

Senate Bill 344

In The Senate

January 31, 1981	Introduced and referred to Committee on Taxation.
	Fiscal note requested.
February 6, 1981	Fiscal note returned.
April 4, 1981	Committee recommend bill do pass as amended.
April 6, 1981	Bill printed and placed on members' desks.
	Second reading do pass as amended.
	On motion rules suspended. Bill placed on Calendar for third reading this day.
	Third reading passed.

In The House

April 8, 1981	Introduced and referred to Committee on Taxation.
April 23, 1981	Died in Committee.

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INTRODUCED BY *Sen. Conover Berg* *Rep. Blaylock*
Ed Ryan Halligan
BILL NO. *344*

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPOSE A SEVERANCE TAX OF APPROXIMATELY 10 PERCENT ON THE SEVERANCE OF PALLADIUM, PLATINUM, OR ANY OTHER METAL OR PRECIOUS OR SEMIPRECIOUS GEMS OR STONES WITH EXEMPTIONS FOR SMALL MINES AND EXISTING MINES; TO CREATE THE HARD-ROCK MINING IMPACT BOARD; TO CREATE THE HARD-ROCK MINING IMPACT FUND; AMENDING SECTION 90-6-205, MCA."

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

NEW SECTION. Section 1. Purpose. (1) The large-scale development of the state's metalliferous resources stimulates rapid growth in certain areas and strains the ability of nearby communities to provide essential public facilities and services. The purpose of [sections 1 through 11] is to provide a source of funds to assist affected local government units in providing these essential public facilities and services.

(2) It is recognized that small mines do not stimulate the rapid growth that results from large-scale development, and therefore the first \$1 million worth of metal produced is not taxed.

(3) It is also recognized that large existing mines do

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not create the kind of impacts that are created by the establishment of new mines, and therefore mines producing \$1 million worth of metal in 1979 are exempt from the tax imposed by [section 3].

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 11], the following definitions apply:

(1) "Contract sales price" means either the price of the mineral extracted and prepared for shipment f.o.b. mine, excluding that amount charged by the seller to pay taxes on production, or a price imputed by the department under [section 7].

(2) "Department" means the department of revenue.

(3) "Mineral" means gold, silver, copper, lead, zinc, chromium, palladium, platinum, molybdenum, or any other metal or metals or precious or semiprecious gems or stones.

(4) "Produced" means severed from the earth.

(5) "Strip mining" or "surface mining" is as defined in 82-4-203.

(6) "Taxes on production" includes any tax to the federal, state, or local governments upon the quantity of mineral produced as a function of either the volume or the value of production and does not include any tax upon the value of mining equipment, machinery, or buildings and lands, any tax upon a person's net income derived in whole or in part from the sale of the mineral, or any license fee.

1 (7) "Underground mining" means a mining method
2 utilizing shafts and tunnels and is as further defined in
3 82-4-203.

4 NEW SECTION. Section 3. Severance tax -- rates
5 imposed. (1) Except as provided in subsection (2), a
6 severance tax of:

7 (a) 30% of the invoice price f.o.b. mine less state,
8 federal, and local taxes is imposed on the mineral produced
9 in this state when a strip mining method is used to produce
10 the mineral;

11 (b) 15% of the invoice price f.o.b. mine less state,
12 federal, and local taxes is imposed on the mineral produced
13 in this state when an underground method of mining is used
14 to produce the mineral.

15 (2) (a) A mine that severs \$1 million or less worth of
16 minerals each year is not liable for any severance tax.

17 (b) Except as provided in subsection (2)(c), a mine
18 that mines between \$1 million and \$2.5 million worth of
19 minerals is liable for the tax at a rate equal to one-half
20 of the rates provided for in subsection (1).

21 (c) A mine that produced at least \$1 million worth of
22 metal during 1979 as reported on the metalliferous mines tax
23 return in 1980 is exempt from the tax imposed by subsection
24 (1).

25 NEW SECTION. Section 4. Credits. (1) There is allowed

1 as a credit against the tax imposed by [section 3] the
2 amount of metalliferous mine license tax paid under Title
3 15, chapter 37, part 1.

4 (2) There is allowed a credit equal to 125% of all
5 funds contributed towards services, facilities, and other
6 normal governmental expenses incurred by local governments
7 prior to the opening of a mine or the commencement of
8 production. Before the credit is allowed the contribution
9 must be approved in advance by the hard-rock mining impact
10 board as being made for the type of expenses described in
11 this subsection.

12 NEW SECTION. Section 5. Quarterly statement and
13 payment of tax. (1) Each mine operator shall compute the
14 severance tax due on each quarter-year's worth of production
15 on forms prescribed by the department. The statement shall
16 include:

17 (a) gross yield of the mineral produced in
18 constituents of commercial value, which must be stated in
19 terms of the number of ounces of palladium, platinum, gold,
20 or silver, pounds of copper, lead, or zinc, or other
21 commercially valuable constituents of the mineral measured
22 by standard units of measure;

23 (b) the contract sales price received for the
24 production; and

25 (c) the gross value of product as determined for

1 purposes of Title 15, chapter 37, part 1;

2 (d) any credit the mine operator may be entitled to;

3 (e) such other information as the department may
4 require.

5 (2) The completed form, in duplicate, with the tax
6 payment, shall be delivered to the department not later than
7 30 days following the close of the quarter. The form shall
8 be signed by an officer of the mine operator.

