

HOUSE BILL NO. 593

Introduced: 02/01/83

Referred to Committee on Taxation: 02/01/83

Hearing: 2/17/83

Report: 02/17/83, Do Pass, As Amended

2nd Reading: 02/19/83, Do Pass

3rd Reading: 02/22/83, Do Pass

Transmitted to Senate: 2/22/83

Referred to Committee on Taxation: 3/1/83

Hearing: 3/8/83

Died in Senate Committee

1 *House* BILL NO. *593*  
 2 INTRODUCED BY *FAGG Hanna*  
 3 *Ritselman* *Ellison* *Waller*  
 4 *Levin Ramirez* *Compton Switzer*  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TYING THE RATE OF  
 6 INTEREST CHARGED ON CERTAIN STATE TAXES THAT ARE DUE BUT  
 7 UNPAID TO THE ADJUSTED PRIME RATE; AMENDING SECTIONS  
 8 15-30-142, 15-30-144, 15-30-321, 15-30-323, 15-31-502,  
 9 15-35-105, 15-36-107, 15-37-105, 15-37-108, 15-37-109,  
 10 15-37-205, 15-38-107, 15-51-103, 15-53-111, 15-54-111,  
 11 15-55-108, 15-56-111, 15-58-106, 15-59-106, 15-59-205,  
 12 15-70-210, 15-70-330, AND 15-70-331, MCA; AND PROVIDING AN  
 13 APPLICABILITY DATE."

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

15 NEW SECTION. Section 1. Interest on taxes due and  
 16 unpaid. (1) For periods beginning after December 31, 1983,  
 17 the interest rate charged for taxes which are due but unpaid  
 18 is the adjusted prime rate.

19 (2) The adjusted prime rate is 90% of the average  
 20 predominant prime rate quoted by banks to large businesses  
 21 as determined by the board of governors of the federal  
 22 reserve system during the 6-month periods ending March 31  
 23 and September 30 of each year, rounded to the nearest full  
 24 percent. The adjusted prime rate for the 6-month period  
 25 ending March 31 is effective from the following July 1

1 through December 31. The adjusted prime rate for the 6-month  
 2 period ending September 30 is effective from the following  
 3 January 1 through June 30.

4 (3) The interest charged on taxes that are due but  
 5 unpaid is to be compounded each month or fraction of a month  
 6 until the taxes are paid.

7 (4) The rate of interest charged on taxes that are due  
 8 but unpaid is not dependent on the date the taxes become due  
 9 but upon the rate of interest in effect for each of the  
 10 periods that the tax remains unpaid.

11 Section 2. Section 15-30-142, MCA, is amended to read:

12 "15-30-142. Returns and payment of tax -- penalty and  
 13 interest -- refunds -- credits. (1) Every single individual  
 14 and every married individual not filing a joint return with  
 15 his or her spouse and having a gross income for the taxable  
 16 year of more than \$1,000, as adjusted under the provisions  
 17 of subsection (7), and married individuals not filing  
 18 separate returns and having a combined gross income for the  
 19 taxable year of more than \$2,000, as adjusted under the  
 20 provisions of subsection (7), shall be liable for a return  
 21 to be filed on such forms and according to such rules as the  
 22 department may prescribe. The gross income amounts referred  
 23 to in the preceding sentence shall be increased by \$800, as  
 24 adjusted under the provisions of 15-30-112(7) and (9), for  
 25 each additional personal exemption allowance the taxpayer is

entitled to claim for himself and his spouse under 15-30-112(3) and (4). A nonresident shall be required to file a return if his gross income for the taxable year derived from sources within Montana exceeds the amount of the exemption deduction he is entitled to claim for himself and his spouse under the provisions of 15-30-112(2), (3), and (4), as prorated according to 15-30-112(6).

(2) In accordance with instructions set forth by the department, every taxpayer who is married and living with husband or wife and is required to file a return may, at his or her option, file a joint return with husband or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several. If a joint return has been filed for a taxable year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department so consents.

(3) If any such taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

(4) All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and 15-30-241, shall

compute the amount of income tax payable and shall, at the time of filing the return required by this chapter, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld as provided by 15-30-202 and/or any payment made by reason of an estimated tax return provided for in 15-30-241; provided, however, the tax so computed is greater by \$1 than the amount withheld and/or paid by estimated return as provided in this chapter. If the amount of tax withheld and/or payment of estimated tax exceeds by more than \$1 the amount of income tax as computed, the taxpayer shall be entitled to a refund of the excess.

(5) As soon as practicable after the return is filed, the department shall examine and verify the tax.

(6) If the amount of tax as verified is greater than the amount theretofore paid, the excess shall be paid by the taxpayer to the department within 60 days after notice of the amount of the tax as computed, with interest added at the rate of ~~9% per annum or fraction thereof~~ provided for in [section 1] on the additional tax. In such case there shall be no penalty because of such understatement, provided the deficiency is paid within 60 days after the first notice of the amount is mailed to the taxpayer.

(7) By November 1 of each year, the department shall multiply the minimum amount of gross income necessitating

the filing of a return by the inflation factor for the taxable year. These adjusted amounts are effective for that taxable year, and persons having gross incomes less than these adjusted amounts are not required to file a return.

(8) Individual income tax forms distributed by the department for each taxable year must contain instructions and tables based on the adjusted base year structure for that taxable year."

Section 3. Section 15-30-144, MCA, is amended to read:

"15-30-144. Time for filing -- extensions of time. (1) Returns shall be made to the department on or before the 15th day of the 4th month following the close of the taxpayer's fiscal year, or if the return is made on the basis of the calendar year, then the return shall be made on or before the 15th day of April following the close of the calendar year. Each return shall set forth such facts as the department considers necessary for the proper enforcement of this chapter. There shall be annexed to such return the affidavit or affirmation of the persons making the return to the effect that the statements contained therein are true. Blank forms of return shall be furnished by the department upon application, but failure to secure the form shall not relieve any taxpayer of the obligation to make any return required under this law. Every taxpayer liable for a tax under this law shall pay a minimum tax of \$1.

(2) An automatic 6-month extension of time for filing a return is allowed, provided that on or before the due date of the return, an application is made on forms available from the department or in writing to the department.

~~(3) When an extension of time for filing is allowed, any tax not paid as of the original due date accrues interest from the original due date at the rate provided for in [section 1]."~~

Section 4. Section 15-30-321, MCA, is amended to read:

"15-30-321. Penalties for violation of chapter. (1) If any person, without purposely or knowingly violating any requirement imposed by this chapter, fails to file a return of income on or before its due date (determined with regard to an extension of time granted for filing the return), there shall be imposed a penalty of 5% of any balance of tax unpaid with respect to such return as of its due date, but in no event shall the penalty for failure to file a return by its due date be less than \$5. The department may abate the penalty if the taxpayer establishes that the failure to file on time was due to reasonable cause and was not due to neglect on his part. If any person, without purposely or knowingly violating any requirement imposed by this chapter, fails to pay any tax on or before its due date (determined with regard to an extension of time granted for the filing of a return), there shall be added to the tax a penalty of

1 10% of said tax, but not less than \$5, and interest shall  
 2 accrue on the tax at the rate of ~~9% per annum~~ provided for  
 3 in [section 1] for the entire period it remains unpaid. The  
 4 department may abate the penalty if the taxpayer establishes  
 5 that the failure to pay on time was due to reasonable cause  
 6 and was not due to neglect on his part.

