%)~~ of
 16 its full cash value -- exceptions. All taxable real property
 17 and improvements and gross proceeds of metal mines must be
 18 assessed at ~~forty--percent--(40%)~~ of its full cash value
 19 except:

20 (1) Properties in section 84-301, under Class One,
 21 shall be assessed at ~~one-hundred-percent-(100%)~~ of full cash
 22 value.

23 (2) The assessment of agricultural lands shall be
 24 based upon the productive capacity of the lands when valued
 25 for agricultural purposes. All lands shall be valued as

1 agricultural lands for tax purposes that meet the
 2 qualifications of section 84-437.2, R.C.M. 1947. Land and
 3 the improvements thereon shall be separately assessed when
 4 any of the following conditions occur:

- 5 (a) when ownership of the improvements is different
 6 from ownership of the land,
 7 (b) when requested in writing by the taxpayer, or
 8 (c) when the land is outside an incorporated city or
 9 town.

10 The taxable value of all property shall be determined
 11 by sections 84-301 and 84-308."

12 Section 5. There is a new R.C.M. section in chapter 2,
 13 title 84, that reads as follows:

14 Exemption -- first 20,000 tons of metal mine
 15 production. The annual gross proceeds of a mine producing
 16 metallic ore does not include the first 20,000 tons of ore
 17 produced in a taxable year, and this first 20,000 tons of
 18 ore is exempt from all property taxation.

19 Section 6. There is a new R.C.M. section numbered
 20 84-7701 that reads as follows:

21 84-7701. Definitions. As used in this chapter the
 22 following definitions apply:

- 23 (1) "Merchantable value" means the average market
 24 value of all salable metals produced or extracted in a
 25 county over a 12-month period. If the extracted ores are

1 milled, smelted, or reduced within the state of Montana, the
2 metals are considered salable after this processing.

3 (2) "Agreement not at arm's length" means an agreement
4 between parties where the sales price does not represent
5 market value.

6 (3) "Department" means the department of revenue.

7 (4) "Market value" means the exchange value of a
8 property in a competitive market.

9 Section 7. There is a new R.C.M. section numbered
10 84-7702 that reads as follows:

11 84-7702. Metal mines -- ad valorem taxation. Each
12 person, partnership, corporation, or association mining or
13 extracting gold, silver, copper, lead, or other metals from
14 whatever source must, on or before March 31 each year, file
15 with the department of revenue a statement of the gross
16 metal yield from each mine owned or worked by such person in
17 the preceding calendar year and the value thereof. The
18 statement shall be in the form prescribed by the department
19 and shall contain the following:

20 (1) the name, address, and telephone number of the
21 owner, lessee, or operator of the mine;

22 (2) the mine's location by county and legal
23 description;

24 (3) the tons of ore extracted from the mine during the
25 taxable period;

1 (4) the merchantable value in dollars and cents of all
2 metals extracted; and

3 (5) any other information requested by the department.

4 Section 8. There is a new R.C.M. section numbered
5 84-7703 that reads as follows:

6 84-7703. Valuation -- gross proceeds. On or before
7 July 1 each year, the department shall determine the
8 merchantable value of all metal production from the previous
9 calendar year. The department shall transmit to its agent in
10 each county where metals are produced the merchantable value
11 as has been determined by the department for placement on
12 the assessment roll, after subtracting such portion of the
13 proceeds as may be exempt from property taxation.

14 Section 9. There is a new R.C.M. section numbered
15 84-7704 that reads as follows:

16 84-7704. Taxation of merchantable value. The
17 department's agent shall prepare from the reported valuation
18 a tax roll which shall be transmitted to the county
19 treasurer on or before September 15 each year. The county
20 treasurer shall proceed to give full notice thereof to each
21 metal producer and to collect the taxes due at the times
22 provided for in 84-4103, and any delinquencies in the
23 payment of same shall be subject to the interest and
24 penalties provided for in 84-4103.

25 Section 10. There is a new R.C.M. section numbered

1 84-7705 that reads as follows:

2 84-7705. Imputed value -- procedure for metals. If
3 there is no sale or the sale is by an agreement not at arm's
4 length or no statement is filed, the department shall impute
5 the merchantable value of the metal. When imputing value,
6 the department shall consider all appropriate market
7 information available. When the imputed value is contested
8 in any proceedings, the burden of proof is with the
9 contesting party.

10 Section 11. There is a new R.C.M. section numbered
11 84-7706 that reads as follows:

12 84-7706. Lien of tax. The tax or penalty on gross
13 proceeds is a lien upon the mine from which the metal is
14 extracted and is prior lien upon all owned or leased
15 personal property and improvements used in extracting the
16 ore or metal. The tax shall be collected in the manner
17 provided under chapter 41 of this title.

18 Section 12. There is a new R.C.M. section numbered
19 84-7707 that reads as follows:

20 84-7707. Penalties. (1) A person who refuses to file
21 the required statement with the department or makes a false
22 statement commits a misdemeanor. Persons convicted under
23 this section shall be fined not to exceed \$1,000 or be
24 imprisoned in the county jail for a term not to exceed 6
25 months, or both.

1 (2) If the required statement is not filed timely and
2 no extension has been granted by the department, there shall
3 be assessed a penalty of 1/2 of 1% of such tax for each
4 calendar month or fraction thereof that the statement is
5 delinquent.

6 (3) The department when shown good cause may grant an
7 extension of the time for filing the required statement.

8 Section 13. Effective date. This act shall apply to
9 all metal mines production for calendar year 1977.

10 Section 14. Severability. If a part of this act is
11 invalid, all valid parts that are severable from the invalid
12 part remain in effect. If a part of this act is invalid in
13 one or more of its applications, the part remains in effect
14 in all valid applications that are severable from the
15 invalid applications.

-End-

STATE OF MONTANA

REQUEST NO. 89-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 18, 19 77, there is hereby submitted a Fiscal Note for House Bill 198 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 provides for the ad valorem taxation of the gross proceeds of metal mines at a percentage of merchantable value; deleting metals from net proceeds taxation.

ASSUMPTIONS

1. FY 78 will be unaffected due to date of implementation.
2. The state mill levy will be 6 mills.
3. The average difference between the taxable value computed under net proceeds and taxable value computed under gross proceeds for the last 20 years for Anaconda Company was assumed to hold throughout the biennium. Small producers were excluded, but this is offset by the fact that the 20,000 ton exemption was excluded from Anaconda Company calculations. The average under net proceeds was \$4.685M and under gross proceeds was \$5.880M.
4. Administrative costs will be unaffected by this bill.

FISCAL IMPACT

If the proposed legislation were enacted there would be no effect on state revenue in FY 78. There would be an increase of approximately \$7,000 in FY 79.

EFFECT ON COUNTY REVENUE

Granite County will lose approximately \$150,000 in taxable value due to the bill because of the 20,000 ton exemption. Silver Bow County will gain about 1 million dollars in taxable value on the average.

LONG-RANGE EFFECT

The long-range effect of this bill will be to stabilize the tax base of Silver Bow County. Averages used for these calculations are somewhat misleading because in the last 20 years Anaconda Company has had no net proceeds in 7 of these years. Whether Anaconda Company has net proceeds or not can cause the taxable value in Silver Bow County to fluctuate by as much as \$15 million in one year. These variations must be compensated for by adjusting mill levies on other property owners in Silver Bow County.

PREPARED BY DEPARTMENT OF REVENUE

Richard L. Drury for
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-24-77

Approved by Committee
on Taxation

HOUSE BILL NO. 198

INTRODUCED BY QUILICI, LYNCH, HARRINGTON, MULAR, BRAND,
COONEY, COURTNEY, MENAHAN

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2 the amount at which the property would be taken in payment
3 of a just debt due from a solvent debtor.

4 Sixth -- The term "credit" means those solvent debts,
5 secured or unsecured, owing to a person.

6 Seventh -- The term "mobile home" means forms of
7 housing known as "trailers", "house trailers" or "trailer
8 coaches" exceeding eight--~~(8)~~ feet in width or thirty-two
9 ~~(32)~~ feet in length designed to be moved from one place to
10 another by an independent power connected thereto."

11 Section 2. Section 84-301, R.C.M. 1947, is amended to
12 read as follows:

13 "84-301. Classification of property for taxation. For
14 the purpose of taxation the taxable property in the state
15 shall be classified as follows:

16 Class One. The annual net proceeds of all mines and
17 mining claims, except coal and metal mines, after deducting
18 only the expenses specified and allowed by section 84-5403;
19 also where the right to enter upon land, to explore or
20 prospect, or dig for oil, gas, coal or mineral is reserved
21 in land or received by mesne conveyance (exclusive of
22 leasehold interests), devise or succession by any person or
23 corporation, the surface title to which has passed to or
24 remains in another, the state department of revenue shall
25 determine the value of the right to enter upon said tract of

1 land for the purpose of digging, exploring, or prospecting
2 for gas, oil, coal or minerals, and the same shall be placed
3 in this classification for the purpose of taxation.

4 Class Two. All agricultural and other tools, implements
5 and machinery, gas and other engines and boilers, threshing
6 machines and outfits used therewith, automobiles, motor
7 trucks and other power-driven cars, vehicles of all kinds
8 except mobile homes, boats and all watercraft, harness,
9 saddlery and robes and except as provided in Class Five (a)
10 of this section, all poles, lines, transformers, transformer
11 stations, meters, tools, improvements, machinery and other
12 property used and owned by all persons, firms, corporations,
13 and other organizations which are engaged in the business of
14 furnishing telephone communications, exclusively to rural
15 areas, or to rural areas and cities and towns provided that
16 any such city or town has a population of eight--hundred
17 ~~(800)~~ persons or less; and provided further, that the
18 average circuit miles for each station on the system is more
19 than one--and--one--quarter--~~(1 1/4)~~ miles.

20 Class Three. Livestock, poultry, and unprocessed
21 products of both; furniture and fixtures used in commercial
22 activities; the annual gross proceeds of underground coal
23 mines; and all office or hotel furniture and fixtures,
24 except improvements included in Class Nine.

25 Class Four. (a) All land, town and city lots, with

1 improvements, except improvements included in Class Nine,
2 and all trailers affixed to land owned, leased, or under
3 contract or purchase by the trailer owner, manufacturing and
4 mining machinery, fixtures and supplies, except as otherwise
5 provided by the constitution of Montana, and except as such
6 property may be included in Class Five, Class Seven or Class
7 Eight.

8 (b) Mobile homes without regard to the ownership of
9 the land upon which they are situated, except those held by
10 a distributor or dealer of mobile homes as part of his stock
11 in trade, and except as such property may be included in
12 Class Eight.

13 Class Five. (a) All poles, lines, transformers,
14 transformer stations, meters, tools, improvements, machinery
15 and other property used and owned by co-operative rural
16 electrical and co-operative rural telephone associations
17 organized under the laws of Montana except those within the
18 incorporated limits of a city or town in which less than
19 ~~ninety-five-per-cent-(95%)~~ of the electric consumers and/or
20 telephone users are served by a co-operative organization,
21 and as to the property enumerated in this sub-section (a)
22 within incorporated limits of a city or town in which less
23 than ~~ninety-five-per-cent-(95%)~~ of the electric consumers or
24 users will be served by a co-operative organization, such
25 property shall be put in Class Two.

1 (b) All unprocessed agricultural products either on
2 the farm or in storage, irrespective of whether said
3 products are owned by the elevator, warehouse or flour mill
4 owner or company storing the same, or any other person
5 whomsoever, except all perishable fruits and vegetables in
6 farm storage and owned by the producer, and excepting
7 livestock and poultry and the unprocessed products of both.

8 (c) The dwelling house, and the lot on which it is
9 erected, owned and occupied by any resident of the state,
10 who has been honorably discharged from active service in any
11 branch of the armed forces, who is rated ~~one-hundred-per~~
12 ~~cent-(100%)~~ disabled due to a service-connected disability
13 by the United States veterans administration or its
14 successors.

15 In the event of the veteran's death, the dwelling
16 house, and the lot on which it is erected, so long as the
17 surviving spouse remains unmarried and the owner and
18 occupant of the property, shall remain within this
19 classification.

20 Class Six. Property formerly included in this class is
21 now classified by section 84-308, R.C.M. 1947.

22 Class Seven. (a) All new industrial property. New
23 industrial property shall mean any new industrial plant,
24 including land, buildings, machinery and fixtures which, in
25 the determination of the state department of revenue, is

1 used by a new industry during the first three-~~(3)~~ years of
 2 operation not having been assessed prior to July 1, 1961,
 3 within the state of Montana. New industry shall mean any
 4 person, corporation, firm, partnership, association, or
 5 other group which establishes a new plant or plants in this
 6 state for the operation of a new industrial endeavor, as
 7 distinguished from a mere expansion, reorganization, or
 8 merger of an existing industry or industries. Provided,
 9 however, that new industrial property shall be limited to
 10 industries that manufacture, mill, mine, produce, process or
 11 fabricate materials, or do similar work in which capital and
 12 labor are employed and in which materials unserviceable in
 13 their natural state are extracted, processed or made fit for
 14 use or are substantially altered or treated so as to create
 15 commercial products or materials; industries that engage in
 16 the mechanical or chemical transformation of materials or
 17 substances into new products in the manner defined as
 18 manufacturing in the 1972 Standard Industrial Classification
 19 Manual, prepared by the United States office of management
 20 and budget; and in no event shall the term new industrial
 21 property be included to mean property used by retail or
 22 wholesale merchants, commercial services of any type,
 23 agriculture, trades or professions. New industrial property
 24 does not include a plant which will create an adverse impact
 25 on existing state, county, or municipal services. The

1 department shall promulgate regulations for the
 2 determination of what constitutes an adverse impact taking
 3 into consideration the number of people to be employed and
 4 the size of the community in which the location is
 5 contemplated. Once the department has made an initial
 6 determination that the industrial facility qualifies as new
 7 industrial property, the department shall then upon proper
 8 notice hold a hearing to determine if the new industrial
 9 classification should be retained by the property. The
 10 local taxing authority may appear at the hearing, and it
 11 also may waive its objection to retention of this
 12 classification if the industry agrees to the prepayment of
 13 taxes sufficient to satisfy tax requirements created by the
 14 location and construction of the facility during
 15 construction period.

16 In the event of a prepayment of taxes, the maximum
 17 amount or prepayment shall be the amount without the
 18 application of the Class 7 (a) to such property.