9 (3) A person operating more than one mine in this
10 state may include all of his mines in one statement.

11 (4) The department may grant a reasonable extension of
12 time for filing statements and payment of taxes due upon
13 good cause shown therefor.

14 NEW SECTION. Section 6. Penalty for delinquent tax.
15 The department shall add to the amount of all delinquent
16 severance taxes a penalty of 10% of the delinquent amount
17 plus interest at the rate of 1 1/2% per month or fraction
18 thereof computed from the date the severance tax was due to
19 the date of payment. The department shall mail to the person
20 required to file a quarterly report and pay any severance
21 tax a letter setting forth the amount of tax, penalty, and
22 interest due, and the letter shall further contain a
23 statement that if payment is not made within 15 days, a lien
24 may be filed as set forth in 15-23-806. The penalty amount
25 may be waived by the department if reasonable cause for the

1 failure or neglect to file the quarterly statement is
2 provided to the department.

3 NEW SECTION. Section 7. When value of mineral may be
4 imputed -- procedure. (1) The department may impute a value
5 to the mineral that approximates market value f.o.b. mine
6 whenever:

7 (a) the mineral is sold under a contract that is not
8 an arm's-length agreement; or

9 (b) a person neglects or refuses to file a statement
10 and tax return under [sections 1 through 11].

11 (2) When imputing value, the department may apply the
12 factors used by the federal government under 26 U.S.C.,
13 section 613, or that provision as it may be labeled or
14 amended, in determining gross income from mining, or the
15 department may apply any other or additional criteria it
16 considers appropriate. Each subject taxpayer shall upon
17 request by the department furnish a copy of its federal
18 income tax return, with any amendments, filed for the year
19 in which the value of the mineral is being imputed and
20 copies of the contracts under which it is selling the
21 mineral at the time. When the department's estimate of
22 market value is contested in any proceeding, the burden of
23 proof is on the contesting party.

24 NEW SECTION. Section 8. Disposal of severance tax.
25 Severance taxes collected under the provisions of [sections

1 1 through 11] are allocated as follows:

2 (1) The tax must be deposited each year to the
3 hard-rock mining impact account until the amount deposited
4 equals the total amount of grants the hard-rock mining
5 impact board is authorized to award for the year.

6 (2) The tax collected in excess of the amount
7 deposited under subsection (1) must be deposited in the coal
8 tax constitutional trust fund.

9 NEW SECTION. Section 9. Royalties as percentage of
10 value. (1) If the board of land commissioners leases any
11 state land for mining after [the effective date of this act]
12 with the royalty to the state of Montana stated as a
13 percentage of the value of the mineral produced, the
14 contract shall define "value" as the contract sales price as
15 defined in [section 2].

16 (2) In any civil action involving a royalty to any
17 person owning minerals in this state in which the royalty is
18 stated as a percentage of the value of the mineral, such
19 value shall be construed by the court to be the contract
20 sales price as defined in [section 2] unless the terms of
21 the contract plainly indicate a different definition of
22 value.

23 NEW SECTION. Section 10. Penalties for neglect or
24 false statement. A person who fails, neglects, or refuses to
25 file any statement required under [sections 1 through 11] or

1 who makes a false statement commits a misdemeanor. A person
2 convicted under this section shall be fined not to exceed
3 \$1,000 or be imprisoned in the county jail for any term not
4 to exceed 5 months, or both.

5 NEW SECTION. Section 11. Rulemaking authority. The
6 department of revenue may adopt rules necessary for the
7 taxation of property under [sections 1 through 11].

8 NEW SECTION. Section 12. Hard-rock mining impact
9 board -- allocation -- composition. (1) There is a hard-rock
10 mining impact board composed of seven members.

11 (2) The hard-rock mining impact board is allocated to
12 the department of community affairs for administrative
13 purposes only as prescribed in 2-15-121, except that the
14 board may hire and dismiss its own personnel and may
15 determine all matters of policy concerning its budget.
16 Section 2-15-121(2)(d) does not apply for purposes of this
17 section.

18 (3) The governor shall appoint a seven-member
19 hard-rock mining impact board, as provided under 2-15-124.

20 (4) The members of the hard-rock mining impact board
21 must be selected as follows:

22 (a) Four members must be from an impact area.

23 (b) No more than four members may be from the same
24 congressional district.

25 (c) Consideration must be given to people from the

1 following fields:

- 2 (i) business;
3 (ii) education; and
4 (iii) public administration.

5 NEW_SECTION. Section 13. Purpose. The purpose of
6 [sections 13 through 22] is to assist governmental units
7 that have been required to expand the provision of public
8 services as a consequence of large-scale development of
9 mineral deposits.

10 NEW_SECTION. Section 14. Account established. There
11 is within the earmarked revenue fund a hard-rock mining
12 impact account. Proceeds of the tax imposed by [section 3]
13 are payable into this account. The state treasurer shall
14 draw warrants from this account upon the order of the
15 hard-rock mining impact board.

16 NEW_SECTION. Section 15. Definition of hard-rock
17 mining impact board. As used in [sections 13 through 22],
18 "board" means the hard-rock mining impact board provided for
19 in [section 12].

20 NEW_SECTION. Section 16. Chairman -- meetings --
21 compensation -- facilities. (1) The board shall elect a
22 chairman from among its members.

23 (2) The board shall meet quarterly and may meet at
24 other times as called by the chairman or a majority of the
25 members.