7 (2) If any person fails, purposely or knowingly  
 8 violating any requirement imposed by this chapter, to make a  
 9 return of income or to pay a tax if one is due at the time  
 10 required by or under the provisions of this chapter, there  
 11 shall be added to the tax an additional amount equal to 25%  
 12 thereof, but such additional amount shall in no case be less  
 13 than \$25, and interest at ~~1% the rate provided for in~~  
 14 [section 1] for each month or fraction of a month during  
 15 which the tax remains unpaid.

16 (3) Any individual, corporation, or partnership or any  
 17 officer or employee of any corporation or member or employee  
 18 of any partnership who, with intent to evade any tax or any  
 19 requirement of this chapter or any lawful requirement of the  
 20 department thereunder, purposely or knowingly, fails to pay  
 21 the tax or to make, render, or sign any return or to supply  
 22 any information within the time required by or under the  
 23 provisions of this chapter or who, with like intent,  
 24 purposely or knowingly makes, renders, or signs any false or  
 25 fraudulent return or statement or supplies any false or

1 fraudulent information shall be liable to a penalty of not  
 2 more than \$1,000, to be recovered by the attorney general in  
 3 the name of the state by action in any court of competent  
 4 jurisdiction, and shall also be guilty of a misdemeanor and  
 5 shall upon conviction be fined not to exceed \$1,000 or be  
 6 imprisoned not to exceed 1 year, or both, at the discretion  
 7 of the court.

8 (4) With respect to the imposition of a civil penalty,  
 9 evidence produced by the department to the effect that a tax  
 10 has not been paid, that a return has not been filed, or that  
 11 information has not been supplied as required under the  
 12 provisions of this chapter is prima facie evidence that the  
 13 tax has not been paid, the return has not been filed, or the  
 14 information has not been supplied."

15 Section 5. Section 15-30-323, MCA, is amended to read:  
 16 "15-30-323. Penalty for deficiency. (1) If the payment  
 17 required by 15-30-142(6) is not made within 60 days or if  
 18 the understatement is due to negligence on the part of the  
 19 taxpayer but without fraud, there shall be added to the  
 20 amount of the deficiency 5% thereof; provided, however, that  
 21 no deficiency penalty shall be less than \$2. Interest will  
 22 be computed at the rate of ~~9% per annum or fraction thereof~~  
 23 provided for in [section 1] on the additional assessment.  
 24 Except as otherwise expressly provided in this subsection,  
 25 the interest shall in all cases be computed from the date

the return and tax were originally due as distinguished from the due date as it may have been extended to the date of payment.

(2) If the time for filing a return is extended, the taxpayer shall pay in addition interest thereon at the rate of ~~9%~~ provided for in [section 1] from the time when the return was originally required to be filed to the time of payment."

Section 6. Section 15-31-502, MCA, is amended to read:

"15-31-502. Assessment and payment of tax, penalty, and interest. All taxpayers shall compute the amount of tax payable under this chapter and shall remit such amount to the department of revenue on or before the 15th day of the 5th month following the close of the taxable period. If the tax is not paid on or before the due date, there shall be assessed a penalty of 10% of the amount of the tax unless it is shown that the failure was due to reasonable cause and not due to neglect. If any tax due under this chapter is not paid when due, by reason of extension granted or otherwise, interest shall be added thereto at the rate of ~~12% per annum~~ provided for in [section 1] from the due date until paid."

Section 7. Section 15-35-105, MCA, is amended to read:

"15-35-105. Penalty for delinquent tax. The department shall add to the amount of all delinquent severance taxes a penalty of 10% of the delinquent amount plus interest at the

rate of ~~1% per month or fraction thereof~~ provided for in [section 1] computed on the total amount of severance tax and penalty. Interest shall be computed from the date the severance tax was due to the date of payment. The department shall mail to the person required to file a quarterly report and pay any severance tax, a letter setting forth the amount of tax, penalty, and interest due, and the letter shall further contain a statement that if payment is not made, a warrant for distraint may be filed. The penalty amount may be waived by the department if reasonable cause for the failure or neglect to file the quarterly statement is provided to the department."

Section 8. Section 15-36-107, MCA, is amended to read:

"15-36-107. Procedure to compute tax in absence of statement -- penalty and interest. If any such person shall fail, neglect, or refuse to file any statement required by 15-36-105 within the time therein required, the department of revenue shall, immediately after such time has expired, proceed to inform itself as best it may regarding the number of barrels of petroleum and other mineral or crude oil or cubic feet of gas extracted and produced by such person in this state during such quarter and during each month thereof and the average value thereof during each such month and shall determine and fix the amount of the severance taxes due to the state from such person for such quarter and shall

add to the amount of such severance taxes a penalty of 10% thereof plus interest at the rate of ~~1% per month or fraction thereof provided for in [section 1]~~ computed on the total amount of severance taxes and penalty. Interest shall be computed from the date the severance taxes were due to the date of payment. The department shall mail to the person required to file a quarterly statement and pay any severance tax, a letter setting forth the amount of severance tax, penalty, and interest due, and the letter shall further contain a statement that if payment is not made, a warrant for distraint may be filed. The 10% penalty herein provided may be waived by the department if reasonable cause for the failure and neglect to file the statement required by 15-36-105 is provided to the department."

Section 9. Section 15-37-105, MCA, is amended to read:

"15-37-105. Computation and notice of tax. (1) The department of revenue shall examine each such statement and return filed and determine and ascertain therefrom and compute and assess the amount of the license tax to be paid by the person making and filing the same and shall, not later than June 1, mail to each person making and filing such statement and return a written notice of the amount of the license tax to be paid by each, respectively; that the same is due and payable; that it will become delinquent at 5 p.m. on June 30 immediately following; that if the same

becomes delinquent, a penalty of 10% will be added thereto; and that the whole amount of such license tax, with penalty added, will bear interest at the rate of ~~1% per month or fraction thereof provided for in [section 1]~~ from the date the same becomes delinquent until paid.

(2) If any such person has sold or otherwise disposed of any of its mine's products at a price substantially below the true market price of such product at the time and place of such sale or disposal, then the department shall compute the gross value of such portion of said mine's product so sold or disposed of substantially below the market price as aforesaid, which gross value shall be based upon the quotations of the price of such mine's product in New York City at the time such portion of the product was so sold or otherwise disposed of as evidenced by some established authority or market report, such as the Engineering and Mining Journal of New York, or some other standard publication, giving the market reports for the year covered by such statement. Should there be no quotation covering any particular product, then the department shall fix the value of such gross product or such portion thereof as shall have been sold or otherwise disposed of at a price substantially below the true market price at the time and place of such sale or disposal in such a manner as may seem to be equitable."