19 If a major new industrial facility qualifies under
 20 Class 7 (a) the reduction of its yearly payment of property
 21 taxes for reimbursement of its prepaid taxes as provided for
 22 in section 84-41-105, R.C.M. 1947, shall not begin until the
 23 Class 7 qualification expires. And provided further, that
 24 new industrial property shall not be included to mean
 25 property which is used or employed in any industrial plant

1 which has been in operation in this state for ~~three~~ ~~(3)~~
 2 years or longer. Any person, corporation, firm, partnership,
 3 association or other group seeking to qualify its property
 4 for inclusion in this class shall make application to the
 5 state department of revenue in such manner and form as may
 6 be required by said department.

7 (b) Business inventories. Business inventories shall
 8 include goods intended for sale or lease in the ordinary
 9 course of business, and shall include raw materials and work
 10 in progress with respect to such goods, but shall not
 11 include goods actually leased or rented on the lien date, or
 12 mobile homes held by a dealer or distributor as a part of
 13 his stock in trade.

14 (c) Air pollution control equipment as defined in
 15 section 69-3923.

16 (d) A capital investment in a recognized nonfossil
 17 form of energy generation, to the extent provided under
 18 section 84-7403.

19 Class Eight. (a) Any improvement on real property,
 20 trailers affixed to land or mobile home belonging to any
 21 person who qualifies under any one or more of the
 22 hereinafter set forth categories, with appurtenant land not
 23 exceeding ~~five~~ ~~(5)~~ acres, which together have a market value
 24 of not more than ~~twenty-seven-thousand-five-hundred~~ ~~--dollars~~
 25 ~~(27,500)~~, which dwelling is owned or under a contract for

1 deed, and which is actually occupied for at least ~~ten~~ ~~--(10)~~
 2 months per year as the primary residential dwelling of:

3 (1) a widow ~~sixty-two~~ ~~--(62)~~ years of age or older,
 4 whether with or without minor dependent children, who
 5 qualifies under the income limitations of (4), or

6 (2) a widower ~~sixty-two~~ ~~--(62)~~ years of age or older,
 7 whether with or without minor dependent children, who
 8 qualifies under the income limitations of (4), or

9 (3) a widow or widower with minor or dependent
 10 children regardless of age, who qualifies under the income
 11 limitations of (4), or

12 (4) a recipient or recipients of retirement or
 13 disability benefits whose income from all sources is not
 14 more than ~~six-thousand-dollars~~ ~~(\$6,000)~~ for a single person
 15 and ~~six--thousand--eight--hundred--dollars~~ ~~--(\$6,800)~~ for a
 16 married couple total per annum whether said dwelling is
 17 occupied by a single person or a married couple. Provided,
 18 further, that one who applies for classification of property
 19 under this class must make an affidavit to the state
 20 department of revenue on a form as may be provided by the
 21 state department of revenue supplied without cost to the
 22 applicant, as to his income, if applicable, as to his
 23 retirement benefits, if applicable, or, as to his marital
 24 status, if applicable, and to the fact that he or she
 25 actually occupies or maintains as his or her primary

1 residential dwelling, such land and improvements with right
 2 of the county welfare board to investigate the applicant, on
 3 the completion of the form, as to answers given on the form.
 4 Provided, further, the assessed value of said property shall
 5 not be increased during the life of the recipient of
 6 retirement benefits or widow or widower covered under this
 7 class, unless the owner-resident makes a substantial
 8 improvement in the dwelling. For the purposes of the
 9 affidavit required for classification of property under this
 10 class, it shall be sufficient if the applicant signs a
 11 statement swearing to or affirming the correctness of the
 12 information supplied, whether or not the statement is signed
 13 before a person authorized to administer oaths, and mails
 14 the application and statement to the department of revenue.
 15 This signed statement shall be treated as a statement under
 16 oath or equivalent affirmation for purposes of section
 17 94-7-203, R.C.M. 1947, relating to the criminal offense of
 18 false swearing.

19 (b) A capital investment in a building for an energy
 20 conservation purpose, to the extent provided under section
 21 84-7403.

22 ~~for the annual gross proceeds of metal mines.~~

23 Class Nine. The incremental increase in the value of
 24 real estate attributable to repairing, maintaining or
 25 improving existing improvements.

1 Class Ten. The annual gross proceeds of coal mines
 2 using the strip mining method.

3 Class Eleven. Centrally assessed utility allocations
 4 after deductions of locally assessed properties and except
 5 as provided in Class Two for rural telephones and Class Five
 6 (a) for cooperatives, and all other property not included in
 7 the ten (10) preceding classes.

8 ~~CLASS TWELVE. THE ANNUAL GROSS PROCEEDS OF METAL~~
 9 ~~MINES."~~

10 ~~SECTION 3. SECTION 84-302, R.C.M. 1947, IS AMENDED TO~~
 11 ~~READ AS FOLLOWS:~~

12 "84-302. Basis for imposition of taxes. As a basis for
 13 the imposition of taxes upon the different classes of
 14 property specified in the preceding section, a percentage of
 15 the true and full value of the property of each class shall
 16 be taken as follows:

17 Class 1. ~~One-hundred-per-cent-(100%)~~ of its true and
 18 full value.

19 Class 2. ~~Twenty-per-cent-(20%)~~ of its true and full
 20 value.

21 Class 3. ~~Thirty-three-and-one-third-per-cent-(33 1/3%)~~
 22 of its true and full value.

23 Class 4. ~~Thirty-per-cent-(30%)~~ of its true and full
 24 value.

25 Class 5. ~~Seven-per-cent-(7%)~~ of its true and full

1 value.

2 Class 6. As specified in section 84-308, R.C.M. 1947.

3 Class 7. ~~Seven-per-cent-(7%)~~ of its true and full
4 value.

5 Class 8. ~~Fifteen-per-cent-(15%)~~ of its true and full
6 value.

7 Class 9. ~~Six-percent-(6%)~~ of the true and full value
8 for the first full year following completion of the repair,
9 maintenance or improving of existing improvements; ~~twelve~~
10 ~~percent-(12%)~~ of the true and full value for the second full
11 year following completion of the repair, maintenance or
12 improving of existing improvements; ~~eighteen-percent-(18%)~~
13 of the true and full value for the third full year following
14 completion of the repair, maintenance or improving of
15 existing improvements; ~~twenty-four-percent-(24%)~~ of the true
16 and full value for the fourth full year following completion
17 of the repair, maintenance or improving of existing
18 improvements; and ~~thirty-percent-(30%)~~ for the fifth full
19 year following completion of the repair, maintenance or
20 improving of existing improvements and for every year
21 thereafter.

22 Class 10. ~~Forty-five-per-cent-(45%)~~ of its true and
23 full value.

24 Class 11. ~~Forty-per-cent-(40%)~~ of its true and full
25 value.

1 CLASS 12. 7.5% OF ITS TRUE AND FULL VALUE."

2 Section 4. Section 84-5402, R.C.M. 1947, is amended to
3 read as follows:

4 "84-5402. Net proceeds tax -- statement of yield,
5 penalty, extension of time. Every person, partnership,
6 corporation, or association, engaged in mining, extracting
7 or producing from any quartz vein or lode, placer claim,
8 dump or tailings, or other place or sources whatever,
9 precious stones or gems, ~~gold, silver, copper, lead,~~
10 vermiculite, bentonite, petroleum, natural gas, or other
11 valuable mineral, except coal, and metals, must on or before
12 ~~the thirty-first day of March 31~~ of each year make out a
13 statement of the gross yield of the above-named metals or
14 minerals from each mine owned or worked by such person,
15 corporation or association during the year preceding the
16 ~~first day of~~ January 1 of the year in which such statement
17 is made, and the value thereof. Such statement shall be in
18 the form prescribed by the state department of revenue, and
19 must be verified by the oath of such person or the manager,
20 superintendent, agent, president or vice-president of such
21 corporation, association or partnership, and must be
22 delivered to the state department of revenue on or before
23 ~~the thirty-first day of March 31.~~ Such statement shall show
24 the following:

25 1. The name and address of the owner or lessee or

1 operator of the mine, together with the names and addresses
 2 of any and all persons, corporations, or associations owning
 3 or claiming any royalty interest in the mineral product of
 4 such mine or the proceeds derived from the sale thereof, and
 5 the amount or amounts paid or yielded as royalty to each of
 6 such persons, corporations or associations during the period
 7 covered by the statement.

8 2. The description and location of the mine.

9 3. The number of tons of ore, barrels of petroleum,
 10 cubic feet of natural gas or other mineral products or
 11 deposits extracted, produced, and treated or sold from the
 12 mine during the period covered by the statement.

13 4. The amount and character of such ores, mineral
 14 products or deposits, and the yield of such ores, mineral
 15 products or deposits from such mine in constituents of
 16 commercial value; that is to say, ~~the number of ounces of~~
 17 ~~gold or silver, pounds of copper or lead,~~ barrels of
 18 petroleum or other crude or mineral oil, cubic feet of
 19 natural gas or other commercially valuable constituents of
 20 said ores or mineral products or deposits measured by
 21 standard units of measurement, yielded to such person,
 22 corporation or association so engaged in mining, and to said
 23 royalty holders and each of them, if any, during the period
 24 covered by the statement.

25 5. The gross yield or value in dollars and cents.

1 6. Actual cost of extracting same from mine.

2 7. Actual cost of transporting to place of reduction
 3 or sale.

4 8. Actual cost of reduction or sale.

5 9. Actual cost of marketing the product and conversion
 6 of same into money.

7 10. Cost of construction, repairs and betterments of
 8 mines, and cost of repairs and replacements of reduction
 9 works.

10 11. The assessed valuation of reduction works for the
 11 calendar year for which such return is made.

12 12. Actual cost of fire insurance and workmen's
 13 compensation insurance.

14 If any person shall fail, neglect or refuse to file the
 15 statement required by this section within the time required,
 16 or within any extended period of time allowed, the state
 17 department of revenue when transmitting the net proceeds
 18 valuations to the counties shall inform the county assessor
 19 of such failure, neglect or refusal and the county assessor
 20 in addition to the net proceeds tax, if any, shall assess a
 21 penalty of 2/3 of 1% of such tax for each calendar month or
 22 fraction thereof that the required statement is not filed,
 23 deducting therefrom any moneys collected by the state
 24 department of revenue required by this section. The state
 25 department of revenue shall assess a penalty of \$25 for each

1 calendar month or fraction thereof, not exceeding four
 2 months, that the required statement is not filed, to be
 3 collected by the state department of revenue and deposited
 4 to the credit of the general fund of the state of Montana.

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

9 Section 5. Section 84-401, R.C.M. 1947, is amended to
 10 read as follows:

11 "84-401. Property assessed at ~~forty-percent~~ {40%} of
 12 its full cash value -- exceptions. All taxable real property
 13 and improvements and gross proceeds of metal mines must be
 14 assessed at ~~forty-percent~~ {40%} of its full cash value
 15 except:

16 (1) Properties in section 84-301, under Class One,
 17 shall be assessed at ~~one-hundred-percent~~ {100%} of full cash
 18 value.

19 (2) The assessment of agricultural lands shall be
 20 based upon the productive capacity of the lands when valued
 21 for agricultural purposes. All lands shall be valued as
 22 agricultural lands for tax purposes that meet the
 23 qualifications of ~~section~~ 84-437.2, R.C.M. 1947. Land and
 24 the improvements thereon shall be separately assessed when
 25 any of the following conditions occur:

1 (a) when ownership of the improvements is different
 2 from ownership of the land,

3 (b) when requested in writing by the taxpayer, or

4 (c) when the land is outside an incorporated city or
 5 town.

6 The taxable value of all property shall be determined
 7 by sections 84-301 and 84-308."

8 Section 6. There is a new R.C.M. section in chapter 2,
 9 title 84, that reads as follows:

10 Exemption -- ~~first--20,000---tons---of---metal---mine~~
 11 ~~production. The annual gross proceeds of a mine~~ METAL MINES
 12 ~~GROSS PROCEEDS. METAL MINES~~ producing metallic ore does not
 13 include the first LESS THAN 20,000 tons of ore produced in a
 14 taxable year, and this first 20,000 tons of ore is SHALL BE
 15 exempt from ~~all~~ property taxation ON ONE-HALF OF THE
 16 MERCHANTABLE VALUE.

17 Section 7. There is a new R.C.M. section numbered
 18 84-7701 that reads as follows:

19 84-7701. Definitions. As used in this chapter the
 20 following definitions apply:

21 (1) "Merchantable value" means the average market
 22 value of all salable metals produced or extracted in a
 23 county over a 12-month period. If the extracted ores are
 24 milled, smelted, or reduced within the state of Montana, the
 25 metals are considered salable after this processing.

1 (2) "Agreement not at arm's length" means an agreement
2 between parties where the sales price does not represent
3 market value.

4 (3) "Department" means the department of revenue.

5 (4) "Market value" means the exchange value of a
6 property in a competitive market.

7 Section 8. There is a new R.C.M. section numbered
8 84-7702 that reads as follows:

9 84-7702. Metal mines -- ad valorem taxation. Each
10 person, partnership, corporation, or association mining or
11 extracting gold, silver, copper, lead, or other metals from
12 whatever source must, on or before March 31 each year, file
13 with the department of revenue a statement of the gross
14 metal yield from each mine owned or worked by such person in
15 the preceding calendar year and the value thereof. The
16 statement shall be in the form prescribed by the department
17 and shall contain the following:

18 (1) the name, address, and telephone number of the
19 owner, lessee, or operator of the mine;

20 (2) the mine's location by county and legal
21 description;

22 (3) the tons of ore extracted from the mine during the
23 taxable period;

24 (4) the merchantable value in dollars and cents of all
25 metals extracted; and

1 (5) any other information requested by the department.

2 Section 9. There is a new R.C.M. section numbered
3 84-7703 that reads as follows:

4 84-7703. Valuation -- gross proceeds. On or before
5 July 1 each year, the department shall determine the
6 merchantable value of all metal production from the previous
7 calendar year. The department shall transmit to its agent in
8 each county where metals are produced the merchantable value
9 as has been determined by the department for placement on
10 the assessment roll, after subtracting such portion of the
11 proceeds as may be exempt from property taxation.