1 (3) Members are entitled to compensation as provided
2 for in 2-15-124(7).

3 (4) The department of community affairs shall provide
4 suitable office facilities.

5 NEW_SECTION. Section 17. Hard-rock mining impact
6 board -- general powers. The board may:

- 7 (1) hire a staff;
8 (2) retain professional consultants and advisors;
9 (3) adopt rules pursuant to the Montana Administrative
10 Procedure Act governing its proceedings;
11 (4) consider applications for grants from the
12 hard-rock mining impact account;
13 (5) award grants in accordance with [sections 13
14 through 22]; and
15 (6) borrow funds from the coal board and repay the
16 coal board from money received under [section 8].

17 NEW_SECTION. Section 18. Basis for awarding grants.
18 (1) The grants awarded in accordance with [sections 13
19 through 22] shall be awarded on the basis of:

- 20 (a) need;
21 (b) degree of severity of impact from mineral
22 development;
23 (c) availability of funds; and
24 (d) degree of local effort in meeting these needs.
25 (2) (a) In determining the degree of local effort, the

1 board shall review the millage rates levied for the present
 2 fiscal year in relation to the average millage rates levied
 3 during the 3 years immediately preceding mineral development
 4 in that area or 1970, whichever is later, that impacts the
 5 local government unit applying for assistance.

6 (b) Millage rates for the present fiscal year that are
 7 lower than the average millage rate levied during the 3
 8 years immediately preceding mineral development in that area
 9 or 1970, whichever is later, shall be considered by the
 10 board to indicate the lack of local effort. The application
 11 under such circumstances may be rejected.

12 (c) Further, in determining the degree of local
 13 effort, the board shall consider the possibility of
 14 requiring that local government unit to increase its bonded
 15 indebtedness to provide all or part of the governmental
 16 service or facility that is needed as a direct consequence
 17 of mineral development.

18 (d) To the extent funds are needed to evaluate and
 19 plan for the impact needs caused by mineral development,
 20 consideration of bond issues and millage levies may be
 21 waived.

22 (e) To the extent the applicant has no history of mill
 23 levies, subsections (2)(a) and (2)(b) do not apply.

24 NEW SECTION. Section 19. Priorities for impact
 25 grants. (1) The department of community affairs shall

1 designate counties, towns, school districts, and other
 2 governmental units that have had or expect to have an
 3 increase in estimated population of at least 10% during any
 4 3 years since 1972 as a result of mineral development. The
 5 board shall, subject to the appropriations of the
 6 legislature, award at least 50% of all grants awarded to
 7 governmental units and state agencies for meeting the needs
 8 caused by mineral development each year to these designated
 9 governmental units.

10 (2) Attention should be given by the board to the need
 11 for community planning before the full impact is realized.
 12 Applicants should be able to show how their request
 13 reasonably fits into an overall plan for the orderly
 14 management of the existing or contemplated growth problems.
 15 (3) All funds placed in the hard-rock mining impact
 16 account, subject to the limitations imposed by [section 21],
 17 shall be subject to appropriations by the legislature for
 18 use related to local impact.

19 NEW SECTION. Section 20. Applications for grants. The
 20 governing body of a city, town, county, or school district
 21 or any other local or state governmental unit or agency may
 22 apply for a grant to enable it to provide governmental
 23 services that are needed as a direct consequence of mineral
 24 development. The board shall prescribe the form for
 25 applications. Applicants shall describe the nature of their

1 proposed expenditures and the time involved.

2 **NEW SECTION.** Section 21. Limitations on grants. (1)
3 The board may commit itself to the expenditure of funds for
4 more than 1 year for a single project if the grant does not
5 extend over more than 10 years and does not exceed
6 reasonable revenue expectations. No state agency may
7 receive grants that exceed 5% of the money allocated to the
8 board.

9 (2) The total amount of grants awarded for any year
10 may not exceed the product of subsection (2)(a) times
11 subsection (2)(b) times subsection (2)(c):

12 (a) the increase during the year in the number of
13 persons employed directly in mineral development, as
14 determined by the department of community affairs;

15 (b) a reasonable multiplier representing the ratio
16 that the increase in number of employees directly employed
17 in mineral development bears to the total increase in
18 population during the year; and

19 (c) the average per capita cost during the year,
20 including operating and capital costs, of all services
21 normally provided to Montana citizens by state or local
22 government.

23 **NEW SECTION.** Section 22. Deposit of unused money. Any
24 money in the hard-rock mining impact account not used in
25 accordance with the board's authority contained in [section

1 17] by the end of each biennium must be deposited in the
2 permanent coal tax constitutional trust fund, to be added to
3 the principal.

4 Section 23. Section 90-6-205, MCA, is amended to read:
5 "90-6-205. Coal board -- general powers. The board
6 may:

7 (1) retain professional consultants and advisors;
8 (2) adopt rules governing its proceedings;
9 (3) consider applications for grants from the local
10 impact and education trust fund account; and

11 (4) award grants, subject to 90-6-207, not to exceed
12 in any one year seven-elevenths and after June 30, 1979,
13 seven-fifteenths of the revenue paid into the local impact
14 and education trust fund account, to local governmental
15 units and state agencies to assist local governmental units
16 in meeting the local impact of coal development by enabling
17 them to adequately provide governmental services and
18 facilities which are needed as a direct consequence of coal
19 development. As used in the preceding sentence, "revenue
20 paid" does not include interest income from the account
21 reinvested in the account in trust for the public schools
22 and the university system.