1 Section 10. Section 15-37-108, MCA, is amended to  
2 read:

3 "15-37-108. Delinquent taxes -- penalty. All license  
4 taxes assessed under the provisions of this part shall  
5 become delinquent if not paid by 5 p.m. on June 30 following  
6 the date when the same are assessed, and as the same become  
7 delinquent, a penalty of 10% shall be added thereto and the  
8 whole amount of said license tax, with penalty added, shall  
9 bear interest at the rate of ~~1% per month or fraction~~  
10 thereof provided for in [section 1] from the date of  
11 becoming delinquent until paid."

12 Section 11. Section 15-37-109, MCA, is amended to  
13 read:

14 "15-37-109. False or erroneous statements --  
15 investigation. (1) Should the director of the department of  
16 revenue have reason to believe that any statement and return  
17 is false or erroneous in any particular, he may require the  
18 person or, if made by a corporation, association, or  
19 company, the officers thereof and the employees of any such  
20 person, corporation, association, or company to appear  
21 before the director of revenue or his agent and testify  
22 concerning the same and any statement contained therein and  
23 may examine all books, records, papers, and documents of  
24 such person pertaining to such business, upon giving 5 days'  
25 written notice to such persons or officers or employees

1 thereof having custody of such books, records, papers, and  
2 documents. Any person failing, refusing, or neglecting to  
3 so appear or refusing to be sworn or to testify or refusing  
4 to answer any material question propounded by the director  
5 or any of his employees or refusing to permit the director  
6 or his employees to examine such books, records, papers, or  
7 documents or any thereof pertaining to such business shall  
8 be deemed guilty of a misdemeanor and upon conviction  
9 thereof shall be punished by a fine of not more than \$1,000  
10 or by imprisonment in the county jail for a term not  
11 exceeding 6 months or by both such fine and imprisonment. If  
12 the director, after hearing such evidence and after such  
13 examination of the books, papers, documents, and records of  
14 such person, shall find and determine that such statement  
15 and return are erroneous or false in any material matter,  
16 the director shall change and correct the same so as to show  
17 the true gross value of product and shall reassess the  
18 amount of the license tax due from such person and may add  
19 thereto a penalty of not exceeding 50% and shall thereupon  
20 immediately mail to such person a written notice of the  
21 corrections and changes made in such statement and return  
22 and the amount of the license tax and penalty due and  
23 payable.

24 (2) The department shall collect such license tax with  
25 penalty added, and if the same has become delinquent, it



1 shall also collect interest thereon from the date of  
 2 delinquency until paid, at the rate of ~~1%~~ per month or  
 3 ~~fraction thereof provided for in [section 1]~~. In order to  
 4 verify such statement and return, the department may require  
 5 any person engaged in the business of smelting, milling,  
 6 reduction, or treatment in any manner of ores extracted or  
 7 produced from any mine or mining property in the state of  
 8 Montana to appear before the director of revenue and testify  
 9 concerning the gross mineral content of any such ore or at  
 10 the request of said director to furnish sworn statements  
 11 showing the gross yield of such ores, mineral products, or  
 12 deposits in constituents of commercial value, that is to  
 13 say, the number of ounces of gold or silver, pounds of  
 14 copper, lead, or zinc, or other commercially valuable  
 15 constituents of said ores or mineral products or deposits,  
 16 measured by standard units of measurement, during the period  
 17 covered by such statement, without any deductions whatsoever  
 18 for smelting, milling, reduction, or treatment of such ores  
 19 or mineral product.

20 (3) The books, records, papers, and documents of such  
 21 person engaged in the business of smelting, milling,  
 22 reduction, or treatment in any manner of ores extracted or  
 23 produced by any mine or mining property in the state shall  
 24 be open to inspection and examination by the director of  
 25 revenue or his employees at any time or place that the

1 director may designate.

2 (4) If any person required by this part to make or  
 3 file any statement or to verify, under oath, any statement  
 4 shall make such statement false in any material respect or  
 5 shall verify, under oath, any statement false in any respect  
 6 or shall fail, neglect, or refuse to file any statement  
 7 required by said department or shall refuse to appear before  
 8 the director of revenue to testify concerning the gross  
 9 mineral content of any such ore or shall refuse to allow the  
 10 director or his employees at any time or place to inspect or  
 11 examine the books, records, papers, and documents of such  
 12 person engaged in the business of smelting, milling,  
 13 reduction, or treatment in any manner of ores extracted or  
 14 produced by any mine or mining property in the state of  
 15 Montana shall be deemed guilty of a misdemeanor and shall be  
 16 punished by a fine of not exceeding \$1,000 or by  
 17 imprisonment in the county jail for not exceeding 6 months  
 18 or by both such fine and imprisonment."

19 Section 12. Section 15-37-205, MCA, is amended to  
 20 read:

21 "15-37-205. Procedure on failure to file statement.  
 22 (1) If any person shall fail, neglect, or refuse to file any  
 23 statement required by 15-37-204 within the time required or  
 24 shall fail to pay the tax required by this part on or before  
 25 the date such payment is due, the department of revenue

1 shall immediately after such time has expired proceed to  
 2 inform itself as best it may regarding the amount produced  
 3 by such person within this state during such quarter and  
 4 during each month thereof and shall determine and fix the  
 5 amount of the license taxes due to the state from such  
 6 person for such quarter.

7 (2) The department shall add to the amount of all  
 8 delinquent micaceous mineral mines license taxes a penalty  
 9 of 10% of the amount of such license taxes plus interest at  
 10 the rate of ~~1% per month or fraction thereof~~ provided for in  
 11 [section 1] computed on the total amount of license taxes  
 12 and penalty. Interest shall be computed from the date the  
 13 license taxes were due to the date of payment. The 10%  
 14 penalty may be waived by the department if reasonable cause  
 15 for the failure and neglect to file the statement required  
 16 by 15-37-204 is provided."

17 Section 13. Section 15-38-107, MCA, is amended to  
 18 read:

19 "15-38-107. Procedure in case of failure to file  
 20 statement. (1) If any person fails, refuses, or neglects to  
 21 make and file a statement and return it within the time  
 22 prescribed, the department shall immediately after such time  
 23 has expired determine, as nearly as may be possible from any  
 24 returns or reports filed with the state or from any other  
 25 information which the department may be able to obtain, the

1 total gross value of product of such person from such  
 2 business during the calendar year immediately preceding the  
 3 year in which the tax is to be paid and shall fix the amount  
 4 of the tax due to the state from such person for such  
 5 calendar year and shall add to the amount of such tax a  
 6 penalty of 10% thereof plus interest at the rate of ~~1% per~~  
 7 ~~month or fraction thereof~~ provided for in [section 1]  
 8 computed on the total amount of tax and penalty. Interest  
 9 shall be computed from the date the tax was due to the date  
 10 of payment.

11 (2) The department shall mail to the person required  
 12 to file an annual statement and pay any tax a letter setting  
 13 forth the amount of tax, penalty, and interest due. The  
 14 letter shall advise that if payment is not received, a  
 15 warrant for distraint may be filed.