12 Section 10. There is a new R.C.M. section numbered
13 84-7704 that reads as follows:

14 84-7704. Taxation of merchantable value. The
15 department's agent shall prepare from the reported valuation
16 a tax roll which shall be transmitted to the county
17 treasurer on or before September 15 each year. The county
18 treasurer shall proceed to give full notice thereof to each
19 metal producer and to collect the taxes due at the times
20 provided for in 84-4103, and any delinquencies in the
21 payment of same shall be subject to the interest and
22 penalties provided for in 84-4103.

23 Section 11. There is a new R.C.M. section numbered
24 84-7705 that reads as follows:

25 84-7705. Imputed value -- procedure for metals. If

1 there is no sale or the sale is by an agreement not at arm's
 2 length or no statement is filed, the department shall impute
 3 the merchantable value of the metal. When imputing value,
 4 the department shall consider all appropriate market
 5 information available. When the imputed value is contested
 6 in any proceedings, the burden of proof is with the
 7 contesting party.

8 Section 12. There is a new R.C.M. section numbered
 9 84-7706 that reads as follows:

10 84-7706. Lien of tax. The tax or penalty on gross
 11 proceeds is a lien upon the mine from which the metal is
 12 extracted and is prior lien upon all owned or leased
 13 personal property and improvements used in extracting the
 14 ore or metal. The tax shall be collected in the manner
 15 provided under chapter 41 of this title.

16 Section 13. There is a new R.C.M. section numbered
 17 84-7707 that reads as follows:

18 84-7707. Penalties. (1) A person who refuses to file
 19 the required statement with the department or makes a false
 20 statement commits a misdemeanor. Persons convicted under
 21 this section shall be fined not to exceed \$1,000 or be
 22 imprisoned in the county jail for a term not to exceed 6
 23 months, or both.

24 (2) If the required statement is not filed timely and
 25 no extension has been granted BY MARCH 31 OR WITHIN THE TIME

1 EXTENDED by the department, there shall be assessed THE
 2 DEPARTMENT'S AGENT IN THE COUNTY SHALL ASSESS a penalty of
 3 1/2 of 1% of such tax for each calendar month or fraction
 4 thereof that the statement is delinquent.

5 (3) The department when shown good cause may grant an
 6 extension of the time for filing the required statement.

7 Section 14. Effective date. This act shall apply to
 8 all metal mines production for calendar year 1977 1976.

9 Section 15. Severability. If a part of this act is
 10 invalid, all valid parts that are severable from the invalid
 11 part remain in effect. If a part of this act is invalid in
 12 one or more of its applications, the part remains in effect
 13 in all valid applications that are severable from the
 14 invalid applications.

-End-

1 HOUSE BILL NO. 198

2 INTRODUCED BY QUILICI, LYNCH, HARRINGTON, MULAR, BRAND,
3 COONEY, COURTNEY, MENAHAN

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE AD
6 VALDREM TAXATION OF THE GROSS PROCEEDS OF METAL MINES AT A
7 PERCENTAGE OF MERCHANTABLE VALUE; DELETING METALS FROM NET
8 PROCEEDS TAXATION; AMENDING SECTIONS 84-101, 84-301, ~~84-302,~~
9 84-401, AND 84-5402, R.C.M. 1947; AND PROVIDING AN EFFECTIVE
10 DATE."

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

13 Section 1. Section 84-101, R.C.M. 1947, is amended to
14 read as follows:

15 "84-101. Definition of terms. Whenever the terms
16 mentioned in this section are employed in dealing with the
17 subject of taxation, they are employed in the sense
18 hereafter affixed to them.

19 First -- The term "property" includes moneys, credits,
20 bonds, stocks, franchises, and all other matters and things
21 real, personal, and mixed, capable of private ownership; but
22 this must not be construed so as to authorize the taxation
23 of the stocks of any company or corporation when the
24 property of such company or corporation represented by such
25 stocks is within the state and has been taxed.

1 Second -- The term "real estate" includes:

2 1. The possession of, claim to, ownership of, or right
3 to the possession of land.

4 2. All mines, minerals, and quarries in and under the
5 land, subject to the provisions of section 84-5401 and
6 ~~84-7192~~, all timber belonging to individuals or corporations
7 growing or being on the lands of the United States, and all
8 right and privileges appertaining thereto.

9 3. Improvements.

10 Third -- The term "improvements" includes all
11 buildings, structures, fixtures, fences, and improvements,
12 including mobile homes and house trailers situated upon,
13 erected upon or affixed to land when the department of
14 revenue or its agent determines that the permanency of
15 location of the mobile home has been established and for
16 this purpose any mobile home is presumed to be an
17 improvement to real property. If the mobile home or house
18 trailer is an improvement located on land not owned by the
19 owner of such improvement, the improvement shall be assessed
20 as a leasehold improvement to real property and delinquent
21 taxes can be a lien only on the leasehold improvement.

22 Fourth -- The term "personal property" includes
23 everything which is the subject of ownership, not included
24 within the meaning of the term "real estate" and
25 "improvements."

1 Fifth -- The terms "value" and "full cash value" mean
 2 the amount at which the property would be taken in payment
 3 of a just debt due from a solvent debtor.

4 Sixth -- The term "credit" means those solvent debts,
 5 secured or unsecured, owing to a person.

6 Seventh -- The term "mobile home" means forms of
 7 housing known as "trailers", "house trailers" or "trailer
 8 coaches" exceeding eight--~~(8)~~ feet in width or thirty-two
 9 ~~(32)~~ feet in length designed to be moved from one place to
 10 another by an independent power connected thereto."

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 19 also where the right to enter upon land, to explore or
 20 prospect, or dig for oil, gas, coal or mineral is reserved
 21 in land or received by mesne conveyance (exclusive of
 22 leasehold interests), devise or succession by any person or
 23 corporation, the surface title to which has passed to or
 24 remains in another, the state department of revenue shall
 25 determine the value of the right to enter upon said tract of

1 land for the purpose of digging, exploring, or prospecting
 2 for gas, oil, coal or minerals, and the same shall be placed
 3 in this classification for the purpose of taxation.

4 Class Two. All agricultural and other tools, implements
 5 and machinery, gas and other engines and boilers, threshing
 6 machines and outfits used therewith, automobiles, motor
 7 trucks and other power-driven cars, vehicles of all kinds
 8 except mobile homes, boats and all watercraft, harness,
 9 saddlery and robes and except as provided in Class Five (a)
 10 of this section, all poles, lines, transformers, transformer
 11 stations, meters, tools, improvements, machinery and other
 12 property used and owned by all persons, firms, corporations,
 13 and other organizations which are engaged in the business of
 14 furnishing telephone communications, exclusively to rural
 15 areas, or to rural areas and cities and towns provided that
 16 any such city or town has a population of eight--~~hundred~~
 17 ~~(800)~~ persons or less; and provided further, that the
 18 average circuit miles for each station on the system is more
 19 than ~~one-and-one-quarter-(1 1/4)~~ miles.

20 Class Three. Livestock, poultry, and unprocessed
 21 products of both; furniture and fixtures used in commercial
 22 activities; the annual gross proceeds of underground coal
 23 mines; and all office or hotel furniture and fixtures,
 24 except improvements included in Class Nine.

25 Class Four. (a) All land, town and city lots, with

1 improvements, except improvements included in Class Nine,
2 and all trailers affixed to land owned, leased, or under
3 contract or purchase by the trailer owner, manufacturing and
4 mining machinery, fixtures and supplies, except as otherwise
5 provided by the constitution of Montana, and except as such
6 property may be included in Class Five, Class Seven or Class
7 Eight.

8 (b) Mobile homes without regard to the ownership of
9 the land upon which they are situated, except those held by
10 a distributor or dealer of mobile homes as part of his stock
11 in trade, and except as such property may be included in
12 Class Eight.

13 Class Five. (a) All poles, lines, transformers,
14 transformer stations, meters, tools, improvements, machinery
15 and other property used and owned by co-operative rural
16 electrical and co-operative rural telephone associations
17 organized under the laws of Montana except those within the
18 incorporated limits of a city or town in which less than
19 ~~ninety-five-per-cent-(95%)~~ of the electric consumers and/or
20 telephone users are served by a co-operative organization,
21 and as to the property enumerated in this sub-section (a)
22 within incorporated limits of a city or town in which less
23 than ~~ninety-five-per-cent-(95%)~~ of the electric consumers or
24 users will be served by a co-operative organization, such
25 property shall be put in Class Two.

1 (b) All unprocessed agricultural products either on
2 the farm or in storage, irrespective of whether said
3 products are owned by the elevator, warehouse or flour mill
4 owner or company storing the same, or any other person
5 whosoever, except all perishable fruits and vegetables in
6 farm storage and owned by the producer, and excepting
7 livestock and poultry and the unprocessed products of both.

8 (c) The dwelling house, and the lot on which it is
9 erected, owned and occupied by any resident of the state,
10 who has been honorably discharged from active service in any
11 branch of the armed forces, who is rated ~~one-hundred-per-~~
12 ~~cent--(100%)~~ disabled due to a service-connected disability
13 by the United States veterans administration or its
14 successors.

15 In the event of the veteran's death, the dwelling
16 house, and the lot on which it is erected, so long as the
17 surviving spouse remains unmarried and the owner and
18 occupant of the property, shall remain within this
19 classification.

20 Class Six. Property formerly included in this class is
21 now classified by section 84-308, R.C.M. 1947.

22 Class Seven. (a) All new industrial property. New
23 industrial property shall mean any new industrial plant,
24 including land, buildings, machinery and fixtures which, in
25 the determination of the state department of revenue, is

1 used by a new industry during the first ~~three~~(3) years of
 2 operation not having been assessed prior to July 1, 1961,
 3 within the state of Montana. New industry shall mean any
 4 person, corporation, firm, partnership, association, or
 5 other group which establishes a new plant or plants in this
 6 state for the operation of a new industrial endeavor, as
 7 distinguished from a mere expansion, reorganization, or
 8 merger of an existing industry or industries. Provided,
 9 however, that new industrial property shall be limited to
 10 industries that manufacture, mill, mine, produce, process or
 11 fabricate materials, or do similar work in which capital and
 12 labor are employed and in which materials unserviceable in
 13 their natural state are extracted, processed or made fit for
 14 use or are substantially altered or treated so as to create
 15 commercial products or materials; industries that engage in
 16 the mechanical or chemical transformation of materials or
 17 substances into new products in the manner defined as
 18 manufacturing in the 1972 Standard Industrial Classification
 19 Manual, prepared by the United States office of management
 20 and budget; and in no event shall the term new industrial
 21 property be included to mean property used by retail or
 22 wholesale merchants, commercial services of any type,
 23 agriculture, trades or professions. New industrial property
 24 does not include a plant which will create an adverse impact
 25 on existing state, county, or municipal services. The

1 department shall promulgate regulations for the
 2 determination of what constitutes an adverse impact taking
 3 into consideration the number of people to be employed and
 4 the size of the community in which the location is
 5 contemplated. Once the department has made an initial
 6 determination that the industrial facility qualifies as new
 7 industrial property, the department shall then upon proper
 8 notice hold a hearing to determine if the new industrial
 9 classification should be retained by the property. The
 10 local taxing authority may appear at the hearing, and it
 11 also may waive its objection to retention of this
 12 classification if the industry agrees to the prepayment of
 13 taxes sufficient to satisfy tax requirements created by the
 14 location and construction of the facility during
 15 construction period.

16 In the event of a prepayment of taxes, the maximum
 17 amount of prepayment shall be the amount without the
 18 application of the Class 7 (a) to such property.

19 If a major new industrial facility qualifies under
 20 Class 7 (a) the reduction of its yearly payment of property
 21 taxes for reimbursement of its prepaid taxes as provided for
 22 in section 84-41-105, R.C.M. 1947, shall not begin until the
 23 Class 7 qualification expires. And provided further, that
 24 new industrial property shall not be included to mean
 25 property which is used or employed in any industrial plant

1 which has been in operation in this state for ~~three-(3)~~
 2 years or longer. Any person, corporation, firm, partnership,
 3 association or other group seeking to qualify its property
 4 for inclusion in this class shall make application to the
 5 state department of revenue in such manner and form as may
 6 be required by said department.

7 (b) Business inventories. Business inventories shall
 8 include goods intended for sale or lease in the ordinary
 9 course of business, and shall include raw materials and work
 10 in progress with respect to such goods, but shall not
 11 include goods actually leased or rented on the lien date, or
 12 mobile homes held by a dealer or distributor as a part of
 13 his stock in trade.

14 (c) Air pollution control equipment as defined in
 15 section 69-3923.

16 (d) A capital investment in a recognized nonfossil
 17 form of energy generation, to the extent provided under
 18 section 84-7403.

19 Class Eight. (a) Any improvement on real property,
 20 trailers affixed to land or mobile home belonging to any
 21 person who qualifies under any one or more of the
 22 hereinafter set forth categories, with appurtenant land not
 23 exceeding ~~five-(5)~~ acres, which together have a market value
 24 of not more than ~~twenty-seven-thousand-five-hundred--dollars~~
 25 ~~(\$27,500)~~, which dwelling is owned or under a contract for

1 deed, and which is actually occupied for at least ~~ten--(10)~~
 2 months per year as the primary residential dwelling of:

3 (1) a widow ~~sixty-two--(62)~~ years of age or older,
 4 whether with or without minor dependent children, who
 5 qualifies under the income limitations of (4), or

6 (2) a widower ~~sixty-two--(62)~~ years of age or older,
 7 whether with or without minor dependent children, who
 8 qualifies under the income limitations of (4), or

9 (3) a widow or widower with minor or dependent
 10 children regardless of age, who qualifies under the income
 11 limitations of (4), or

12 (4) a recipient or recipients of retirement or
 13 disability benefits whose income from all sources is not
 14 more than ~~six-thousand-dollars--(\$6,000)~~ for a single person
 15 and ~~six--thousand--eight--hundred--dollars--(\$6,800)~~ for a
 16 married couple total per annum whether said dwelling is
 17 occupied by a single person or a married couple. Provided,
 18 further, that one who applies for classification of property
 19 under this class must make an affidavit to the state
 20 department of revenue on a form as may be provided by the
 21 state department of revenue supplied without cost to the
 22 applicant, as to his income, if applicable, as to his
 23 retirement benefits, if applicable, or, as to his marital
 24 status, if applicable, and to the fact that he or she
 25 actually occupies or maintains as his or her primary

1 residential dwelling, such land and improvements with right
 2 of the county welfare board to investigate the applicant, on
 3 the completion of the form, as to answers given on the form.
 4 Provided, further, the assessed value of said property shall
 5 not be increased during the life of the recipient of
 6 retirement benefits or widow or widower covered under this
 7 class, unless the owner-resident makes a substantial
 8 improvement in the dwelling. For the purposes of the
 9 affidavit required for classification of property under this
 10 class, it shall be sufficient if the applicant signs a
 11 statement swearing to or affirming the correctness of the
 12 information supplied, whether or not the statement is signed
 13 before a person authorized to administer oaths, and mails
 14 the application and statement to the department of revenue.
 15 This signed statement shall be treated as a statement under
 16 oath or equivalent affirmation for purposes of section
 17 94-7-203, R.C.M. 1947, relating to the criminal offense of
 18 false swearing.