23 ~~(5) loan money, at no interest, to the hard-rock~~
24 ~~mining impact board."~~

-End-

STATE OF MONTANA

REQUEST NO. 287-81

FISCAL NOTE

Form BD 15

In compliance with a written request received January 4, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 344 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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

An act to impose a severance tax of approximately 10% on the severance of palladium, platinum, or any other metal or precious or semiprecious gems or stones with exemptions for small mines and existing mines; to create the hard-rock mining impact board; to create the hard-rock mining impact fund.

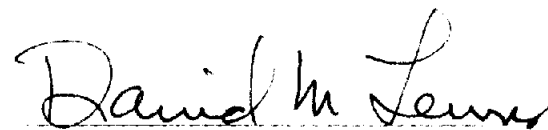
Fiscal Impact

Revenues:

No estimate is currently available concerning mineral production that would be subject to the proposed severance tax, thus no fiscal impact can be estimated.

Expenditures: (To the Department of Community Affairs)

There will be expenditures to the Department of Community Affairs in order to administer the hard-rock mining impact board. These expenditures, however, are tied to the revenues and cannot be calculated at this time.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-6-81

Approved by Committee
on Taxation

1 SENATE BILL NO. 344
2 INTRODUCED BY TOWE, CONOVER, BERG,
3 BLAYLOCK, ECK, RYAN, HALLIGAN, REGAN
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPOSE A SEVERANCE
6 TAX ~~OF--APPROXIMATELY--10--PERCENT~~ ON THE SEVERANCE OF
7 PALLADIUM, PLATINUM, OR ANY OTHER METAL OR PRECIOUS OR
8 SEMIPRECIOUS GEMS OR STONES WITH EXEMPTIONS FOR SMALL MINES
9 AND EXISTING MINES; TO CREATE THE HARD-ROCK MINING IMPACT
10 BOARD; TO CREATE THE HARD-ROCK MINING IMPACT FUND; AMENDING
11 SECTION 90-6-205, MCA."
12

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

14 NEW SECTION. Section 1. Purpose. (1) The large-scale
15 development of the state's metalliferous resources
16 stimulates rapid growth in certain areas and strains the
17 ability of nearby communities to provide essential public
18 facilities and services. The purpose of [sections 1 through
19 11] is to provide a source of funds to assist affected local
20 government units in providing these essential public
21 facilities and services.

22 (2) It is recognized that small mines do not stimulate
23 the rapid growth that results from large-scale development,
24 and therefore the first \$1 million worth of metal produced
25 is not taxed.

1 (3) It is also recognized that large existing mines do
2 not create the kind of impacts that are created by the
3 establishment of new mines, and therefore mines producing \$1
4 million worth of metal in 1979 are exempt from the tax
5 imposed by [section 3].

6 NEW SECTION. Section 2. Definitions. As used in
7 [sections 1 through 11], the following definitions apply:

8 (1) "Contract sales price" means either the price of
9 the mineral extracted and prepared for shipment f.o.b. mine,
10 excluding that amount charged by the seller to pay taxes on
11 production, or a price imputed by the department under
12 [section 7].

13 (2) "Department" means the department of revenue.

14 (3) "Mineral" means gold, silver, copper, lead, zinc,
15 chromium, palladium, platinum, molybdenum, or any other
16 metal or metals or precious or semiprecious gems or stones.

17 (4) "Produced" means severed from the earth.

18 (5) "Strip mining" or "surface mining" is as defined
19 in 82-4-203.

20 (6) "Taxes on production" includes any tax to the
21 federal, state, or local governments upon the quantity of
22 mineral produced as a function of either the volume or the
23 value of production and does not include any tax upon the
24 value of mining equipment, machinery, or buildings and
25 lands, any tax upon a person's net income derived in whole

1 or in part from the sale of the mineral, or any license fee.

2 (7) "Underground mining" means a mining method
3 utilizing shafts and tunnels and is as further defined in
4 82-4-203.

5 NEW SECTION. Section 3. Severance tax -- rates
6 imposed. (1) Except as provided in subsection (2) (3), a
7 severance tax of IS IMPOSED ON MINERALS PRODUCED IN THIS
8 STATE. THE RATE OF TAX IS:

9 ~~(a) 30% of the invoice price for the mine less state~~
10 ~~federal and local taxes is imposed on the mineral produced~~
11 ~~in this state when a strip mining method is used to produce~~
12 ~~the mineral;~~

13 ~~(b) 15% of the invoice price for the mine less state~~
14 ~~federal and local taxes is imposed on the mineral produced~~
15 ~~in this state when an underground method of mining is used~~
16 ~~to produce the mineral;~~

17 ~~(2) (c) A mine that severs \$1 million or less worth of~~
18 ~~minerals each year is not liable for any severance tax.~~

19 ~~(b) Except as provided in subsection (2)(c) a mine~~
20 ~~that mines between \$1 million and \$2.5 million worth of~~
21 ~~minerals is liable for the tax at a rate equal to one-half~~
22 ~~of the rates provided for in subsection (1).~~

23 (A) 3% FOR ALL MINERALS MINED BEFORE JANUARY 1, 1983;