16 (3) The 10% penalty may be waived by the department if  
 17 reasonable cause for the failure and neglect to file the  
 18 statement required by 15-30-105 is provided to the  
 19 department."

20 Section 14. Section 15-51-103, MCA, is amended to  
 21 read:

22 "15-51-103. Disposition of revenue -- interest on  
 23 delinquency. The department of revenue shall receipt  
 24 therefor and promptly turn the same over to the state  
 25 treasurer. Taxes not met on the due date shall become

delinquent, and a penalty of 10% plus interest at the rate of ~~1% per month or fraction of a month~~ provided for in [section 1] computed on the total of tax and penalty shall be charged."

Section 15. Section 15-53-111, MCA, is amended to read:

"15-53-111. Penalty and interest for delinquency -- waiver. (1) License taxes due under this chapter become delinquent if not paid within 60 days after the end of each calendar quarter. The department of revenue shall add to the amount of all delinquent telephone company license taxes a penalty of 10% of the amount of license taxes plus interest at the rate of ~~1% per month or fraction thereof~~ provided for in [section 1] computed on the total amount of license taxes and penalty. Interest is computed from the date the license taxes were due to the date of payment.

(2) The 10% penalty may be waived by the department if reasonable cause for the failure or neglect to file the statement required by 15-53-102 or pay the tax due is provided to the department."

Section 16. Section 15-54-111, MCA, is amended to read:

"15-54-111. Penalty and interest for delinquency -- waiver. (1) License taxes assessed under this chapter become delinquent if not paid on or before September 30 following

the date assessed. The department of revenue shall add to the amount of all delinquent express company license taxes a penalty of 10% of the amount of license taxes plus interest at the rate of ~~1% per month or fraction thereof~~ provided for in [section 1] computed on the total amount of license taxes and penalty. Interest is computed from the date the license taxes become delinquent until paid.

(2) The 10% penalty may be waived by the department if reasonable cause for the failure or neglect to file the statement required by 15-54-103 or pay the tax due is provided to the department."

Section 17. Section 15-55-108, MCA, is amended to read:

"15-55-108. Penalty and interest for delinquency -- waiver. (1) License taxes due under this chapter become delinquent if not paid by March 1. The department shall add to the amount of all delinquent freight line company license taxes a penalty of 10% of the amount of license taxes plus interest at the rate of ~~1% per month or fraction thereof~~ provided for in [section 1] computed on the total amount of license taxes and penalty. Interest is computed from the date the license taxes were due to the date of payment.

(2) The 10% penalty may be waived by the department if reasonable cause for the failure or neglect to file the statement required by 15-55-103 or pay the tax due is

1 provided to the department."

2 Section 18. Section 15-56-111, MCA, is amended to  
3 read:

4 "15-56-111. Penalty and interest for delinquency --  
5 waiver. (1) License taxes assessed under this chapter become  
6 delinquent if not paid within 60 days following the date  
7 assessed. The department shall add to the amount of all  
8 delinquent sleeping car company license taxes a penalty of  
9 10% of the amount of license taxes plus interest at the rate  
10 ~~of 1% per month or fraction thereof provided for in [section~~  
11 ~~1]~~ computed on the total amount of license taxes and  
12 penalty. Interest is computed from the date the taxes become  
13 delinquent until paid.

14 (2) The 10% penalty may be waived by the department if  
15 reasonable cause for the failure or neglect to file the  
16 report required by 15-56-103 or pay the tax due is provided  
17 to the department."

18 Section 19. Section 15-58-106, MCA, is amended to  
19 read:

20 "15-58-106. Procedure to determine tax on failure to  
21 file statement -- penalty. (1) If any person shall fail,  
22 neglect, or refuse to make or file the statement required by  
23 15-58-105 or shall fail to make payment of such license tax  
24 within the time therein required, the department of revenue  
25 shall, immediately after such time has expired, proceed to

1 inform itself as best it may regarding the matters required  
2 to be set forth in such statement and shall fix and  
3 determine the amount of the license taxes due from such  
4 person for such quarter.

5 (2) The department shall add to the amount of all such  
6 delinquent license taxes a penalty of 10% of the amount of  
7 such license taxes plus interest at the rate of ~~1% per month~~  
8 ~~or fraction thereof provided for in [section 1]~~ computed on  
9 the total amount of license taxes and penalty. Interest  
10 shall be computed from the date the license taxes were due  
11 to the date of payment.

12 (3) The department shall mail to the person required  
13 to file a quarterly statement and pay any license tax a  
14 letter setting forth the amount of license tax, penalty, and  
15 interest due, and the letter shall further contain a  
16 statement that if payment is not made, a warrant for  
17 distraint may be filed.

18 (4) The 10% penalty herein provided may be waived by  
19 the department if reasonable cause for the failure and  
20 neglect to file the statement required by 15-58-105 is  
21 provided to the department."

22 Section 20. Section 15-59-106, MCA, is amended to  
23 read:

24 "15-59-106. Procedure to estimate tax on failure to  
25 file statement -- penalty. (1) if any such person shall

1 fail, neglect, or refuse to file any statement required by  
 2 15-59-105 within the time required or shall fail to pay the  
 3 tax required by this part on or before the date such payment  
 4 is due, the department of revenue shall, immediately after  
 5 such time has expired, proceed to inform itself as best it  
 6 may regarding the amounts of the respective articles or  
 7 products enumerated in 15-59-101(1) and 15-59-102  
 8 manufactured or produced by such person within this state or  
 9 imported by such person into the state during such quarter  
 10 and during each month thereof and shall determine and fix  
 11 the amount of the license taxes due to the state from such  
 12 person for such quarter.

13 (2) The department shall add to the amount of all such  
 14 delinquent license taxes a penalty of 10% of the amount of  
 15 such license taxes plus interest at the rate of ~~1% a month~~  
 16 ~~or fraction thereof provided for in [section 1]~~ computed on  
 17 the total amount of license taxes and penalty. Interest  
 18 shall be computed from the date the license taxes were due  
 19 to the date of payment.

20 (3) The department shall mail to the person required  
 21 to file a quarterly statement and pay any license tax a  
 22 letter setting forth the amount of license tax, penalty, and  
 23 interest due, and the letter shall further contain a  
 24 statement that if payment is not made, a warrant for  
 25 distraint may be filed.

1 (4) The 10% penalty may be waived by the department if  
 2 reasonable cause for the failure and neglect to file the  
 3 statement required by 15-59-105 is provided to the  
 4 department."

5 Section 21. Section 15-59-205, MCA, is amended to  
 6 read:

7 "15-59-205. Procedure to estimate tax on failure to  
 8 file -- penalty. (1) If any person shall fail, neglect, or  
 9 refuse to make or file the statement required by 15-59-204  
 10 within the time required, the department of revenue shall,  
 11 immediately after such time has expired, proceed to inform  
 12 itself as best it may regarding the matters required to be  
 13 set forth in such statement and shall fix and determine the  
 14 amount of the license tax due from such person for such  
 15 quarter.