19 (b) A capital investment in a building for an energy
 20 conservation purpose, to the extent provided under section
 21 84-7403.

22 ~~(c) The annual gross proceeds of metal mines.~~

23 Class Nine. The incremental increase in the value of
 24 real estate attributable to repairing, maintaining or
 25 improving existing improvements.

1 Class Ten. The annual gross proceeds of coal mines
 2 using the strip mining method.

3 Class Eleven. Centrally assessed utility allocations
 4 after deductions of locally assessed properties and except
 5 as provided in Class Two for rural telephones and Class Five
 6 (a) for cooperatives, and all other property not included in
 7 the ten (10) preceding classes.

8 CLASS TWELVE. THE ANNUAL GROSS PROCEEDS OF METAL
 9 MINES.

10 SECTION 3. SECTION 84-302, R.C.M. 1947, IS AMENDED TO
 11 READ AS FOLLOWS:

12 "84-302. Basis for imposition of taxes. As a basis for
 13 the imposition of taxes upon the different classes of
 14 property specified in the preceding section, a percentage of
 15 the true and full value of the property of each class shall
 16 be taken as follows:

17 Class 1. ~~One-hundred-per-cent-(100%)~~ of its true and
 18 full value.

19 Class 2. ~~Twenty-per-cent-(20%)~~ of its true and full
 20 value.

21 Class 3. ~~Thirty-three-and-one-third-per-cent-(33 1/3%)~~
 22 of its true and full value.

23 Class 4. ~~Thirty-per-cent-(30%)~~ of its true and full
 24 value.

25 Class 5. ~~Seven-per-cent-(7%)~~ of its true and full

1 value.

2 Class 6. As specified in section 84-308, R.C.M. 1947.

3 Class 7. ~~Seven-per-cent-(7%)~~ of its true and full

4 value.

5 Class 8. ~~Fifteen--per--cent-(15%)~~ of its true and full

6 value.

7 Class 9. ~~Six-percent-(6%)~~ of the true and full value

8 for the first full year following completion of the repair,

9 maintenance or improving of existing improvements; ~~twelve~~

10 ~~percent-(12%)~~ of the true and full value for the second full

11 year following completion of the repair, maintenance or

12 improving of existing improvements; ~~eighteen-percent-(18%)~~

13 of the true and full value for the third full year following

14 completion of the repair, maintenance or improving of

15 existing improvements; ~~twenty-four-percent-(24%)~~ of the true

16 and full value for the fourth full year following completion

17 of the repair, maintenance or improving of existing

18 improvements; and ~~thirty-percent-(30%)~~ for the fifth full

19 year following completion of the repair, maintenance or

20 improving of existing improvements and for every year

21 thereafter.

22 Class 10. ~~Forty-five-per-cent-(45%)~~ of its true and

23 full value.

24 Class 11. ~~Forty-per-cent-(40%)~~ of its true and full

25 value.

1 CLASS 12. 7.5% OF ITS TRUE AND FULL VALUE."

2 Section 4. Section 84-5402, R.C.M. 1947, is amended to
3 read as follows:

4 "84-5402. Net proceeds tax -- statement of yield,
5 penalty, extension of time. Every person, partnership,
6 corporation, or association, engaged in mining, extracting
7 or producing from any quartz vein or lode, placer claim,
8 dump or tailings, or other place or sources whatever,
9 precious stones or gems, ~~gold, silver, copper, lead,~~
10 vermiculite, bentonite, petroleum, natural gas, or other
11 valuable mineral, except coal, and metals, must on or before
12 ~~the-thirty-first-day-of~~ March 31 of each year make out a
13 statement of the gross yield of the above-named metals or
14 minerals from each mine owned or worked by such person,
15 corporation or association during the year preceding the
16 ~~first-day-of~~ January 1 of the year in which such statement
17 is made, and the value thereof. Such statement shall be in
18 the form prescribed by the state department of revenue, and
19 must be verified by the oath of such person or the manager,
20 superintendent, agent, president or vice-president of such
21 corporation, association or partnership, and must be
22 delivered to the state department of revenue on or before
23 ~~the-thirty-first-day-of~~ March 31. Such statement shall show
24 the following:

- 25 1. The name and address of the owner or lessee or

1 operator of the mine, together with the names and addresses
 2 of any and all persons, corporations, or associations owning
 3 or claiming any royalty interest in the mineral product of
 4 such mine or the proceeds derived from the sale thereof, and
 5 the amount or amounts paid or yielded as royalty to each of
 6 such persons, corporations or associations during the period
 7 covered by the statement.

8 2. The description and location of the mine.

9 3. The number of tons of ore, barrels of petroleum,
 10 cubic feet of natural gas or other mineral products or
 11 deposits extracted, produced, and treated or sold from the
 12 mine during the period covered by the statement.

13 4. The amount and character of such ores, mineral
 14 products or deposits, and the yield of such ores, mineral
 15 products or deposits from such mine in constituents of
 16 commercial value; that is to say, ~~the number of ounces of~~
 17 ~~gold or silver, pounds of copper or lead,~~ barrels of
 18 petroleum or other crude or mineral oil, cubic feet of
 19 natural gas or other commercially valuable constituents of
 20 said ores or mineral products or deposits measured by
 21 standard units of measurement, yielded to such person,
 22 corporation or association so engaged in mining, and to said
 23 royalty holders and each of them, if any, during the period
 24 covered by the statement.

25 5. The gross yield or value in dollars and cents.

1 6. Actual cost of extracting same from mine.

2 7. Actual cost of transporting to place of reduction
 3 or sale.

4 8. Actual cost of reduction or sale.

5 9. Actual cost of marketing the product and conversion
 6 of same into money.

7 10. Cost of construction, repairs and betterments of
 8 mines, and cost of repairs and replacements of reduction
 9 works.

10 11. The assessed valuation of reduction works for the
 11 calendar year for which such return is made.

12 12. Actual cost of fire insurance and workmen's
 13 compensation insurance.

14 If any person shall fail, neglect or refuse to file the
 15 statement required by this section within the time required,
 16 or within any extended period of time allowed, the state
 17 department of revenue when transmitting the net proceeds
 18 valuations to the counties shall inform the county assessor
 19 of such failure, neglect or refusal and the county assessor
 20 in addition to the net proceeds tax, if any, shall assess a
 21 penalty of 2/3 of 1% of such tax for each calendar month or
 22 fraction thereof that the required statement is not filed,
 23 deducting therefrom any moneys collected by the state
 24 department of revenue required by this section. The state
 25 department of revenue shall assess a penalty of \$25 for each

1 calendar month or fraction thereof, not exceeding four
2 months, that the required statement is not filed, to be
3 collected by the state department of revenue and deposited
4 to the credit of the general fund of the state of Montana.

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

9 Section 5. Section 84-401, R.C.M. 1947, is amended to
10 read as follows:

11 "84-401. Property assessed at ~~forty-percent-(40%)~~ of
12 its full cash value -- exceptions. All taxable real property
13 and improvements and gross proceeds of metal mines must be
14 assessed at ~~forty-percent-(40%)~~ of its full cash value
15 except:

16 (1) Properties in section 84-301, under Class One,
17 shall be assessed at ~~one-hundred-percent-(100%)~~ of full cash
18 value.

19 (2) The assessment of agricultural lands shall be
20 based upon the productive capacity of the lands when valued
21 for agricultural purposes. All lands shall be valued as
22 agricultural lands for tax purposes that meet the
23 qualifications of section 84-437.2, R.C.M. 1947. Land and
24 the improvements thereon shall be separately assessed when
25 any of the following conditions occur:

1 (a) when ownership of the improvements is different
2 from ownership of the land,

3 (b) when requested in writing by the taxpayer, or

4 (c) when the land is outside an incorporated city or
5 town.

6 The taxable value of all property shall be determined
7 by sections 84-301 and 84-308."

8 Section 6. There is a new R.C.M. section in chapter 2,
9 title 84, that reads as follows:

10 Exemption -- ~~first-20,000---tons---of---metal---mine~~
11 ~~production. The annual-gross-proceeds-of-a-mine~~ METAL MINES
12 GROSS PROCEEDS. METAL MINES producing metallic-ore-does-not
13 ~~include-the-first~~ LESS THAN 20,000 tons of ore produced in a
14 taxable year ~~and this first-20,000-tons-of-ore-is~~ SHALL BE
15 exempt from ~~all~~ property taxation ON ONE-HALF OF THE
16 MERCHANTABLE VALUE.

17 Section 7. There is a new R.C.M. section numbered
18 84-7701 that reads as follows:

19 84-7701. Definitions. As used in this chapter the
20 following definitions apply:

21 (1) "Merchantable value" means the average market
22 value of all salable metals produced or extracted in a
23 county over a 12-month period. If the extracted ores are
24 milled, smelted, or reduced within the state of Montana, the
25 metals are considered salable after this processing.

1 (2) "Agreement not at arm's length" means an agreement
2 between parties where the sales price does not represent
3 market value.

4 (3) "Department" means the department of revenue.

5 (4) "Market value" means the exchange value of a
6 property in a competitive market.

7 Section 8. There is a new R.C.M. section numbered
8 84-7702 that reads as follows:

9 84-7702. Metal mines -- ad valorem taxation. Each
10 person, partnership, corporation, or association mining or
11 extracting gold, silver, copper, lead, or other metals from
12 whatever source must, on or before March 31 each year, file
13 with the department of revenue a statement of the gross
14 metal yield from each mine owned or worked by such person in
15 the preceding calendar year and the value thereof. The
16 statement shall be in the form prescribed by the department
17 and shall contain the following:

18 (1) the name, address, and telephone number of the
19 owner, lessee, or operator of the mine;

20 (2) the mine's location by county and legal
21 description;

22 (3) the tons of ore extracted from the mine during the
23 taxable period;

24 (4) the merchantable value in dollars and cents of all
25 metals extracted; and

1 (5) any other information requested by the department.

2 Section 9. There is a new R.C.M. section numbered
3 84-7703 that reads as follows:

4 84-7703. Valuation -- gross proceeds. On or before
5 July 1 each year, the department shall determine the
6 merchantable value of all metal production from the previous
7 calendar year. The department shall transmit to its agent in
8 each county where metals are produced the merchantable value
9 as has been determined by the department for placement on
10 the assessment roll, after subtracting such portion of the
11 proceeds as may be exempt from property taxation.

12 Section 10. There is a new R.C.M. section numbered
13 84-7704 that reads as follows:

14 84-7704. Taxation of merchantable value. The
15 department's agent shall prepare from the reported valuation
16 a tax roll which shall be transmitted to the county
17 treasurer on or before September 15 each year. The county
18 treasurer shall proceed to give full notice thereof to each
19 metal producer and to collect the taxes due at the times
20 provided for in 84-4103, and any delinquencies in the
21 payment of same shall be subject to the interest and
22 penalties provided for in 84-4103.

23 Section 11. There is a new R.C.M. section numbered
24 84-7705 that reads as follows:

25 84-7705. Imputed value -- procedure for metals. If

1 there is no sale or the sale is by an agreement not at arm's
 2 length or no statement is filed, the department shall impute
 3 the merchantable value of the metal. When imputing value,
 4 the department shall consider all appropriate market
 5 information available. When the imputed value is contested
 6 in any proceedings, the burden of proof is with the
 7 contesting party.

8 Section 12. There is a new R.C.M. section numbered
 9 84-7706 that reads as follows:

10 84-7706. Lien of tax. The tax or penalty on gross
 11 proceeds is a lien upon the mine from which the metal is
 12 extracted and is prior lien upon all owned or leased
 13 personal property and improvements used in extracting the
 14 ore or metal. The tax shall be collected in the manner
 15 provided under chapter 41 of this title.

16 Section 13. There is a new R.C.M. section numbered
 17 84-7707 that reads as follows:

18 84-7707. Penalties. (1) A person who refuses to file
 19 the required statement with the department or makes a false
 20 statement commits a misdemeanor. Persons convicted under
 21 this section shall be fined not to exceed \$1,000 or be
 22 imprisoned in the county jail for a term not to exceed 6
 23 months, or both.

24 (2) If the required statement is not filed ~~timely and~~
 25 ~~no extension has been granted~~ BY MARCH 31 OR WITHIN THE TIME

1 ~~EXTENDED~~ by the department, ~~there shall be assessed THE~~
 2 ~~DEPARTMENT'S AGENT IN THE COUNTY SHALL ASSESS~~ a penalty of
 3 1/2 of 1% of such tax for each calendar month or fraction
 4 thereof that the statement is delinquent.

5 (3) The department when shown good cause may grant an
 6 extension of the time for filing the required statement.

7 Section 14. Effective date. This act shall apply to
 8 all metal mines production for calendar year ~~1977~~ 1976.

9 Section 15. Severability. If a part of this act is
 10 invalid, all valid parts that are severable from the invalid
 11 part remain in effect. If a part of this act is invalid in
 12 one or more of its applications, the part remains in effect
 13 in all valid applications that are severable from the
 14 invalid applications.

-End-

April 5, 1977

SENATE
STANDING COMMITTEE REPORT
Taxation Committee

That House Bill No. 198, third reading, be amended as follows:

1. Amend the title, line 9.
Following: "1947;"
Insert: "coordinating this act with other pending legislation;"
2. Amend page 2, section 1, line 6.
Following: line 5
Strike: "84-7702"
Insert: "[section 7 of this act]"
3. Amend page 18, section 7, lines 17 and 18.
Following: "section"
Strike: "numbered 84-7701"
4. Amend page 18, section 7, line 19.
Following: line 18
Strike: "84-7701."
5. Amend page 18, section 7, line 22.
Following: "of all"
Strike: "salable"
Insert: "these"
6. Amend page 18, section 7, line 24.
Following: "reduced"
Strike: "within the state of Montana"
7. Amend page 18, section 7, line 25.
Following: line 24
Insert: "value of these"
Following: "metals"
Strike: "are"
Insert: "is"
Following: "considered"
Strike: "salable"
Insert: "outside the county"
8. Amend page 19, section 7, line 7.
Following: line 6
Insert: "(5) "Gross proceeds" or "gross metal yield" means the revenue realized from the extraction of metals, determined by multiplying the quantity produced by the merchantable value."
9. Amend page 19, section 8, lines 7 and 8.
Following: "section"
Strike: "numbered 84-7702"
10. Amend page 19, section 8, line 9.
Following: line 8
Strike: "84-7702."