24 (B) FOR ALL MINERALS MINED AFTER JANUARY 1, 1983, WHEN

25 A STRIP MINING METHOD IS USED TO PRODUCE THE MINERAL:

1	ANNUAL VALUE OF PRODUCT MINED	TAX
2	0 TO \$ 1,000,000	0
3	\$ 1,000,000 TO \$ 5,000,000	6%
4	\$ 5,000,000 TO \$10,000,000	8%
5	\$10,000,000 TO \$25,000,000	10%
6	\$25,000,000 AND OVER	12%

7 (C) FOR ALL MINERALS MINED AFTER JANUARY 1, 1983, WHEN
8 AN UNDERGROUND METHOD OF MINING IS USED TO PRODUCE THE
9 MINERAL:

10	ANNUAL VALUE OF PRODUCT MINED	TAX
11	0 TO \$ 1,000,000	0
12	\$ 1,000,000 TO \$ 5,000,000	3%
13	\$ 5,000,000 TO \$10,000,000	4%
14	\$10,000,000 TO \$25,000,000	5%
15	\$25,000,000 AND OVER	6%

16 (2) THE ANNUAL VALUE OF PRODUCT MINED SHALL BE THE
17 INVOICE PRICE F.O.B. MINE LESS STATE, FEDERAL, AND LOCAL
18 TAXES PRODUCED IN ALL MINES OWNED OR CONTROLLED BY THE SAME
19 COMPANY IN EACH COUNTY FOR WHICH PERMITS HAVE BEEN GRANTED
20 UNDER 82-4-335.

21 ~~(c) (3) (A) A mine that produced at least \$1 million~~
22 ~~worth of metal during 1979 as reported on the metalliferous~~
23 ~~mines tax return in 1980 is exempt from the tax imposed by~~

1 subsection (1).

2 (B) ANY MINERAL PRODUCED UNDER THE AUTHORITY OF A
3 PERMIT ISSUED UNDER 82-4-335 PRIOR TO THE EFFECTIVE DATE OF
4 THIS ACT IS EXEMPT FROM THE TAX IMPOSED BY SUBSECTION (1).

5 NEW SECTION. Section 4. Credits. (1) There is allowed
6 as a credit against the tax imposed by [section 3] the
7 amount of metalliferous mine license tax paid under Title
8 15, chapter 37, part 1.

9 (2) There is allowed a credit equal to 125% of all
10 funds contributed towards services, facilities, and other
11 normal governmental expenses incurred by local governments
12 prior to the opening of a mine or the commencement of
13 production. Before the credit is allowed the contribution
14 must be approved in advance by the hard-rock mining impact
15 board as being made for the type of expenses described in
16 this subsection.

17 NEW SECTION. Section 5. Quarterly statement and
18 payment of tax. (1) Each mine operator shall compute the
19 severance tax due on each quarter-year's worth of production
20 on forms prescribed by the department. The statement shall
21 include:

22 (a) gross yield of the mineral produced in
23 constituents of commercial value, which must be stated in
24 terms of the number of ounces of palladium, platinum, gold,
25 or silver, pounds of copper, lead, or zinc, or other

1 commercially valuable constituents of the mineral measured
2 by standard units of measure;

3 (b) the contract sales price received for the
4 production; and

5 (c) the gross value of product as determined for
6 purposes of Title 15, chapter 37, part 1;

7 (d) any credit the mine operator may be entitled to;

8 (e) such other information as the department may
9 require.

10 (2) The completed form, in duplicate, with the tax
11 payment, shall be delivered to the department not later than
12 30 days following the close of the quarter. The form shall
13 be signed by an officer of the mine operator.

14 (3) A person operating more than one mine in this
15 state may include all of his mines in one statement.

16 (4) The department may grant a reasonable extension of
17 time for filing statements and payment of taxes due upon
18 good cause shown therefor.

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20 The department shall add to the amount of all delinquent
21 severance taxes a penalty of 10% of the delinquent amount
22 plus interest at the rate of 1 1/2% per month or fraction
23 thereof computed from the date the severance tax was due to
24 the date of payment. The department shall mail to the person
25 required to file a quarterly report and pay any severance

1 tax a letter setting forth the amount of tax, penalty, and
 2 interest due, and the letter shall further contain a
 3 statement that if payment is not made within 15 days, a lien
 4 may be filed as set forth in 15-23-806. The penalty amount
 5 may be waived by the department if reasonable cause for the
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 17 factors used by the federal government under 26 U.S.C.,
 18 section 613, or that provision as it may be labeled or
 19 amended, in determining gross income from mining, or the
 20 department may apply any other or additional criteria it
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 23 income tax return, with any amendments, filed for the year
 24 in which the value of the mineral is being imputed and
 25 copies of the contracts under which it is selling the

1 mineral at the time. When the department's estimate of
 2 market value is contested in any proceeding, the burden of
 3 proof is on the contesting party.

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 5 Severance taxes collected under the provisions of [sections
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 8 hard-rock mining impact account ~~until the amount deposited~~
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 17 with the royalty to the state of Montana stated as a
 18 percentage of the value of the mineral produced, the
 19 contract shall define "value" as the contract sales price as
 20 defined in [section 2].

21 (2) In any civil action involving a royalty to any
 22 person owning minerals in this state in which the royalty is
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9 to exceed 6 months, or both.

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14 board -- allocation -- composition. (1) There is a hard-rock
15 mining impact board composed of seven members.

16 (2) The hard-rock mining impact board is allocated to
17 the department of community affairs for administrative
18 purposes only as prescribed in 2-15-121, except that the
19 board may hire and dismiss its own personnel and may
20 determine all matters of policy concerning its budget.
21 Section 2-15-121(2)(d) does not apply for purposes of this
22 section.