16 (2) The department shall add to the amount of all such  
 17 delinquent license tax a penalty of 10% of the amount of  
 18 such license tax plus interest at the rate of ~~1% per month~~  
 19 ~~or fraction thereof provided for in [section 1]~~ computed on  
 20 the total amount of license taxes and penalty. Interest  
 21 shall be computed from the date the license tax was due to  
 22 the date of payment.

23 (3) The department shall mail to the person required  
 24 to file a quarterly statement and pay any license tax a  
 25 letter setting forth the amount of license tax, penalty, and

1 interest due, and the letter shall further contain a  
2 statement that if payment is not made, a warrant for  
3 distraint may be filed.

4 (4) The 10% penalty herein provided may be waived by  
5 the department if reasonable cause for the failure and  
6 neglect to file the statement required by 15-59-204 is  
7 provided to the department."

8 Section 22. Section 15-70-210, MCA, is amended to  
9 read:

10 "15-70-210. Tax penalty for delinquency. (1) Any  
11 license tax not paid within the time provided shall be  
12 delinquent, and a penalty of 10% shall be added to the tax  
13 and the tax shall bear interest at the rate of ~~1% per month~~  
14 provided for in [section 1] from the date of delinquency  
15 until paid. Upon a showing of good cause by the distributor,  
16 the department of revenue may waive penalty.

17 (2) If any distributor or other person subject to the  
18 payment of such license tax shall willfully fail, neglect,  
19 or refuse to make any statement required by this part or  
20 shall willfully fail to make payment of such license tax  
21 within the time provided, the department shall be authorized  
22 to revoke any license issued under this part.

23 (3) In addition, the department shall inform itself  
24 regarding the matters required to be in such statement and  
25 determine the amount of the license tax due the state from

1 such distributor and shall add thereto a penalty of \$25 or  
2 10% thereof, whichever is greater, together with interest at  
3 the rate of ~~1% per month~~ provided for in [section 1] from  
4 the date such statements should have been made and said  
5 license tax paid.

6 (4) The state treasurer shall proceed to collect such  
7 license tax, with penalties and interest. Upon the request  
8 of the state treasurer, the attorney general shall commence  
9 and prosecute to final determination in any court of  
10 competent jurisdiction an action to collect such license  
11 tax."

12 Section 23. Section 15-70-330, MCA, is amended to  
13 read:

14 "15-70-330. Penalties for refusal or failure to file  
15 return or pay tax when due. (1) In case of any special fuel  
16 dealer or special fuel user who refuses or fails to file a  
17 return required by this part within the time prescribed by  
18 15-70-103 and 15-70-325, there is hereby imposed a penalty  
19 of \$25 or a sum equal to 10% of the tax due, whichever is  
20 greater, together with interest at the rate of ~~1% on the tax~~  
21 due for each calendar month or fraction thereof provided for  
22 in [section 1] during which such refusal or failure  
23 continues; provided, however, that if any such special fuel  
24 dealer or special fuel user shall establish to the  
25 satisfaction of the department that his failure to file a

1 return within the time prescribed was due to reasonable  
2 cause, the department shall waive the penalty provided by  
3 this section.

4 (2) Where a special fuel dealer or a special fuel user  
5 files a return but fails to pay in whole or in part the tax  
6 due hereunder, there shall be added to the amount due and  
7 unpaid interest at the rate of ~~1% per month or fraction~~  
8 thereof provided for in [section 1] from the date such tax  
9 was due to the date of payment in full thereof."

10 Section 24. Section 15-70-331, MCA, is amended to  
11 read:

12 "15-70-331. Deficiency. If it be determined by the  
13 department that the tax reported by any special fuel dealer  
14 or special fuel user is deficient, it shall proceed to  
15 assess the deficiency on the basis of information available  
16 to it and there shall be added to this deficiency interest  
17 at the rate of ~~1% per month or fraction thereof~~ provided for  
18 in [section 1] from the date the return was due."

19 NEW SECTION. Section 25. Applicability. This act  
20 applies to taxes that are due but unpaid after December 31,  
21 1983.

-End-

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 4, 19 83, there is hereby submitted a Fiscal Note for House Bill 593 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.

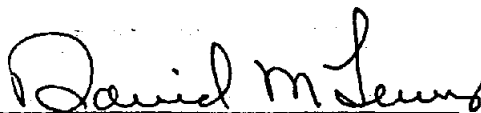
DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 593 ties the rate of interest charged on certain state taxes that are due but unpaid to the adjusted prime rate; and provides an applicability date.

FISCAL IMPACT:

The adjusted prime rate (90% of average predominant prime rate quoted by banks to large businesses) is estimated to be approximately 9% per annum for the biennium (Chase Econometrics). The proposed legislation should then have no impact on individual income tax interest assessment (current law - 9%). The other taxes collected by the Department of Revenue, all charging 12% per annum interest, would have a decrease in interest collections. In FY82 these taxes accounted for approximately \$1.9 million in interest. If the proposed legislation had been in effect for FY82, interest collections would have decreased by 25%, to \$1.4 million. The proposed legislation, assuming the forecasted interest rates, could decrease Department of Revenue interest collections by approximately \$500,000 each year of the biennium.

FISCAL NOTE 11:Y/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-9-83



Approved by committee  
on taxation

## HOUSE BILL NO. 593

INTRODUCED BY FAGG, HANNAH, SANDS,

WALLIN, KITSELMAN, ASAY, ELLISON,

IVERSON, COMPTON, SWITZER,

DEVLIN, RAMIREZ

A BILL FOR AN ACT ENTITLED: "AN ACT TYING THE RATE OF  
INTEREST CHARGED ON CERTAIN STATE TAXES THAT ARE DUE BUT  
UNPAID TO THE ADJUSTED PRIME RATE; ~~PROVIDING~~ MINIMUM  
INTEREST RATES; AMENDING SECTIONS 15-30-142, 15-30-144,  
15-30-321, 15-30-323, 15-31-502, 15-35-105, 15-36-107,  
15-37-105, 15-37-108, 15-37-109, 15-37-205, 15-38-107,  
15-51-103, 15-53-111, 15-54-111, 15-55-108, 15-56-111,  
15-58-106, 15-59-106, 15-59-205, 15-70-210, 15-70-330, AND  
15-70-331, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Interest on taxes due and  
unpaid ~~==~~ MINIMUM. (1) For ~~EXCEPT AS PROVIDED IN SUBSECTION~~  
~~(51),~~ FOR periods beginning after December 31, 1983, the  
interest rate charged for taxes which are due but unpaid is  
the adjusted prime rate.

(2) The adjusted prime rate is 90% of the average  
predominant prime rate quoted by banks to large businesses  
as determined by the board of governors of the federal

reserve system during the 6-month periods ending March 31  
and September 30 of each year, rounded to the nearest full  
percent. The adjusted prime rate for the 6-month period  
ending March 31 is effective from the following July 1  
through December 31. The adjusted prime rate for the 6-month  
period ending September 30 is effective from the following  
January 1 through June 30.

(3) The interest charged on taxes that are due but  
unpaid is to be compounded each month or fraction of a month  
until the taxes are paid.