April 5, 1977

Page 2

House Bill No. 198

11. Amend page 20, section 9, lines 2 and 3.

Following: "section"

Strike: "numbered 84-7703"

12. Amend page 20, section 9, line 4.

Following: line 3

Strike: "84-7703."

13. Amend page 20, section 10, lines 12 and 13.

Following: "section"

Strike: "numbered 84-7704"

14. Amend page 20, section 10, line 14.

Following: line 13

Strike: "84-7704."

15. Amend page 20, section 11, lines 23 and 24.

Following: "section"

Strike: "numbered 84-7705"

16. Amend page 20, section 11, line 25.

Following: line 24

Strike: "84-7705."

17. Amend page 21, section 12, lines 8 and 9.

Following: "section"

Strike: "numbered 84-7706"

18. Amend page 21, section 12, line 10.

Following: line 9

Strike: "84-7706."

19. Amend page 21, section 13, lines 16 and 17.

Following: "section"

Strike: "numbered 84-7707"

20. Amend page 21, section 13, line 18 through line 6 on page 22.

Strike: line 18 on page 21 through line 6 on page 22 in their entirety

Insert: "Assessment and collection procedures. The gross proceeds of metal mines shall be assessed and taxes thereon collected under the provisions of 84-7801 through 84-7807."

21. Amend page 22, line 8, section 14.

Following: line 8

Insert: "Section 15. In the event House Bill 70 is enacted into law and repeals sections 84-301 and 84-302, R.C.M. 1947, and amends section 84-401, R.C.M. 1947, then in lieu of sections 2, 3 and 5 of this act, there is enacted a new R.C.M. section that reads as follows:

"Class nineteen property -- description -- taxable value.

(1) Class nineteen property includes the annual gross proceeds of metal mines.

(2) Class nineteen property is taxed at 3% of its assessed value, which is 100% of annual gross proceeds." "

Renumber: following section

1 HOUSE BILL NO. 198

2 INTRODUCED BY QUILICI, LYNCH, HARRINGTON, MULAR, BRAND,
3 COONEY, COURTNEY, MENAHAN

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE AD
6 VALOREM TAXATION OF THE GROSS PROCEEDS OF METAL MINES AT A
7 PERCENTAGE OF MERCHANTABLE VALUE; DELETING METALS FROM NET
8 PROCEEDS TAXATION; AMENDING SECTIONS 84-101, 84-301, ~~84-302,~~
9 ~~84-401,~~ AND 84-5402, R.C.M. 1947; COORDINATING THIS ACT WITH
10 OTHER PENDING LEGISLATION; AND PROVIDING AN EFFECTIVE DATE."

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

13 Section 1. Section 84-101, R.C.M. 1947, is amended to
14 read as follows:

15 "84-101. Definition of terms. Whenever the terms
16 mentioned in this section are employed in dealing with the
17 subject of taxation, they are employed in the sense
18 hereafter affixed to them.

19 First -- The term "property" includes moneys, credits,
20 bonds, stocks, franchises, and all other matters and things
21 real, personal, and mixed, capable of private ownership; but
22 this must not be construed so as to authorize the taxation
23 of the stocks of any company or corporation when the
24 property of such company or corporation represented by such
25 stocks is within the state and has been taxed.

1 Second -- The term "real estate" includes:

2 1. The possession of, claim to, ownership of, or right
3 to the possession of land.

4 2. All mines, minerals, and quarries in and under the
5 land, subject to the provisions of section 84-5401 and
6 ~~84-7792 [SECTION 7 OF THIS ACT]~~, all timber belonging to
7 individuals or corporations growing or being on the lands of
8 the United States, and all right and privileges appertaining
9 thereto.

10 3. Improvements.

11 Third -- The term "improvements" includes all
12 buildings, structures, fixtures, fences, and improvements,
13 including mobile homes and house trailers situated upon,
14 erected upon or affixed to land when the department of
15 revenue or its agent determines that the permanency of
16 location of the mobile home has been established and for
17 this purpose any mobile home is presumed to be an
18 improvement to real property. If the mobile home or house
19 trailer is an improvement located on land not owned by the
20 owner of such improvement, the improvement shall be assessed
21 as a leasehold improvement to real property and delinquent
22 taxes can be a lien only on the leasehold improvement.

23 Fourth -- The term "personal property" includes
24 everything which is the subject of ownership, not included
25 within the meaning of the term "real estate" and

1 "improvements."

2 Fifth -- The terms "value" and "full cash value" mean
3 the amount at which the property would be taken in payment
4 of a just debt due from a solvent debtor.

5 Sixth -- The term "credit" means those solvent debts,
6 secured or unsecured, owing to a person.

7 Seventh -- The term "mobile home" means forms of
8 housing known as "trailers", "house trailers" or "trailer
9 coaches" exceeding ~~eight~~ {8} feet in width or ~~thirty-two~~
10 {32} feet in length designed to be moved from one place to
11 another by an independent power connected thereto."

12 Section 2. Section 84-301, R.C.M. 1947, is amended to
13 read as follows:

14 "84-301. Classification of property for taxation. For
15 the purpose of taxation the taxable property in the state
16 shall be classified as follows:

17 Class One. The annual net proceeds of all mines and
18 mining claims, except coal and metal mines, after deducting
19 only the expenses specified and allowed by section 84-5403;
20 also where the right to enter upon land, to explore or
21 prospect, or dig for oil, gas, coal or mineral is reserved
22 in land or received by mesne conveyance (exclusive of
23 leasehold interests), devise or succession by any person or
24 corporation, the surface title to which has passed to or
25 remains in another, the state department of revenue shall

1 determine the value of the right to enter upon said tract of
2 land for the purpose of digging, exploring, or prospecting
3 for gas, oil, coal or minerals, and the same shall be placed
4 in this classification for the purpose of taxation.

5 Class Two. All agricultural and other tools, implements
6 and machinery, gas and other engines and boilers, threshing
7 machines and outfits used therewith, automobiles, motor
8 trucks and other power-driven cars, vehicles of all kinds
9 except mobile homes, boats and all watercraft, harness,
10 saddlery and robes and except as provided in Class Five (a)
11 of this section, all poles, lines, transformers, transformer
12 stations, meters, tools, improvements, machinery and other
13 property used and owned by all persons, firms, corporations,
14 and other organizations which are engaged in the business of
15 furnishing telephone communications, exclusively to rural
16 areas, or to rural areas and cities and towns provided that
17 any such city or town has a population of ~~eight-hundred~~
18 {800} persons or less; and provided further, that the
19 average circuit miles for each station on the system is more
20 than ~~one-and-one-quarter~~ {1 1/4} miles.

21 Class Three. Livestock, poultry, and unprocessed
22 products of both; furniture and fixtures used in commercial
23 activities; the annual gross proceeds of underground coal
24 mines; and all office or hotel furniture and fixtures,
25 except improvements included in Class Nine.

1 Class Four. (a) All land, town and city lots, with
 2 improvements, except improvements included in Class Nine,
 3 and all trailers affixed to land owned, leased, or under
 4 contract or purchase by the trailer owner, manufacturing and
 5 mining machinery, fixtures and supplies, except as otherwise
 6 provided by the constitution of Montana, and except as such
 7 property may be included in Class Five, Class Seven or Class
 8 Eight.

9 (b) Mobile homes without regard to the ownership of
 10 the land upon which they are situated, except those held by
 11 a distributor or dealer of mobile homes as part of his stock
 12 in trade, and except as such property may be included in
 13 Class Eight.

14 Class Five. (a) All poles, lines, transformers,
 15 transformer stations, meters, tools, improvements, machinery
 16 and other property used and owned by co-operative rural
 17 electrical and co-operative rural telephone associations
 18 organized under the laws of Montana except those within the
 19 incorporated limits of a city or town in which less than
 20 ~~ninety-five-per-cent-(95%)~~ of the electric consumers and/or
 21 telephone users are served by a co-operative organization,
 22 and as to the property enumerated in this sub-section (a)
 23 within incorporated limits of a city or town in which less
 24 than ~~ninety-five-per-cent-(95%)~~ of the electric consumers or
 25 users will be served by a co-operative organization, such

1 property shall be put in Class Two.

2 (b) All unprocessed agricultural products either on
 3 the farm or in storage, irrespective of whether said
 4 products are owned by the elevator, warehouse or flour mill
 5 owner or company storing the same, or any other person
 6 whomsoever, except all perishable fruits and vegetables in
 7 farm storage and owned by the producer, and excepting
 8 livestock and poultry and the unprocessed products of both.

9 (c) The dwelling house, and the lot on which it is
 10 erected, owned and occupied by any resident of the state,
 11 who has been honorably discharged from active service in any
 12 branch of the armed forces, who is rated ~~one-hundred-per~~
 13 ~~cent-(100%)~~ disabled due to a service-connected disability
 14 by the United States veterans administration or its
 15 successors.

16 In the event of the veteran's death, the dwelling
 17 house, and the lot on which it is erected, so long as the
 18 surviving spouse remains unmarried and the owner and
 19 occupant of the property, shall remain within this
 20 classification.

21 Class Six. Property formerly included in this class is
 22 now classified by section 84-308, R.C.M. 1947.

23 Class Seven. (a) All new industrial property. New
 24 industrial property shall mean any new industrial plant,
 25 including land, buildings, machinery and fixtures which, in

1 the determination of the state department of revenue, is
 2 used by a new industry during the first ~~three~~(3) years of
 3 operation not having been assessed prior to July 1, 1961,
 4 within the state of Montana. New industry shall mean any
 5 person, corporation, firm, partnership, association, or
 6 other group which establishes a new plant or plants in this
 7 state for the operation of a new industrial endeavor, as
 8 distinguished from a mere expansion, reorganization, or
 9 merger of an existing industry or industries. Provided,
 10 however, that new industrial property shall be limited to
 11 industries that manufacture, mill, mine, produce, process or
 12 fabricate materials, or do similar work in which capital and
 13 labor are employed and in which materials unserviceable in
 14 their natural state are extracted, processed or made fit for
 15 use or are substantially altered or treated so as to create
 16 commercial products or materials; industries that engage in
 17 the mechanical or chemical transformation of materials or
 18 substances into new products in the manner defined as
 19 manufacturing in the 1972 Standard Industrial Classification
 20 Manual, prepared by the United States office of management
 21 and budget; and in no event shall the term new industrial
 22 property be included to mean property used by retail or
 23 wholesale merchants, commercial services of any type,
 24 agriculture, trades or professions. New industrial property
 25 does not include a plant which will create an adverse impact

1 on existing state, county, or municipal services. The
 2 department shall promulgate regulations for the
 3 determination of what constitutes an adverse impact taking
 4 into consideration the number of people to be employed and
 5 the size of the community in which the location is
 6 contemplated. Once the department has made an initial
 7 determination that the industrial facility qualifies as new
 8 industrial property, the department shall then upon proper
 9 notice hold a hearing to determine if the new industrial
 10 classification should be retained by the property. The
 11 local taxing authority may appear at the hearing, and it
 12 also may waive its objection to retention of this
 13 classification if the industry agrees to the prepayment of
 14 taxes sufficient to satisfy tax requirements created by the
 15 location and construction of the facility during
 16 construction period.

17 In the event of a prepayment of taxes, the maximum
 18 amount or prepayment shall be the amount without the
 19 application of the Class 7 (a) to such property.

20 If a major new industrial facility qualifies under
 21 Class 7 (a) the reduction of its yearly payment of property
 22 taxes for reimbursement of its prepaid taxes as provided for
 23 in section 84-41-105, R.C.M. 1947, shall not begin until the
 24 Class 7 qualification expires. And provided further, that
 25 new industrial property shall not be included to mean

1 property which is used or employed in any industrial plant
 2 which has been in operation in this state for ~~three~~(3)
 3 years or longer. Any person, corporation, firm, partnership,
 4 association or other group seeking to qualify its property
 5 for inclusion in this class shall make application to the
 6 state department of revenue in such manner and form as may
 7 be required by said department.

8 (b) Business inventories. Business inventories shall
 9 include goods intended for sale or lease in the ordinary
 10 course of business, and shall include raw materials and work
 11 in progress with respect to such goods, but shall not
 12 include goods actually leased or rented on the lien date, or
 13 mobile homes held by a dealer or distributor as a part of
 14 his stock in trade.

15 (c) Air pollution control equipment as defined in
 16 section 69-3923.

17 (d) A capital investment in a recognized nonfossil
 18 form of energy generation, to the extent provided under
 19 section 84-7403.

20 Class Eight. (a) Any improvement on real property,
 21 trailers affixed to land or mobile home belonging to any
 22 person who qualifies under any one or more of the
 23 hereinafter set forth categories, with appurtenant land not
 24 exceeding ~~five~~(5) acres, which together have a market value
 25 of not more than ~~twenty-seven-thousand-five-hundred-dollars~~

1 ~~{27,500}~~, which dwelling is owned or under a contract for
 2 deed, and which is actually occupied for at least ~~ten~~(10)
 3 months per year as the primary residential dwelling of:

4 (1) a widow ~~sixty-two~~(62) years of age or older,
 5 whether with or without minor dependent children, who
 6 qualifies under the income limitations of (4), or

7 (2) a widower ~~sixty-two~~(62) years of age or older,
 8 whether with or without minor dependent children, who
 9 qualifies under the income limitations of (4), or

10 (3) a widow or widower with minor or dependent
 11 children regardless of age, who qualifies under the income
 12 limitations of (4), or

13 (4) a recipient or recipients of retirement or
 14 disability benefits whose income from all sources is not
 15 more than ~~six-thousand-dollars~~(\$6,000) for a single person
 16 and ~~six--thousand--eight--hundred--dollars~~(\$6,800) for a
 17 married couple total per annum whether said dwelling is
 18 occupied by a single person or a married couple. Provided,
 19 further, that one who applies for classification of property
 20 under this class must make an affidavit to the state
 21 department of revenue on a form as may be provided by the
 22 state department of revenue supplied without cost to the
 23 applicant, as to his income, if applicable, as to his
 24 retirement benefits, if applicable, or, as to his marital
 25 status, if applicable, and to the fact that he or she

1 actually occupies or maintains as his or her primary
 2 residential dwelling, such land and improvements with right
 3 of the county welfare board to investigate the applicant, on
 4 the completion of the form, as to answers given on the form.
 5 Provided, further, the assessed value of said property shall
 6 not be increased during the life of the recipient of
 7 retirement benefits or widow or widower covered under this
 8 class, unless the owner-resident makes a substantial
 9 improvement in the dwelling. For the purposes of the
 10 affidavit required for classification of property under this
 11 class, it shall be sufficient if the applicant signs a
 12 statement swearing to or affirming the correctness of the
 13 information supplied, whether or not the statement is signed
 14 before a person authorized to administer oaths, and mails
 15 the application and statement to the department of revenue.
 16 This signed statement shall be treated as a statement under
 17 oath or equivalent affirmation for purposes of section
 18 94-7-203, R.C.M. 1947, relating to the criminal offense of
 19 false swearing.