23 (3) The governor shall appoint a seven-member
24 hard-rock mining impact board, as provided under 2-15-124.

25 (4) The members of the hard-rock mining impact board

1 must be selected as follows:

2 (a) Four members must be from an impact area.

3 (b) No more than four members may be from the same
4 congressional district.

5 (c) Consideration must be given to people from the
6 following fields:

7 (i) business;

8 (ii) education; and

9 (iii) public administration.

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11 [sections 13 through 22] is to assist governmental units
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14 mineral deposits.

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19 draw warrants from this account upon the order of the
20 hard-rock mining impact board.

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23 "board" means the hard-rock mining impact board provided for
24 in [section 12].

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2 chairman from among its members.

3 (2) The board shall meet quarterly and may meet at
4 other times as called by the chairman or a majority of the
5 members.

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8 (4) The department of community affairs shall provide
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12 (1) hire a staff;

13 (2) retain professional consultants and advisors;

14 (3) adopt rules pursuant to the Montana Administrative
15 Procedure Act governing its proceedings;

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17 hard-rock mining impact account;

18 (5) award grants in accordance with [sections 13
19 through 22]; and

20 (6) borrow funds from the coal board and repay the
21 coal board from money received under [section 8].

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23 (1) The grants awarded in accordance with [sections 13
24 through 22] shall be awarded on the basis of:

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1 (b) degree of severity of impact from mineral
2 development;

3 (c) availability of funds; and

4 (d) degree of local effort in meeting these needs.

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6 board shall review the millage rates levied for the present
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8 during the 3 years immediately preceding mineral development
9 in that area or 1970, whichever is later, that impacts the
10 local government unit applying for assistance.

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12 lower than the average millage rate levied during the 3
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18 effort, the board shall consider the possibility of
19 requiring that local government unit to increase its bonded
20 indebtedness to provide all or part of the governmental
21 service or facility that is needed as a direct consequence
22 of mineral development.

23 (d) To the extent funds are needed to evaluate and
24 plan for the impact needs caused by mineral development,
25 consideration of bond issues and millage levies may be

1 waived.

2 (e) To the extent the applicant has no history of mill
3 levies, subsections (2)(a) and (2)(b) do not apply.

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5 grants. (1) The department of community affairs shall
6 designate counties, towns, school districts, and other
7 governmental units that have had or expect to have an
8 increase in estimated population of at least 10% during any
9 3 years since 1972 as a result of mineral development. The
10 board shall, subject to the appropriations of the
11 legislature, award at least 50% of all grants awarded to
12 governmental units and state agencies for meeting the needs
13 caused by mineral development each year to these designated
14 governmental units.

15 (2) Attention should be given by the board to the need
16 for community planning before the full impact is realized.
17 Applicants should be able to show how their request
18 reasonably fits into an overall plan for the orderly
19 management of the existing or contemplated growth problems.

20 (3) All funds placed in the hard-rock mining impact
21 account, subject to the limitations imposed by [section 21],
22 shall be subject to appropriations by the legislature for
23 use related to local impact.

24 NEW SECTION. Section 20. Applications for grants. The
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2 apply for a grant to enable it to provide governmental
3 services that are needed as a direct consequence of mineral
4 development. The board shall prescribe the form for
5 applications. Applicants shall describe the nature of their
6 proposed expenditures and the time involved.

7 NEW SECTION. Section 21. Limitations on grants. (1)
8 The board may commit itself to the expenditure of funds for
9 more than 1 year for a single project if the grant does not
10 extend over more than 10 years and does not exceed
11 reasonable revenue expectations. No state agency may
12 receive grants that exceed 5% of the money allocated to the
13 board.

14 (2) The total amount of grants awarded for any year
15 may not exceed the product of subsection (2)(a) times
16 subsection (2)(b) times subsection (2)(c):

17 (a) the increase during the year in the number of
18 persons employed directly in mineral development, as
19 determined by the department of community affairs;

20 (b) a reasonable multiplier representing the ratio
21 that the increase in number of employees directly employed
22 in mineral development bears to the total increase in
23 population during the year; and

24 (c) the average per capita cost during the year,
25 including operating and capital costs, of all services

1 normally provided to Montana citizens by state or local
2 government.

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8 ~~the principal.~~

9 Section 22. Section 90-6-205, MCA, is amended to read:
10 "90-6-205. Coal board -- general powers. The board
11 may:

- 12 (1) retain professional consultants and advisors;
13 (2) adopt rules governing its proceedings;
14 (3) consider applications for grants from the local
15 impact and education trust fund account; and
16 (4) award grants, subject to 90-6-207, not to exceed
17 in any one year seven-elevenths and after June 30, 1979,
18 seven-fifteenths of the revenue paid into the local impact
19 and education trust fund account, to local governmental
20 units and state agencies to assist local governmental units
21 in meeting the local impact of coal development by enabling
22 them to adequately provide governmental services and
23 facilities which are needed as a direct consequence of coal
24 development. As used in the preceding sentence, "revenue
25 paid" does not include interest income from the account

1 reinvested in the account in trust for the public schools
2 and the university system.