(4) The rate of interest charged on taxes that are due  
but unpaid is not dependent on the date the taxes become due  
but upon the rate of interest in effect for each of the  
periods that the tax remains unpaid.

~~(51) THE MINIMUM INTEREST RATE CHARGED FOR TAXES WHICH  
ARE DUE BUT UNPAID IS AS FOLLOWS:~~

~~(A) 9% FOR TAXES UNDER THE PROVISIONS OF 15-30-142,  
15-30-144, 15-30-321, EXCEPT SUBSECTION (2) OF THAT SECTION,  
AND 15-30-323; AND~~

~~(B) 12% FOR TAXES UNDER THE PROVISIONS OF  
15-30-321(2), 15-31-502, 15-35-105, 15-36-107, 15-37-105,  
15-37-108, 15-37-109, 15-37-205, 15-38-107, 15-51-103,  
15-53-111, 15-54-111, 15-55-108, 15-56-111, 15-58-106,  
15-59-106, 15-59-205, 15-70-210, 15-70-330, AND 15-70-331.~~

Section 2. Section 15-30-142, MCA, is amended to read:

1       \*15-30-142. Returns and payment of tax -- penalty and  
 2 interest -- refunds -- credits. (1) Every single individual  
 3 and every married individual not filing a joint return with  
 4 his or her spouse and having a gross income for the taxable  
 5 year of more than \$1,000, as adjusted under the provisions  
 6 of subsection (7), and married individuals not filing  
 7 separate returns and having a combined gross income for the  
 8 taxable year of more than \$2,000, as adjusted under the  
 9 provisions of subsection (7), shall be liable for a return  
 10 to be filed on such forms and according to such rules as the  
 11 department may prescribe. The gross income amounts referred  
 12 to in the preceding sentence shall be increased by \$800, as  
 13 adjusted under the provisions of 15-30-112(7) and (8), for  
 14 each additional personal exemption allowance the taxpayer is  
 15 entitled to claim for himself and his spouse under  
 16 15-30-112(3) and (4). A nonresident shall be required to  
 17 file a return if his gross income for the taxable year  
 18 derived from sources within Montana exceeds the amount of  
 19 the exemption deduction he is entitled to claim for himself  
 20 and his spouse under the provisions of 15-30-112(2), (3),  
 21 and (4), as prorated according to 15-30-112(6).

22       (2) In accordance with instructions set forth by the  
 23 department, every taxpayer who is married and living with  
 24 husband or wife and is required to file a return may, at his  
 25 or her option, file a joint return with husband or wife even

1 though one of the spouses has neither gross income nor  
 2 deductions. If a joint return is made, the tax shall be  
 3 computed on the aggregate taxable income and the liability  
 4 with respect to the tax shall be joint and several. If a  
 5 joint return has been filed for a taxable year, the spouses  
 6 may not file separate returns after the time for filing the  
 7 return of either has expired unless the department so  
 8 consents.

9       (3) If any such taxpayer is unable to make his own  
 10 return, the return shall be made by a duly authorized agent  
 11 or by a guardian or other person charged with the care of  
 12 the person or property of such taxpayer.

13       (4) All taxpayers, including but not limited to those  
 14 subject to the provisions of 15-30-202 and 15-30-241, shall  
 15 compute the amount of income tax payable and shall, at the  
 16 time of filing the return required by this chapter, pay to  
 17 the department any balance of income tax remaining unpaid  
 18 after crediting the amount withheld as provided by 15-30-202  
 19 and/or any payment made by reason of an estimated tax return  
 20 provided for in 15-30-241; provided, however, the tax so  
 21 computed is greater by \$1 than the amount withheld and/or  
 22 paid by estimated return as provided in this chapter. If the  
 23 amount of tax withheld and/or payment of estimated tax  
 24 exceeds by more than \$1 the amount of income tax as  
 25 computed, the taxpayer shall be entitled to a refund of the

1 excess.

2 (5) As soon as practicable after the return is filed,  
3 the department shall examine and verify the tax.

4 (6) If the amount of tax as verified is greater than  
5 the amount theretofore paid, the excess shall be paid by the  
6 taxpayer to the department within 60 days after notice of  
7 the amount of the tax as computed, with interest added at  
8 the rate of ~~9% per annum or fraction thereof~~ provided for in  
9 [section 1] on the additional tax. In such case there shall  
10 be no penalty because of such understatement, provided the  
11 deficiency is paid within 60 days after the first notice of  
12 the amount is mailed to the taxpayer.

13 (7) By November 1 of each year, the department shall  
14 multiply the minimum amount of gross income necessitating  
15 the filing of a return by the inflation factor for the  
16 taxable year. These adjusted amounts are effective for that  
17 taxable year, and persons having gross incomes less than  
18 these adjusted amounts are not required to file a return.

19 (8) Individual income tax forms distributed by the  
20 department for each taxable year must contain instructions  
21 and tables based on the adjusted base year structure for  
22 that taxable year."

23 Section 3. Section 15-30-144, MCA, is amended to read:

24 "15-30-144. Time for filing -- extensions of time. (1)  
25 Returns shall be made to the department on or before the

1 15th day of the 4th month following the close of the  
2 taxpayer's fiscal year, or if the return is made on the  
3 basis of the calendar year, then the return shall be made on  
4 or before the 15th day of April following the close of the  
5 calendar year. Each return shall set forth such facts as the  
6 department considers necessary for the proper enforcement of  
7 this chapter. There shall be annexed to such return the  
8 affidavit or affirmation of the persons making the return to  
9 the effect that the statements contained therein are true.  
10 Blank forms of return shall be furnished by the department  
11 upon application, but failure to secure the form shall not  
12 relieve any taxpayer of the obligation to make any return  
13 required under this law. Every taxpayer liable for a tax  
14 under this law shall pay a minimum tax of \$1.

15 (2) An automatic 6-month extension of time for filing  
16 a return is allowed, provided that on or before the due date  
17 of the return, an application is made on forms available  
18 from the department or in writing to the department.

19 ~~(3) When an extension of time for filing is allowed,~~  
20 ~~any tax not paid as of the original due date accrues~~  
21 ~~interest from the original due date at the rate provided for~~  
22 ~~in [section 1]."~~

23 Section 4. Section 15-30-321, MCA, is amended to read:

24 "15-30-321. Penalties for violation of chapter. (1) If  
25 any person, without purposely or knowingly violating any

1 requirement imposed by this chapter, fails to file a return  
 2 of income on or before its due date (determined with regard  
 3 to an extension of time granted for filing the return),  
 4 there shall be imposed a penalty of 5% of any balance of tax  
 5 unpaid with respect to such return as of its due date, but  
 6 in no event shall the penalty for failure to file a return  
 7 by its due date be less than \$5. The department may abate  
 8 the penalty if the taxpayer establishes that the failure to  
 9 file on time was due to reasonable cause and was not due to  
 10 neglect on his part. If any person, without purposely or  
 11 knowingly violating any requirement imposed by this chapter,  
 12 fails to pay any tax on or before its due date (determined  
 13 with regard to an extension of time granted for the filing  
 14 of a return), there shall be added to the tax a penalty of  
 15 10% of said tax, but not less than \$5, and interest shall  
 16 accrue on the tax at the rate of ~~9% per annum~~ provided for  
 17 in [section 1] for the entire period it remains unpaid. The  
 18 department may abate the penalty if the taxpayer establishes  
 19 that the failure to pay on time was due to reasonable cause  
 20 and was not due to neglect on his part.