20 (b) A capital investment in a building for an energy
 21 conservation purpose, to the extent provided under section
 22 84-7403.

23 ~~(c) The annual gross proceeds of metal mines.~~

24 Class Nine. The incremental increase in the value of
 25 real estate attributable to repairing, maintaining or

1 improving existing improvements.

2 Class Ten. The annual gross proceeds of coal mines
 3 using the strip mining method.

4 Class Eleven. Centrally assessed utility allocations
 5 after deductions of locally assessed properties and except
 6 as provided in Class Two for rural telephones and Class Five
 7 (a) for cooperatives, and all other property not included in
 8 the ten (10) preceding classes.

9 CLASS TWELVE. THE ANNUAL GROSS PROCEEDS OF METAL
 10 MINES."

11 SECTION 3. SECTION 84-302, R.C.M. 1947, IS AMENDED TO
 12 READ AS FOLLOWS:

13 "84-302. Basis for imposition of taxes. As a basis for
 14 the imposition of taxes upon the different classes of
 15 property specified in the preceding section, a percentage of
 16 the true and full value of the property of each class shall
 17 be taken as follows:

18 Class 1. ~~One-hundred-per-cent-(100%)~~ of its true and
 19 full value.

20 Class 2. ~~Twenty-per-cent-(20%)~~ of its true and full
 21 value.

22 Class 3. ~~Thirty-three-and-one-third-per-cent-(33 1/3%)~~
 23 of its true and full value.

24 Class 4. ~~Thirty-per-cent-(30%)~~ of its true and full
 25 value.

1 Class 5. ~~Seven-per-cent-(7%)~~ of its true and full
 2 value.
 3 Class 6. As specified in section 84-308, R.C.M. 1947.
 4 Class 7. ~~Seven-per-cent-(7%)~~ of its true and full
 5 value.
 6 Class 8. ~~Fifteen-per-cent-(15%)~~ of its true and full
 7 value.
 8 Class 9. ~~Six-per-cent-(6%)~~ of the true and full value
 9 for the first full year following completion of the repair,
 10 maintenance or improving of existing improvements; ~~twelve~~
 11 ~~percent-(12%)~~ of the true and full value for the second full
 12 year following completion of the repair, maintenance or
 13 improving of existing improvements; ~~eighteen-percent-(18%)~~
 14 of the true and full value for the third full year following
 15 completion of the repair, maintenance or improving of
 16 existing improvements; ~~twenty-four-percent-(24%)~~ of the true
 17 and full value for the fourth full year following completion
 18 of the repair, maintenance or improving of existing
 19 improvements; and ~~thirty-percent-(30%)~~ for the fifth full
 20 year following completion of the repair, maintenance or
 21 improving of existing improvements and for every year
 22 thereafter.
 23 Class 10. ~~Forty-five-per-cent-(45%)~~ of its true and
 24 full value.
 25 Class 11. ~~Forty-per-cent-(40%)~~ of its true and full

1 value.
 2 CLASS 12. 7.5% OF ITS TRUE AND FULL VALUE."
 3 Section 4. Section 84-5402, R.C.M. 1947, is amended to
 4 read as follows:
 5 "84-5402. Net proceeds tax -- statement of yield,
 6 penalty, extension of time. Every person, partnership,
 7 corporation, or association, engaged in mining, extracting
 8 or producing from any quartz vein or lode, placer claim,
 9 dump or tailings, or other place or sources whatever,
 10 precious stones or gems, ~~gold, silver, copper, lead,~~
 11 vermiculite, bentonite, petroleum, natural gas, or other
 12 valuable mineral, except coal, ~~and metals,~~ must on or before
 13 ~~the thirty-first day of March 31~~ of each year make out a
 14 statement of the gross yield of the above-named metals or
 15 minerals from each mine owned or worked by such person,
 16 corporation or association during the year preceding the
 17 ~~first day of January 1~~ of the year in which such statement
 18 is made, and the value thereof. Such statement shall be in
 19 the form prescribed by the state department of revenue, and
 20 must be verified by the oath of such person or the manager,
 21 superintendent, agent, president or vice-president of such
 22 corporation, association or partnership, and must be
 23 delivered to the state department of revenue on or before
 24 ~~the thirty-first day of March 31~~. Such statement shall show
 25 the following:

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

9 2. The description and location of the mine.

10 3. The number of tons of ore, barrels of petroleum,
 11 cubic feet of natural gas or other mineral products or
 12 deposits extracted, produced, and treated or sold from the
 13 mine during the period covered by the statement.

14 4. The amount and character of such ores, mineral
 15 products or deposits, and the yield of such ores, mineral
 16 products or deposits from such mine in constituents of
 17 commercial value; that is to say, ~~the number of ounces of~~
 18 ~~gold or silver, pounds of copper or lead,~~ barrels of
 19 petroleum or other crude or mineral oil, cubic feet of
 20 natural gas or other commercially valuable constituents of
 21 said ores or mineral products or deposits measured by
 22 standard units of measurement, yielded to such person,
 23 corporation or association so engaged in mining, and to said
 24 royalty holders and each of them, if any, during the period
 25 covered by the statement.

1 5. The gross yield or value in dollars and cents.

2 6. Actual cost of extracting same from mine.

3 7. Actual cost of transporting to place of reduction
 4 or sale.

5 8. Actual cost of reduction or sale.

6 9. Actual cost of marketing the product and conversion
 7 of same into money.

8 10. Cost of construction, repairs and betterments of
 9 mines, and cost of repairs and replacements of reduction
 10 works.

11 11. The assessed valuation of reduction works for the
 12 calendar year for which such return is made.

13 12. Actual cost of fire insurance and workmen's
 14 compensation insurance.

15 If any person shall fail, neglect or refuse to file the
 16 statement required by this section within the time required,
 17 or within any extended period of time allowed, the state
 18 department of revenue when transmitting the net proceeds
 19 valuations to the counties shall inform the county assessor
 20 of such failure, neglect or refusal and the county assessor
 21 in addition to the net proceeds tax, if any, shall assess a
 22 penalty of 2/3 of 1% of such tax for each calendar month or
 23 fraction thereof that the required statement is not filed,
 24 deducting therefrom any moneys collected by the state
 25 department of revenue required by this section. The state

1 department of revenue shall assess a penalty of \$25 for each
 2 calendar month or fraction thereof, not exceeding four
 3 months, that the required statement is not filed, to be
 4 collected by the state department of revenue and deposited
 5 to the credit of the general fund of the state of Montana.

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

10 Section 5. Section 84-401, R.C.M. 1947, is amended to
 11 read as follows:

12 "84-401. Property assessed at ~~forty-percent (40%)~~ of
 13 its full cash value -- exceptions. All taxable real property
 14 and improvements and gross proceeds of metal mines must be
 15 assessed at ~~forty-percent (40%)~~ of its full cash value
 16 except:

17 (1) Properties in section 84-301, under Class One,
 18 shall be assessed at ~~one-hundred-percent (100%)~~ of full cash
 19 value.

20 (2) The assessment of agricultural lands shall be
 21 based upon the productive capacity of the lands when valued
 22 for agricultural purposes. All lands shall be valued as
 23 agricultural lands for tax purposes that meet the
 24 qualifications of section 84-437.2, R.C.M. 1947. Land and
 25 the improvements thereon shall be separately assessed when

1 any of the following conditions occur:

2 (a) when ownership of the improvements is different
 3 from ownership of the land,

4 (b) when requested in writing by the taxpayer, or

5 (c) when the land is outside an incorporated city or
 6 town.

7 The taxable value of all property shall be determined
 8 by sections 84-301 and 84-308."

9 Section 6. There is a new R.C.M. section in chapter 2,
 10 title 84, that reads as follows:

11 Exemption -- ~~first 20,000 tons of metal mine~~
 12 ~~production. The annual gross proceeds of a mine~~ METAL MINES
 13 GROSS PROCEEDS, METAL MINES producing ~~metallic ore does not~~
 14 ~~include the first~~ LESS THAN 20,000 tons of ore produced in a
 15 taxable year, ~~and this first 20,000 tons of ore is~~ SHALL BE
 16 exempt from ~~all~~ property taxation ON ONE-HALF OF THE
 17 MERCHANTABLE VALUE.

18 Section 7. There is a new R.C.M. section numbered
 19 ~~84-7701~~ that reads as follows:

20 ~~84-7701~~ Definitions. As used in this chapter the
 21 following definitions apply:

22 (1) "Merchantable value" means the average market
 23 value of all ~~saleable~~ THESE metals produced or extracted in a
 24 county over a 12-month period. If the extracted ores are
 25 milled, smelted, or reduced ~~within the state of Montana,~~ the

1 VALUE OF THESE metals are IS considered separable OUTSIDE THE
2 COUNTY after this processing.

3 (2) "Agreement not at arm's length" means an agreement
4 between parties where the sales price does not represent
5 market value.

6 (3) "Department" means the department of revenue.

7 (4) "Market value" means the exchange value of a
8 property in a competitive market.

9 (5) "GROSS PROCEEDS" OR "GROSS METAL YIELD" MEANS THE
10 REVENUE REALIZED FROM THE EXTRACTION OF METALS, DETERMINED
11 BY MULTIPLYING THE QUANTITY PRODUCED BY THE MERCHANTABLE
12 VALUE.

13 Section 8. There is a new R.C.M. section numbered
14 84-7702 that reads as follows:

15 ~~84-7702.~~ Metal mines -- ad valorem taxation. Each
16 person, partnership, corporation, or association mining or
17 extracting gold, silver, copper, lead, or other metals from
18 whatever source must, on or before March 31 each year, file
19 with the department of revenue a statement of the gross
20 metal yield from each mine owned or worked by such person in
21 the preceding calendar year and the value thereof. The
22 statement shall be in the form prescribed by the department
23 and shall contain the following:

24 (1) the name, address, and telephone number of the
25 owner, lessee, or operator of the mine;

1 (2) the mine's location by county and legal
2 description;

3 (3) the tons of ore extracted from the mine during the
4 taxable period;

5 (4) the merchantable value in dollars and cents of all
6 metals extracted; and

7 (5) any other information requested by the department.

8 Section 9. There is a new R.C.M. section numbered
9 ~~84-7703~~ that reads as follows:

10 ~~84-7703.~~ Valuation -- gross proceeds. On or before
11 July 1 each year, the department shall determine the
12 merchantable value of all metal production from the previous
13 calendar year. The department shall transmit to its agent in
14 each county where metals are produced the merchantable value
15 as has been determined by the department for placement on
16 the assessment roll, after subtracting such portion of the
17 proceeds as may be exempt from property taxation.

18 Section 10. There is a new R.C.M. section numbered
19 ~~84-7704~~ that reads as follows:

20 ~~84-7704.~~ Taxation of merchantable value. The
21 department's agent shall prepare from the reported valuation
22 a tax roll which shall be transmitted to the county
23 treasurer on or before September 15 each year. The county
24 treasurer shall proceed to give full notice thereof to each
25 metal producer and to collect the taxes due at the times

1 provided for in 84-4103, and any delinquencies in the
 2 payment of same shall be subject to the interest and
 3 penalties provided for in 84-4103.

4 Section 11. There is a new R.C.M. section numbered
 5 ~~84-7705~~ that reads as follows:

6 ~~84-7705.~~ Imputed value -- procedure for metals. If
 7 there is no sale or the sale is by an agreement not at arm's
 8 length or no statement is filed, the department shall impute
 9 the merchantable value of the metal. When imputing value,
 10 the department shall consider all appropriate market
 11 information available. When the imputed value is contested
 12 in any proceedings, the burden of proof is with the
 13 contesting party.

14 Section 12. There is a new R.C.M. section numbered
 15 ~~84-7706~~ that reads as follows:

16 ~~84-7706.~~ Lien of tax. The tax or penalty on gross
 17 proceeds is a lien upon the mine from which the metal is
 18 extracted and is prior lien upon all owned or leased
 19 personal property and improvements used in extracting the
 20 ore or metal. The tax shall be collected in the manner
 21 provided under chapter 41 of this title.

22 Section 13. There is a new R.C.M. section numbered
 23 ~~84-7707~~ that reads as follows:

24 ~~84-7707.~~ Penalties. ~~(1) A person who refuses to file~~
 25 ~~the required statement with the department or makes a false~~

1 ~~statement commits a misdemeanor. Persons convicted under~~
 2 ~~this section shall be fined not to exceed \$1,000 or be~~
 3 ~~imprisoned in the county jail for a term not to exceed 6~~
 4 ~~months or both~~

5 ~~(2) If the required statement is not filed timely and~~
 6 ~~no extension has been granted BY MARCH 31 OR WITHIN THE TIME~~
 7 ~~EXTENDED by the department, there shall be assessed THE~~
 8 ~~DEPARTMENT'S AGENT IN THE COUNTY SHALL ASSESS a penalty of~~
 9 ~~1/2 of 1% of such tax for each calendar month or fraction~~
 10 ~~thereof that the statement is delinquent~~

11 ~~(3) The department when shown good cause may grant an~~
 12 ~~extension of the time for filing the required statement~~
 13 ~~ASSESSMENT AND COLLECTION PROCEDURES. THE GROSS PROCEEDS OF~~
 14 ~~METAL MINES SHALL BE ASSESSED AND TAXES THEREON COLLECTED~~
 15 ~~UNDER THE PROVISIONS OF 84-7801 THROUGH 84-7807.~~

16 Section 14. Effective date. This act shall apply to
 17 all metal mines production for calendar year 1977 1976.

18 SECTION 15. IN THE EVENT HOUSE BILL 70 IS ENACTED INTO
 19 LAW AND REPEALS SECTIONS 84-301 AND 84-302, R.C.M. 1947, AND
 20 AMENDS SECTION 84-401, R.C.M. 1947, THEN IN LIEU OF
 21 SECTIONS 2, 3 AND 5 OF THIS ACT, THERE IS ENACTED A NEW
 22 R.C.M. SECTION THAT READS AS FOLLOWS:

23 Class nineteen property -- description -- taxable
 24 value. (1) Class nineteen property includes the annual gross
 25 proceeds of metal mines.