3 ~~(5) loan money, at no interest, to the hard-rock~~
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5 ~~NEW SECTION. SECTION 23. COORDINATION INSTRUCTION.~~
6 ~~IF SB 432 IS PASSED BY THE 47TH LEGISLATURE AND APPROVED BY~~
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8 ~~AFFAIRS CONTAINED IN [SECTION 12] AND [SECTION 16] SHALL BE~~
9 ~~CHANGED TO THE DEPARTMENT OF COMMERCE.~~

-End-

1 SENATE BILL NO. 344

2 INTRODUCED BY TOME, CONOVER, BERG,

3 BLAYLOCK, ECK, RYAN, HALLIGAN, REGAN

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPOSE A SEVERANCE
6 TAX ~~OF--APPROXIMATELY--10--PERCENT~~ ON THE SEVERANCE OF
7 PALLADIUM, PLATINUM, OR ANY OTHER METAL OR PRECIOUS OR
8 SEMIPRECIOUS GEMS OR STONES WITH EXEMPTIONS FOR SMALL MINES
9 AND EXISTING MINES; TO CREATE THE HARD-ROCK MINING IMPACT
10 BOARD; TO CREATE THE HARD-ROCK MINING IMPACT FUND; AMENDING
11 SECTION 90-6-205, MCA."

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

14 NEW SECTION. Section 1. Purpose. (1) The large-scale
15 development of the state's metalliferous resources
16 stimulates rapid growth in certain areas and strains the
17 ability of nearby communities to provide essential public
18 facilities and services. The purpose of [sections 1 through
19 11] is to provide a source of funds to assist affected local
20 government units in providing these essential public
21 facilities and services.

22 (2) It is recognized that small mines do not stimulate
23 the rapid growth that results from large-scale development,
24 and therefore the first \$1 million worth of metal produced
25 is not taxed.

1 (3) It is also recognized that large existing mines do
2 not create the kind of impacts that are created by the
3 establishment of new mines, and therefore mines producing \$1
4 million worth of metal in 1979 are exempt from the tax
5 imposed by [section 3].

6 NEW SECTION. Section 2. Definitions. As used in
7 [sections 1 through 11], the following definitions apply:

8 (1) "Contract sales price" means either the price of
9 the mineral extracted and prepared for shipment f.o.b. mine,
10 excluding that amount charged by the seller to pay taxes on
11 production, or a price imputed by the department under
12 [section 7].

13 (2) "Department" means the department of revenue.

14 (3) "Mineral" means gold, silver, copper, lead, zinc,
15 chromium, palladium, platinum, molybdenum, or any other
16 metal or metals or precious or semiprecious gems or stones.

17 (4) "Produced" means severed from the earth.

18 (5) "Strip mining" or "surface mining" is as defined
19 in 82-4-203.

20 (6) "Taxes on production" includes any tax to the
21 federal, state, or local governments upon the quantity of
22 mineral produced as a function of either the volume or the
23 value of production and does not include any tax upon the
24 value of mining equipment, machinery, or buildings and
25 lands, any tax upon a person's net income derived in whole

1 or in part from the sale of the mineral, or any license fee.

2 (7) "Underground mining" means a mining method
3 utilizing shafts and tunnels and is as further defined in
4 82-4-203.

5 NEW SECTION. Section 3. Severance tax -- rates
6 imposed. (1) Except as provided in subsection (2) (3), a
7 severance tax of IS IMPOSED ON MINERALS PRODUCED IN THIS
8 STATE. THE RATE OF TAX IS:

9 ~~(a) -- 30% of the invoice price f.o.b. mine less state~~
10 ~~federal and local taxes is imposed on the mineral produced~~
11 ~~in this state when a strip mining method is used to produce~~
12 ~~the mineral.~~

13 ~~(b) -- 15% of the invoice price f.o.b. mine less state~~
14 ~~federal and local taxes is imposed on the mineral produced~~
15 ~~in this state when an underground method of mining is used~~
16 ~~to produce the mineral.~~

17 ~~(2) -- (a) A mine that severs \$1 million or less worth of~~
18 ~~minerals each year is not liable for any severance tax.~~

19 ~~(b) -- Except as provided in subsection (2)(c), a mine~~
20 ~~that mines between \$1 million and \$2.5 million worth of~~
21 ~~minerals is liable for the tax at a rate equal to one-half~~
22 ~~of the rates provided for in subsection (1).~~

23 (A) 3% FOR ALL MINERALS MINED BEFORE JANUARY 1, 1983;

24 (B) FOR ALL MINERALS MINED AFTER JANUARY 1, 1983, WHEN
25 A STRIP MINING METHOD IS USED TO PRODUCE THE MINERAL:

1	ANNUAL VALUE OF PRODUCT MINED	TAX
2	0 TO \$ 1,000,000	0
3	\$ 1,000,000 TO \$ 5,000,000	6%
4	\$ 5,000,000 TO \$10,000,000	8%
5	\$10,000,000 TO \$25,000,000	10%
6	\$25,000,000 AND OVER	12%

7 (C) FOR ALL MINERALS MINED AFTER JANUARY 1, 1983, WHEN
8 AN UNDERGROUND METHOD OF MINING IS USED TO PRODUCE THE
9 MINERAL:

10	ANNUAL VALUE OF PRODUCT MINED	TAX
11	0 TO \$ 1,000,000	0
12	\$ 1,000,000 TO \$ 5,000,000	3%
13	\$ 5,000,000 TO \$10,000,000	4%
14	\$10,000,000 TO \$25,000,000	5%
15	\$25,000,000 AND OVER	6%

16 (2) THE ANNUAL VALUE OF PRODUCT MINED SHALL BE THE
17 INVOICE PRICE F.O.B. MINE LESS STATE, FEDERAL, AND LOCAL
18 TAXES PRODUCED IN ALL MINES OWNED OR CONTROLLED BY THE SAME
19 COMPANY IN EACH COUNTY FOR WHICH PERMITS HAVE BEEN GRANTED
20 UNDER 82-4-335.