21 (2) If any person fails, purposely or knowingly  
 22 violating any requirement imposed by this chapter, to make a  
 23 return of income or to pay a tax if one is due at the time  
 24 required by or under the provisions of this chapter, there  
 25 shall be added to the tax an additional amount equal to 25%

1 thereof, but such additional amount shall in no case be less  
 2 than \$25, and interest at ~~the rate provided for in~~  
 3 [section 1] for each month or fraction of a month during  
 4 which the tax remains unpaid.

5 (3) Any individual, corporation, or partnership or any  
 6 officer or employee of any corporation or member or employee  
 7 of any partnership who, with intent to evade any tax or any  
 8 requirement of this chapter or any lawful requirement of the  
 9 department thereunder, purposely or knowingly, fails to pay  
 10 the tax or to make, render, or sign any return or to supply  
 11 any information within the time required by or under the  
 12 provisions of this chapter or who, with like intent,  
 13 purposely or knowingly makes, renders, or signs any false or  
 14 fraudulent return or statement or supplies any false or  
 15 fraudulent information shall be liable to a penalty of not  
 16 more than \$1,000, to be recovered by the attorney general in  
 17 the name of the state by action in any court of competent  
 18 jurisdiction, and shall also be guilty of a misdemeanor and  
 19 shall upon conviction be fined not to exceed \$1,000 or be  
 20 imprisoned not to exceed 1 year, or both, at the discretion  
 21 of the court.

22 (4) With respect to the imposition of a civil penalty,  
 23 evidence produced by the department to the effect that a tax  
 24 has not been paid, that a return has not been filed, or that  
 25 information has not been supplied as required under the

provisions of this chapter is prima facie evidence that the tax has not been paid, the return has not been filed, or the information has not been supplied."

Section 5. Section 15-30-323, MCA, is amended to read:

"15-30-323. Penalty for deficiency. (1) If the payment required by 15-30-142(6) is not made within 60 days or if the understatement is due to negligence on the part of the taxpayer but without fraud, there shall be added to the amount of the deficiency 5% thereof; provided, however, that no deficiency penalty shall be less than \$2. Interest will be computed at the rate of ~~9% per annum or fraction thereof~~ provided for in [section 1] on the additional assessment. Except as otherwise expressly provided in this subsection, the interest shall in all cases be computed from the date the return and tax were originally due as distinguished from the due date as it may have been extended to the date of payment.

(2) If the time for filing a return is extended, the taxpayer shall pay in addition interest thereon at the rate of ~~9% per annum~~ provided for in [section 1] from the time when the return was originally required to be filed to the time of payment."

Section 6. Section 15-31-502, MCA, is amended to read:

"15-31-502. Assessment and payment of tax, penalty, and interest. All taxpayers shall compute the amount of tax

payable under this chapter and shall remit such amount to the department of revenue on or before the 15th day of the 5th month following the close of the taxable period. If the tax is not paid on or before the due date, there shall be assessed a penalty of 10% of the amount of the tax unless it is shown that the failure was due to reasonable cause and not due to neglect. If any tax due under this chapter is not paid when due, by reason of extension granted or otherwise, interest shall be added thereto at the rate of ~~12% per annum~~ provided for in [section 1] from the due date until paid."

Section 7. Section 15-35-105, MCA, is amended to read:

"15-35-105. Penalty for delinquent tax. The department shall add to the amount of all delinquent severance taxes a penalty of 10% of the delinquent amount plus interest at the rate of ~~1% per month or fraction thereof~~ provided for in [section 1] computed on the total amount of severance tax and penalty. Interest shall be computed from the date the severance tax was due to the date of payment. The department shall mail to the person required to file a quarterly report and pay any severance tax, a letter setting forth the amount of tax, penalty, and interest due, and the letter shall further contain a statement that if payment is not made, a warrant for distraint may be filed. The penalty amount may be waived by the department if reasonable cause for the failure or neglect to file the quarterly statement is

provided to the department."

Section 8. Section 15-36-107, MCA, is amended to read:

"15-36-107. Procedure to compute tax in absence of statement -- penalty and interest. If any such person shall fail, neglect, or refuse to file any statement required by 15-36-105 within the time therein required, the department of revenue shall, immediately after such time has expired, proceed to inform itself as best it may regarding the number of barrels of petroleum and other mineral or crude oil or cubic feet of gas extracted and produced by such person in this state during such quarter and during each month thereof and the average value thereof during each such month and shall determine and fix the amount of the severance taxes due to the state from such person for such quarter and shall add to the amount of such severance taxes a penalty of 10% thereof plus interest at the rate of ~~one percent per month or fraction thereof provided for in [section 1]~~ computed on the total amount of severance taxes and penalty. Interest shall be computed from the date the severance taxes were due to the date of payment. The department shall mail to the person required to file a quarterly statement and pay any severance tax, a letter setting forth the amount of severance tax, penalty, and interest due, and the letter shall further contain a statement that if payment is not made, a warrant for distraint may be filed. The 10% penalty herein provided

may be waived by the department if reasonable cause for the failure and neglect to file the statement required by 15-36-105 is provided to the department."

Section 9. Section 15-37-105, MCA, is amended to read:

"15-37-105. Computation and notice of tax. (1) The department of revenue shall examine each such statement and return filed and determine and ascertain therefrom and compute and assess the amount of the license tax to be paid by the person making and filing the same and shall, not later than June 1, mail to each person making and filing such statement and return a written notice of the amount of the license tax to be paid by each, respectively; that the same is due and payable; that it will become delinquent at 5 p.m. on June 30 immediately following; that if the same becomes delinquent, a penalty of 10% will be added thereto; and that the whole amount of such license tax, with penalty added, will bear interest at the rate of ~~one percent per month or fraction thereof provided for in [section 1]~~ from the date the same becomes delinquent until paid.

(2) If any such person has sold or otherwise disposed of any of its mine's products at a price substantially below the true market price of such product at the time and place of such sale or disposal, then the department shall compute the gross value of such portion of said mine's product so sold or disposed of substantially below the market price as

1 aforesaid, which gross value shall be based upon the  
 2 quotations of the price of such mine's product in New York  
 3 City at the time such portion of the product was so sold or  
 4 otherwise disposed of as evidenced by some established  
 5 authority or market report, such as the Engineering and  
 6 Mining Journal of New York, or some other standard  
 7 publication, giving the market reports for the year covered  
 8 by such statement. Should there be no quotation covering any  
 9 particular product, then the department shall fix the value  
 10 of such gross product or such portion thereof as shall have  
 11 been sold or otherwise disposed of at a price substantially  
 12 below the true market price at the time and place of such  
 13 sale or disposal in such a manner as may seem to be  
 14 equitable."