1 (2) Class nineteen property is taxed at 3% of its
2 assessed value, which is 100% of annual gross proceeds.

3 Section 16. Severability. If a part of this act is
4 invalid, all valid parts that are severable from the invalid
5 part remain in effect. If a part of this act is invalid in
6 one or more of its applications, the part remains in effect
7 in all valid applications that are severable from the
8 invalid applications.

-End-

HOUSE BILL NO. 198

INTRODUCED BY QUILICI, LYNCH, HARRINGTON, MULAR, BRAND,
COONEY, COURTNEY, MENAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE AD
VALOREM TAXATION OF THE GROSS PROCEEDS OF METAL MINES AT A
PERCENTAGE OF MERCHANTABLE VALUE; DELETING METALS FROM NET
PROCEEDS TAXATION; AMENDING SECTIONS 84-101, 84-301, ~~84-302,~~
84-401, AND 84-5402, R.C.M. 1947; ~~COORDINATING THIS ACT WITH
OTHER PENDING LEGISLATION; AND PROVIDING AN EFFECTIVE DATE."~~

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

Section 1. Section 84-101, R.C.M. 1947, is amended to
read as follows:

"84-101. Definition of terms. Whenever the terms
mentioned in this section are employed in dealing with the
subject of taxation, they are employed in the sense
hereafter affixed to them.

First -- The term "property" includes moneys, credits,
bonds, stocks, franchises, and all other matters and things
real, personal, and mixed, capable of private ownership; but
this must not be construed so as to authorize the taxation
of the stocks of any company or corporation when the
property of such company or corporation represented by such
stocks is within the state and has been taxed.

Second -- The term "real estate" includes:

1. The possession of, claim to, ownership of, or right
to the possession of land.

2. All mines, minerals, and quarries in and under the
land, subject to the provisions of ~~section 84-5401 and~~
~~84-7792 [SECTION 7 OF THIS ACT]~~, all timber belonging to
individuals or corporations growing or being on the lands of
the United States, and all right and privileges appertaining
thereto.

3. Improvements.

Third -- The term "improvements" includes all
buildings, structures, fixtures, fences, and improvements,
including mobile homes and house trailers situated upon,
erected upon or affixed to land when the department of
revenue or its agent determines that the permanency of
location of the mobile home has been established and for
this purpose any mobile home is presumed to be an
improvement to real property. If the mobile home or house
trailer is an improvement located on land not owned by the
owner of such improvement, the improvement shall be assessed
as a leasehold improvement to real property and delinquent
taxes can be a lien only on the leasehold improvement.

Fourth -- The term "personal property" includes
everything which is the subject of ownership, not included
within the meaning of the term "real estate" and

1 "improvements."

2 Fifth -- The terms "value" and "full cash value" mean
3 the amount at which the property would be taken in payment
4 of a just debt due from a solvent debtor.

5 Sixth -- The term "credit" means those solvent debts,
6 secured or unsecured, owing to a person.

7 Seventh -- The term "mobile home" means forms of
8 housing known as "trailers", "house trailers" or "trailer
9 coaches" exceeding ~~eight~~^{8} feet in width or ~~thirty-two~~
10 ^{32} feet in length designed to be moved from one place to
11 another by an independent power connected thereto."

12 Section 2. Section 84-301, R.C.M. 1947, is amended to
13 read as follows:

14 "84-301. Classification of property for taxation. For
15 the purpose of taxation the taxable property in the state
16 shall be classified as follows:

17 Class One. The annual net proceeds of all mines and
18 mining claims, except coal and metal mines, after deducting
19 only the expenses specified and allowed by section 84-5403;
20 also where the right to enter upon land, to explore or
21 prospect, or dig for oil, gas, coal or mineral is reserved
22 in land or received by mesne conveyance (exclusive of
23 leasehold interests), devise or succession by any person or
24 corporation, the surface title to which has passed to or
25 remains in another, the state department of revenue shall

1 determine the value of the right to enter upon said tract of
2 land for the purpose of digging, exploring, or prospecting
3 for gas, oil, coal or minerals, and the same shall be placed
4 in this classification for the purpose of taxation.

5 Class Two. All agricultural and other tools, implements
6 and machinery, gas and other engines and boilers, threshing
7 machines and outfits used therewith, automobiles, motor
8 trucks and other power-driven cars, vehicles of all kinds
9 except mobile homes, boats and all watercraft, harness,
10 saddlery and robes and except as provided in Class Five (a)
11 of this section, all poles, lines, transformers, transformer
12 stations, meters, tools, improvements, machinery and other
13 property used and owned by all persons, firms, corporations,
14 and other organizations which are engaged in the business of
15 furnishing telephone communications, exclusively to rural
16 areas, or to rural areas and cities and towns provided that
17 any such city or town has a population of ~~eight-hundred~~
18 ^{800} persons or less; and provided further, that the
19 average circuit miles for each station on the system is more
20 than ~~one-and-one-quarter~~^{1 1/4} miles.

21 Class Three. Livestock, poultry, and unprocessed
22 products of both; furniture and fixtures used in commercial
23 activities; the annual gross proceeds of underground coal
24 mines; and all office or hotel furniture and fixtures,
25 except improvements included in Class Nine.

1 Class Four. (a) All land, town and city lots, with
 2 improvements, except improvements included in Class Nine,
 3 and all trailers affixed to land owned, leased, or under
 4 contract or purchase by the trailer owner, manufacturing and
 5 mining machinery, fixtures and supplies, except as otherwise
 6 provided by the constitution of Montana, and except as such
 7 property may be included in Class Five, Class Seven or Class
 8 Eight.

9 (b) Mobile homes without regard to the ownership of
 10 the land upon which they are situated, except those held by
 11 a distributor or dealer of mobile homes as part of his stock
 12 in trade, and except as such property may be included in
 13 Class Eight.

14 Class Five. (a) All poles, lines, transformers,
 15 transformer stations, meters, tools, improvements, machinery
 16 and other property used and owned by co-operative rural
 17 electrical and co-operative rural telephone associations
 18 organized under the laws of Montana except those within the
 19 incorporated limits of a city or town in which less than
 20 ~~ninety-five-per-cent-(95%)~~ of the electric consumers and/or
 21 telephone users are served by a co-operative organization,
 22 and as to the property enumerated in this sub-section (a)
 23 within incorporated limits of a city or town in which less
 24 than ~~ninety-five-per-cent-(95%)~~ of the electric consumers or
 25 users will be served by a co-operative organization, such

1 property shall be put in Class Two.

2 (b) All unprocessed agricultural products either on
 3 the farm or in storage, irrespective of whether said
 4 products are owned by the elevator, warehouse or flour mill
 5 owner or company storing the same, or any other person
 6 whomsoever, except all perishable fruits and vegetables in
 7 farm storage and owned by the producer, and excepting
 8 livestock and poultry and the unprocessed products of both.

9 (c) The dwelling house, and the lot on which it is
 10 erected, owned and occupied by any resident of the state,
 11 who has been honorably discharged from active service in any
 12 branch of the armed forces, who is rated ~~one--hundred--per~~
 13 ~~cent--(100%)~~ disabled due to a service-connected disability
 14 by the United States veterans administration or its
 15 successors.

16 In the event of the veteran's death, the dwelling
 17 house, and the lot on which it is erected, so long as the
 18 surviving spouse remains unmarried and the owner and
 19 occupant of the property, shall remain within this
 20 classification.

21 Class Six. Property formerly included in this class is
 22 now classified by section 84-308, R.C.M. 1947.

23 Class Seven. (a) All new industrial property. New
 24 industrial property shall mean any new industrial plant,
 25 including land, buildings, machinery and fixtures which, in

1 the determination of the state department of revenue, is
 2 used by a new industry during the first ~~three~~(3) years of
 3 operation not having been assessed prior to July 1, 1961,
 4 within the state of Montana. New industry shall mean any
 5 person, corporation, firm, partnership, association, or
 6 other group which establishes a new plant or plants in this
 7 state for the operation of a new industrial endeavor, as
 8 distinguished from a mere expansion, reorganization, or
 9 merger of an existing industry or industries. Provided,
 10 however, that new industrial property shall be limited to
 11 industries that manufacture, mill, mine, produce, process or
 12 fabricate materials, or do similar work in which capital and
 13 labor are employed and in which materials unserviceable in
 14 their natural state are extracted, processed or made fit for
 15 use or are substantially altered or treated so as to create
 16 commercial products or materials; industries that engage in
 17 the mechanical or chemical transformation of materials or
 18 substances into new products in the manner defined as
 19 manufacturing in the 1972 Standard Industrial Classification
 20 Manual, prepared by the United States office of management
 21 and budget; and in no event shall the term new industrial
 22 property be included to mean property used by retail or
 23 wholesale merchants, commercial services of any type,
 24 agriculture, trades or professions. New industrial property
 25 does not include a plant which will create an adverse impact

1 on existing state, county, or municipal services. The
 2 department shall promulgate regulations for the
 3 determination of what constitutes an adverse impact taking
 4 into consideration the number of people to be employed and
 5 the size of the community in which the location is
 6 contemplated. Once the department has made an initial
 7 determination that the industrial facility qualifies as new
 8 industrial property, the department shall then upon proper
 9 notice hold a hearing to determine if the new industrial
 10 classification should be retained by the property. The
 11 local taxing authority may appear at the hearing, and it
 12 also may waive its objection to retention of this
 13 classification if the industry agrees to the prepayment of
 14 taxes sufficient to satisfy tax requirements created by the
 15 location and construction of the facility during
 16 construction period.

17 In the event of a prepayment of taxes, the maximum
 18 amount or prepayment shall be the amount without the
 19 application of the Class 7 (a) to such property.

20 If a major new industrial facility qualifies under
 21 Class 7 (a) the reduction of its yearly payment of property
 22 taxes for reimbursement of its prepaid taxes as provided for
 23 in section 84-41-105, R.C.M. 1947, shall not begin until the
 24 Class 7 qualification expires. And provided further, that
 25 new industrial property shall not be included to mean

1 property which is used or employed in any industrial plant
 2 which has been in operation in this state for ~~three-(3)~~
 3 years or longer. Any person, corporation, firm, partnership,
 4 association or other group seeking to qualify its property
 5 for inclusion in this class shall make application to the
 6 state department of revenue in such manner and form as may
 7 be required by said department.

8 (b) Business inventories. Business inventories shall
 9 include goods intended for sale or lease in the ordinary
 10 course of business, and shall include raw materials and work
 11 in progress with respect to such goods, but shall not
 12 include goods actually leased or rented on the lien date, or
 13 mobile homes held by a dealer or distributor as a part of
 14 his stock in trade.

15 (c) Air pollution control equipment as defined in
 16 section 69-3923.

17 (d) A capital investment in a recognized nonfossil
 18 form of energy generation, to the extent provided under
 19 section 84-7403.

20 Class Eight. (a) Any improvement on real property,
 21 trailers affixed to land or mobile home belonging to any
 22 person who qualifies under any one or more of the
 23 hereinafter set forth categories, with appurtenant land not
 24 exceeding ~~five-(5)~~ acres, which together have a market value
 25 of not more than ~~twenty-seven-thousand-five-hundred-dollars~~

1 ~~(\$27,500)~~, which dwelling is owned or under a contract for
 2 deed, and which is actually occupied for at least ~~ten--(10)~~
 3 months per year as the primary residential dwelling of:

4 (1) a widow ~~sixty-two--(62)~~ years of age or older,
 5 whether with or without minor dependent children, who
 6 qualifies under the income limitations of (4), or

7 (2) a widower ~~sixty-two--(62)~~ years of age or older,
 8 whether with or without minor dependent children, who
 9 qualifies under the income limitations of (4), or

10 (3) a widow or widower with minor or dependent
 11 children regardless of age, who qualifies under the income
 12 limitations of (4), or

13 (4) a recipient or recipients of retirement or
 14 disability benefits whose income from all sources is not
 15 more than ~~six-thousand-dollars--(\$6,000)~~ for a single person
 16 and ~~six--thousand--eight--hundred--dollars--(\$6,800)~~ for a
 17 married couple total per annum whether said dwelling is
 18 occupied by a single person or a married couple. Provided,
 19 further, that one who applies for classification of property
 20 under this class must make an affidavit to the state
 21 department of revenue on a form as may be provided by the
 22 state department of revenue supplied without cost to the
 23 applicant, as to his income, if applicable, as to his
 24 retirement benefits, if applicable, or, as to his marital
 25 status, if applicable, and to the fact that he or she

1 actually occupies or maintains as his or her primary
 2 residential dwelling, such land and improvements with right
 3 of the county welfare board to investigate the applicant, on
 4 the completion of the form, as to answers given on the form.
 5 Provided, further, the assessed value of said property shall
 6 not be increased during the life of the recipient of
 7 retirement benefits or widow or widower covered under this
 8 class, unless the owner-resident makes a substantial
 9 improvement in the dwelling. For the purposes of the
 10 affidavit required for classification of property under this
 11 class, it shall be sufficient if the applicant signs a
 12 statement swearing to or affirming the correctness of the
 13 information supplied, whether or not the statement is signed
 14 before a person authorized to administer oaths, and mails
 15 the application and statement to the department of revenue.
 16 This signed statement shall be treated as a statement under
 17 oath or equivalent affirmation for purposes of section
 18 94-7-203, R.C.M. 1947, relating to the criminal offense of
 19 false swearing.

20 (b) A capital investment in a building for an energy
 21 conservation purpose, to the extent provided under section
 22 84-7403.

23 ~~1c) The annual gross proceeds of metal mines.~~

24 Class Nine. The incremental increase in the value of
 25 real estate attributable to repairing, maintaining or

1 improving existing improvements.