21 ~~(c) (3) (A) A mine that produced at least \$1 million~~
22 ~~worth of metal during 1979 as reported on the metalliferous~~
23 ~~mines tax return in 1980 is exempt from the tax imposed by~~

1 subsection (1).

2 (B) ANY MINERAL PRODUCED UNDER THE AUTHORITY OF A
3 PERMIT ISSUED UNDER 82-4-335 PRIOR TO THE EFFECTIVE DATE OF
4 THIS ACT IS EXEMPT FROM THE TAX IMPOSED BY SUBSECTION (1).

5 NEW SECTION. Section 4. Credits. (1) There is allowed
6 as a credit against the tax imposed by [section 3] the
7 amount of metalliferous mine license tax paid under Title
8 15, chapter 37, part 1.

9 (2) There is allowed a credit equal to ~~±25%~~ 150% of
10 all funds contributed towards services, facilities, and
11 other normal governmental expenses incurred by local
12 governments prior to the opening of a mine or the
13 commencement of production. Before the credit is allowed the
14 contribution must be approved in advance by the hard-rock
15 mining impact board as being made for the type of expenses
16 described in this subsection.

17 NEW SECTION. Section 5. Quarterly statement and
18 payment of tax. (1) Each mine operator shall compute the
19 severance tax due on each quarter-year's worth of production
20 on forms prescribed by the department. The statement shall
21 include:

22 (a) gross yield of the mineral produced in
23 constituents of commercial value, which must be stated in
24 terms of the number of ounces of palladium, platinum, gold,
25 or silver, pounds of copper, lead, or zinc, or other

1 commercially valuable constituents of the mineral measured
2 by standard units of measure;

3 (b) the contract sales price received for the
4 production; and

5 (c) the gross value of product as determined for
6 purposes of Title 15, chapter 37, part 1;

7 (d) any credit the mine operator may be entitled to;

8 (e) such other information as the department may
9 require.

10 (2) The completed form, in duplicate, with the tax
11 payment, shall be delivered to the department not later than
12 30 days following the close of the quarter. The form shall
13 be signed by an officer of the mine operator.

14 (3) A person operating more than one mine in this
15 state may include all of his mines in one statement.

16 (4) The department may grant a reasonable extension of
17 time for filing statements and payment of taxes due upon
18 good cause shown therefor.

19 NEW SECTION. Section 6. Penalty for delinquent tax.
20 The department shall add to the amount of all delinquent
21 severance taxes a penalty of 10% of the delinquent amount
22 plus interest at the rate of 1 1/2% per month or fraction
23 thereof computed from the date the severance tax was due to
24 the date of payment. The department shall mail to the person
25 required to file a quarterly report and pay any severance

1 tax a letter setting forth the amount of tax, penalty, and
 2 interest due, and the letter shall further contain a
 3 statement that if payment is not made within 15 days, a lien
 4 may be filed as set forth in 15-23-806. The penalty amount
 5 may be waived by the department if reasonable cause for the
 6 failure or neglect to file the quarterly statement is
 7 provided to the department.

8 NEW SECTION. Section 7. When value of mineral may be
 9 imputed -- procedure. (1) The department may impute a value
 10 to the mineral that approximates market value f.o.b. mine
 11 whenever:

12 (a) the mineral is sold under a contract that is not
 13 an arm's-length agreement; or

14 (b) a person neglects or refuses to file a statement
 15 and tax return under [sections 1 through 11].

16 (2) When imputing value, the department may apply the
 17 factors used by the federal government under 26 U.S.C.,
 18 section 613, or that provision as it may be labeled or
 19 amended, in determining gross income from mining, or the
 20 department may apply any other or additional criteria it
 21 considers appropriate. Each subject taxpayer shall upon
 22 request by the department furnish a copy of its federal
 23 income tax return, with any amendments, filed for the year
 24 in which the value of the mineral is being imputed and
 25 copies of the contracts under which it is selling the

1 mineral at the time. When the department's estimate of
 2 market value is contested in any proceeding, the burden of
 3 proof is on the contesting party.

4 NEW SECTION. Section 8. Disposal of severance tax.
 5 Severance taxes collected under the provisions of [sections
 6 1 through 11] are ~~allocated as follows:~~

7 ~~(1) The tax must be~~ deposited each year to the
 8 hard-rock mining impact account ~~until the amount deposited~~
 9 ~~equals the total amount of grants the hard-rock mining~~
 10 ~~impact board is authorized to award for the year.~~

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5 NEW SECTION. SECTION 23. COORDINATION INSTRUCTION.
6 IF SB 432 IS PASSED BY THE 47TH LEGISLATURE AND APPROVED BY
7 THE GOVERNOR, THE REFERENCE TO THE DEPARTMENT OF COMMUNITY
8 AFFAIRS CONTAINED IN [SECTION 12] AND [SECTION 16] SHALL BE
9 CHANGED TO THE DEPARTMENT OF COMMERCE.

-End-