2 Class Ten. The annual gross proceeds of coal mines
 3 using the strip mining method.

4 Class Eleven. Centrally assessed utility allocations
 5 after deductions of locally assessed properties and except
 6 as provided in Class Two for rural telephones and Class Five
 7 (a) for cooperatives, and all other property not included in
 8 the ten (10) preceding classes.

9 CLASS TWELVE. THE ANNUAL GROSS PROCEEDS OF METAL
 10 MINES."

11 SECTION 3. SECTION 84-302, R.C.M. 1947, IS AMENDED TO
 12 READ AS FOLLOWS:

13 "84-302. Basis for imposition of taxes. As a basis for
 14 the imposition of taxes upon the different classes of
 15 property specified in the preceding section, a percentage of
 16 the true and full value of the property of each class shall
 17 be taken as follows:

18 Class 1. ~~One-hundred-per-cent-(100%)~~ of its true and
 19 full value.

20 Class 2. ~~Twenty-per-cent-(20%)~~ of its true and full
 21 value.

22 Class 3. ~~Thirty-three-and-one-third-per-cent-(33 1/3%)~~
 23 of its true and full value.

24 Class 4. ~~Thirty-per-cent-(30%)~~ of its true and full
 25 value.

1 Class 5. ~~Seven-per-cent-(7%)~~ of its true and full
2 value.

3 Class 6. As specified in section 84-308, R.C.M. 1947.

4 Class 7. ~~Seven-per-cent-(7%)~~ of its true and full
5 value.

6 Class 8. ~~Fifteen-per-cent-(15%)~~ of its true and full
7 value.

8 Class 9. ~~Six-percent-(6%)~~ of the true and full value
9 for the first full year following completion of the repair,
10 maintenance or improving of existing improvements; ~~twelve~~
11 ~~percent-(12%)~~ of the true and full value for the second full
12 year following completion of the repair, maintenance or
13 improving of existing improvements; ~~eighteen-percent-(18%)~~
14 of the true and full value for the third full year following
15 completion of the repair, maintenance or improving of
16 existing improvements; ~~twenty-four-percent-(24%)~~ of the true
17 and full value for the fourth full year following completion
18 of the repair, maintenance or improving of existing
19 improvements; and ~~thirty-percent-(30%)~~ for the fifth full
20 year following completion of the repair, maintenance or
21 improving of existing improvements and for every year
22 thereafter.

23 Class 10. ~~Forty-five-per-cent-(45%)~~ of its true and
24 full value.

25 Class 11. ~~Forty-per-cent-(40%)~~ of its true and full

1 value.

2 CLASS 12. 7.5% OF ITS TRUE AND FULL VALUE."

3 Section 4. Section 84-5402, R.C.M. 1947, is amended to
4 read as follows:

5 "84-5402. Net proceeds tax -- statement of yield,
6 penalty, extension of time. Every person, partnership,
7 corporation, or association, engaged in mining, extracting
8 or producing from any quartz vein or lode, placer claim,
9 dump or tailings, or other place or sources whatever,
10 precious stones or gems, ~~gold, silver, copper, lead,~~
11 vermiculite, bentonite, petroleum, natural gas, or other
12 valuable mineral, except coal, and metals, must on or before
13 ~~the-thirty-first-day-of~~ March 31 of each year make out a
14 statement of the gross yield of the above-named metals or
15 minerals from each mine owned or worked by such person,
16 corporation or association during the year preceding ~~the~~
17 ~~first-day-of~~ January 1 of the year in which such statement
18 is made, and the value thereof. Such statement shall be in
19 the form prescribed by the state department of revenue, and
20 must be verified by the oath of such person or the manager,
21 superintendent, agent, president or vice-president of such
22 corporation, association or partnership, and must be
23 delivered to the state department of revenue on or before
24 ~~the-thirty-first-day-of~~ March 31. Such statement shall show
25 the following:

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

9 2. The description and location of the mine.

10 3. The number of tons of ore, barrels of petroleum,
 11 cubic feet of natural gas or other mineral products or
 12 deposits extracted, produced, and treated or sold from the
 13 mine during the period covered by the statement.

14 4. The amount and character of such ores, mineral
 15 products or deposits, and the yield of such ores, mineral
 16 products or deposits from such mine in constituents of
 17 commercial value; that is to say, ~~the number of ounces of~~
 18 ~~gold or silver, pounds of copper or lead,~~ barrels of
 19 petroleum or other crude or mineral oil, cubic feet of
 20 natural gas or other commercially valuable constituents of
 21 said ores or mineral products or deposits measured by
 22 standard units of measurement, yielded to such person,
 23 corporation or association so engaged in mining, and to said
 24 royalty holders and each of them, if any, during the period
 25 covered by the statement.

1 5. The gross yield or value in dollars and cents.

2 6. Actual cost of extracting same from mine.

3 7. Actual cost of transporting to place of reduction
 4 or sale.

5 8. Actual cost of reduction or sale.

6 9. Actual cost of marketing the product and conversion
 7 of same into money.

8 10. Cost of construction, repairs and betterments of
 9 mines, and cost of repairs and replacements of reduction
 10 works.

11 11. The assessed valuation of reduction works for the
 12 calendar year for which such return is made.

13 12. Actual cost of fire insurance and workmen's
 14 compensation insurance.

15 If any person shall fail, neglect or refuse to file the
 16 statement required by this section within the time required,
 17 or within any extended period of time allowed, the state
 18 department of revenue when transmitting the net proceeds
 19 valuations to the counties shall inform the county assessor
 20 of such failure, neglect or refusal and the county assessor
 21 in addition to the net proceeds tax, if any, shall assess a
 22 penalty of 2/3 of 1% of such tax for each calendar month or
 23 fraction thereof that the required statement is not filed,
 24 deducting therefrom any moneys collected by the state
 25 department of revenue required by this section. The state

1 department of revenue shall assess a penalty of \$25 for each
2 calendar month or fraction thereof, not exceeding four
3 months, that the required statement is not filed, to be
4 collected by the state department of revenue and deposited
5 to the credit of the general fund of the state of Montana.

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

10 Section 5. Section 84-401, R.C.M. 1947, is amended to
11 read as follows:

12 "84-401. Property assessed at ~~forty percent (40%)~~ of
13 its full cash value -- exceptions. All taxable real property
14 and improvements and gross proceeds of metal mines must be
15 assessed at ~~forty percent (40%)~~ of its full cash value
16 except:

17 (1) Properties in section 84-301, under Class One,
18 shall be assessed at ~~one-hundred percent (100%)~~ of full cash
19 value.

20 (2) The assessment of agricultural lands shall be
21 based upon the productive capacity of the lands when valued
22 for agricultural purposes. All lands shall be valued as
23 agricultural lands for tax purposes that meet the
24 qualifications of section 84-437.2, R.C.M. 1947. Land and
25 the improvements thereon shall be separately assessed when

1 any of the following conditions occur:

2 (a) when ownership of the improvements is different
3 from ownership of the land,

4 (b) when requested in writing by the taxpayer, or

5 (c) when the land is outside an incorporated city or
6 town.

7 The taxable value of all property shall be determined
8 by sections 84-301 and 84-308."

9 Section 6. There is a new R.C.M. section in chapter 2,
10 Title 84, that reads as follows:

11 Exemption -- ~~first 20,000 tons of metal mine~~
12 ~~production. The annual gross proceeds of a mine~~ METAL MINES
13 GROSS PROCEEDS, METAL MINES producing metallic ore does not
14 include the first LESS THAN 20,000 tons of ore produced in a
15 taxable year, and this first 20,000 tons of ore is SHALL BE
16 exempt from ~~all~~ property taxation ON ONE-HALF OF THE
17 MERCHANTABLE VALUE.

18 Section 7. There is a new R.C.M. section numbered
19 ~~84-7701~~ that reads as follows:

20 ~~84-7701~~ Definitions. As used in this chapter the
21 following definitions apply:

22 (1) "Merchantable value" means the average market
23 value of all ~~salable~~ THESE SALABLE metals produced or
24 extracted in a county over a 12-month period. If the
25 extracted ores are milled, smelted, or reduced ~~within the~~

1 ~~state of Montana~~ WITHIN THE STATE OF MONTANA BY THE
 2 TAXPAYER, the ~~VALUE OF THESE~~ metals are ARE IS considered
 3 ~~saleable~~ SALABLE MERCHANTABLE VALUE IN THE COUNTY IN WHICH
 4 THEY ARE EXTRACTED SHALL BE THE AVERAGE MARKET VALUE OF
 5 THESE METALS OUTSIDE THE COUNTY after this processing.

6 (2) "Agreement not at arm's length" means an agreement
 7 between parties where the sales price does not represent
 8 market value.

9 (3) "Department" means the department of revenue.

10 (4) "Market value" means the exchange value of a
 11 property in a competitive market.

12 (5) "GROSS PROCEEDS" OR "GROSS METAL YIELD" MEANS THE
 13 REVENUE REALIZED FROM THE EXTRACTION OF METALS, DETERMINED
 14 BY MULTIPLYING THE QUANTITY PRODUCED BY THE MERCHANTABLE
 15 VALUE;

16 Section 8. There is a new R.C.M. section numbered
 17 ~~84-7702~~ that reads as follows:

18 ~~84-7702~~ Metal mines -- ad valorem taxation. Each
 19 person, partnership, corporation, or association mining or
 20 extracting gold, silver, copper, lead, or other metals from
 21 whatever source must, on or before March 31 each year, file
 22 with the department of revenue a statement of the gross
 23 metal yield from each mine owned or worked by such person in
 24 the preceding calendar year and the value thereof. The
 25 statement shall be in the form prescribed by the department

1 and shall contain the following:

2 (1) the name, address, and telephone number of the
 3 owner, lessee, or operator of the mine;

4 (2) the mine's location by county and legal
 5 description;

6 (3) the tons of ore extracted from the mine during the
 7 taxable period;

8 (4) the merchantable value in dollars and cents of all
 9 metals extracted; and

10 (5) any other information requested by the department.

11 Section 9. There is a new R.C.M. section numbered
 12 ~~84-7703~~ that reads as follows:

13 ~~84-7703~~ Valuation -- gross proceeds. On or before
 14 July 1 each year, the department shall determine the
 15 merchantable value of all metal production from the previous
 16 calendar year. The department shall transmit to its agent in
 17 each county where metals are produced the merchantable value
 18 as has been determined by the department for placement on
 19 the assessment roll, after subtracting such portion of the
 20 proceeds as may be exempt from property taxation.

21 Section 10. There is a new R.C.M. section numbered
 22 ~~84-7704~~ that reads as follows:

23 ~~84-7704~~ Taxation of merchantable value. The
 24 department's agent shall prepare from the reported valuation
 25 a tax roll which shall be transmitted to the county

1 treasurer on or before September 15 each year. The county
 2 treasurer shall proceed to give full notice thereof to each
 3 metal producer and to collect the taxes due at the times
 4 provided for in 84-4103, and any delinquencies in the
 5 payment of same shall be subject to the interest and
 6 penalties provided for in 84-4103.

7 Section 11. There is a new R.C.M. section numbered
 8 ~~84-7705~~ that reads as follows:

9 ~~84-7705.~~ Imputed value -- procedure for metals. If
 10 there is no sale or the sale is by an agreement not at arm's
 11 length or no statement is filed, the department shall impute
 12 the merchantable value of the metal. When imputing value,
 13 the department shall consider all appropriate market
 14 information available. When the imputed value is contested
 15 in any proceedings, the burden of proof is with the
 16 contesting party.

17 Section 12. There is a new R.C.M. section numbered
 18 ~~84-7706~~ that reads as follows:

19 ~~84-7706.~~ Lien of tax. The tax or penalty on gross
 20 proceeds is a lien upon the mine from which the metal is
 21 extracted and is prior lien upon all owned or leased
 22 personal property and improvements used in extracting the
 23 ore or metal. The tax shall be collected in the manner
 24 provided under chapter 41 of this title.

25 Section 13. There is a new R.C.M. section numbered

1 ~~84-7707~~ that reads as follows:

2 ~~84-7707.~~ Penalties. ~~(1) A person who refuses to file~~
 3 ~~the required statement with the department or makes a false~~
 4 ~~statement commits a misdemeanor. Persons convicted under~~
 5 ~~this section shall be fined not to exceed \$1,000 or be~~
 6 ~~imprisoned in the county jail for a term not to exceed 6~~
 7 ~~months or both.~~

8 ~~(2) If the required statement is not filed timely and~~
 9 ~~no extension has been granted BY MARCH 31 OR WITHIN THE TIME~~
 10 ~~EXTENDED by the department, there shall be assessed THE~~
 11 ~~DEPARTMENT'S AGENT IN THE COUNTY SHALL ASSESS a penalty of~~
 12 ~~1/2 of 1% of such tax for each calendar month or fraction~~
 13 ~~thereof that the statement is delinquent.~~

14 ~~(3) The department when shown good cause may grant an~~
 15 ~~extension of the time for filing the required statement.~~
 16 ~~ASSESSMENT AND COLLECTION PROCEDURES. THE GROSS PROCEEDS OF~~
 17 ~~METAL MINES SHALL BE ASSESSED AND TAXES THEREON COLLECTED~~
 18 ~~UNDER THE PROVISIONS OF 84-7801 THROUGH 84-7807.~~

19 Section 14. Effective date. This act shall apply to
 20 all metal mines production for calendar year 1977 1976.

21 SECTION 15. IN THE EVENT HOUSE BILL 70 IS ENACTED INTO
 22 LAW AND REPEALS SECTIONS 84-301 AND 84-302, R.C.M., 1947, AND
 23 AMENDS SECTION 84-401, R.C.M., 1947, THEN IN LIEU OF
 24 SECTIONS 2, 3 AND 5 OF THIS ACT, THERE IS ENACTED A NEW
 25 R.C.M. SECTION THAT READS AS FOLLOWS:

1 Class nineteen property -- description -- taxable
2 value. (1) Class nineteen property includes the annual gross
3 proceeds of metal mines.

4 (2) Class nineteen property is taxed at 3% of its
5 assessed value, which is 100% of annual gross proceeds.

6 Section 16. Severability. If a part of this act is
7 invalid, all valid parts that are severable from the invalid
8 part remain in effect. If a part of this act is invalid in
9 one or more of its applications, the part remains in effect
10 in all valid applications that are severable from the
11 invalid applications.

-End-