15 Section 10. Section 15-37-108, MCA, is amended to  
 16 read:

17 "15-37-108. Delinquent taxes -- penalty. All license  
 18 taxes assessed under the provisions of this part shall  
 19 become delinquent if not paid by 5 p.m. on June 30 following  
 20 the date when the same are assessed, and as the same become  
 21 delinquent, a penalty of 10% shall be added thereto and the  
 22 whole amount of said license tax, with penalty added, shall  
 23 bear interest at the rate of ~~14~~ per month or fraction  
 24 thereof provided for in ~~section 11~~ from the date of  
 25 becoming delinquent until paid."

1 Section 11. Section 15-37-109, MCA, is amended to  
 2 read:

3 "15-37-109. False or erroneous statements --  
 4 investigation. (1) Should the director of the department of  
 5 revenue have reason to believe that any statement and return  
 6 is false or erroneous in any particular, he may require the  
 7 person or, if made by a corporation, association, or  
 8 company, the officers thereof and the employees of any such  
 9 person, corporation, association, or company to appear  
 10 before the director of revenue or his agent and testify  
 11 concerning the same and any statement contained therein and  
 12 may examine all books, records, papers, and documents of  
 13 such person pertaining to such business, upon giving 5 days'  
 14 written notice to such persons or officers or employees  
 15 thereof having custody of such books, records, papers, and  
 16 documents. Any person failing, refusing, or neglecting to  
 17 so appear or refusing to be sworn or to testify or refusing  
 18 to answer any material question propounded by the director  
 19 or any of his employees or refusing to permit the director  
 20 or his employees to examine such books, records, papers, or  
 21 documents or any thereof pertaining to such business shall  
 22 be deemed guilty of a misdemeanor and upon conviction  
 23 thereof shall be punished by a fine of not more than \$1,000  
 24 or by imprisonment in the county jail for a term not  
 25 exceeding 6 months or by both such fine and imprisonment. If

1 the director, after hearing such evidence and after such  
 2 examination of the books, papers, documents, and records of  
 3 such person, shall find and determine that such statement  
 4 and return are erroneous or false in any material matter,  
 5 the director shall change and correct the same so as to show  
 6 the true gross value of product and shall reassess the  
 7 amount of the license tax due from such person and may add  
 8 thereto a penalty of not exceeding 50% and shall thereupon  
 9 immediately mail to such person a written notice of the  
 10 corrections and changes made in such statement and return  
 11 and the amount of the license tax and penalty due and  
 12 payable.

13 (2) The department shall collect such license tax with  
 14 penalty added, and if the same has become delinquent, it  
 15 shall also collect interest thereon from the date of  
 16 delinquency until paid, at the rate of ~~one percent per month or~~  
 17 ~~fraction thereof provided for in [section 1]~~. In order to  
 18 verify such statement and return, the department may require  
 19 any person engaged in the business of smelting, milling,  
 20 reduction, or treatment in any manner of ores extracted or  
 21 produced from any mine or mining property in the state of  
 22 Montana to appear before the director of revenue and testify  
 23 concerning the gross mineral content of any such ore or at  
 24 the request of said director to furnish sworn statements  
 25 showing the gross yield of such ores, mineral products, or

1 deposits in constituents of commercial value, that is to  
 2 say, the number of ounces of gold or silver, pounds of  
 3 copper, lead, or zinc, or other commercially valuable  
 4 constituents of said ores or mineral products or deposits,  
 5 measured by standard units of measurement, during the period  
 6 covered by such statement, without any deductions whatsoever  
 7 for smelting, milling, reduction, or treatment of such ores  
 8 or mineral product.

9 (3) The books, records, papers, and documents of such  
 10 person engaged in the business of smelting, milling,  
 11 reduction, or treatment in any manner of ores extracted or  
 12 produced by any mine or mining property in the state shall  
 13 be open to inspection and examination by the director of  
 14 revenue or his employees at any time or place that the  
 15 director may designate.

16 (4) If any person required by this part to make or  
 17 file any statement or to verify, under oath, any statement  
 18 shall make such statement false in any material respect or  
 19 shall verify, under oath, any statement false in any respect  
 20 or shall fail, neglect, or refuse to file any statement  
 21 required by said department or shall refuse to appear before  
 22 the director of revenue to testify concerning the gross  
 23 mineral content of any such ore or shall refuse to allow the  
 24 director or his employees at any time or place to inspect or  
 25 examine the books, records, papers, and documents of such



1 person engaged in the business of smelting, milling,  
2 reduction, or treatment in any manner of ores extracted or  
3 produced by any mine or mining property in the state of  
4 Montana shall be deemed guilty of a misdemeanor and shall be  
5 punished by a fine of not exceeding \$1,000 or by  
6 imprisonment in the county jail for not exceeding 6 months  
7 or by both such fine and imprisonment."

8 Section 12. Section 15-37-205, MCA, is amended to  
9 read:

10 "15-37-205. Procedure on failure to file statement.

11 (1) If any person shall fail, neglect, or refuse to file any  
12 statement required by 15-37-204 within the time required or  
13 shall fail to pay the tax required by this part on or before  
14 the date such payment is due, the department of revenue  
15 shall immediately after such time has expired proceed to  
16 inform itself as best it may regarding the amount produced  
17 by such person within this state during such quarter and  
18 during each month thereof and shall determine and fix the  
19 amount of the license taxes due to the state from such  
20 person for such quarter.

21 (2) The department shall add to the amount of all  
22 delinquent micaceous mineral mines license taxes a penalty  
23 of 10% of the amount of such license taxes plus interest at  
24 the rate of ~~1% per month or fraction thereof~~ provided for in  
25 [section 1] computed on the total amount of license taxes

1 and penalty. Interest shall be computed from the date the  
2 license taxes were due to the date of payment. The 10%  
3 penalty may be waived by the department if reasonable cause  
4 for the failure and neglect to file the statement required  
5 by 15-37-204 is provided."

6 Section 13. Section 15-38-107, MCA, is amended to  
7 read:

8 "15-38-107. Procedure in case of failure to file  
9 statement. (1) If any person fails, refuses, or neglects to  
10 make and file a statement and return it within the time  
11 prescribed, the department shall immediately after such time  
12 has expired determine, as nearly as may be possible from any  
13 returns or reports filed with the state or from any other  
14 information which the department may be able to obtain, the  
15 total gross value of product of such person from such  
16 business during the calendar year immediately preceding the  
17 year in which the tax is to be paid and shall fix the amount  
18 of the tax due to the state from such person for such  
19 calendar year and shall add to the amount of such tax a  
20 penalty of 10% thereof plus interest at the rate of ~~1% a~~  
21 ~~month or fraction thereof~~ provided for in [section 1]  
22 computed on the total amount of tax and penalty. Interest  
23 shall be computed from the date the tax was due to the date  
24 of payment.

25 (2) The department shall mail to the person required

1 to file an annual statement and pay any tax a letter setting  
2 forth the amount of tax, penalty, and interest due. The  
3 letter shall advise that if payment is not received, a  
4 warrant for distraint may be filed.

5 (3) The 10% penalty may be waived by the department if  
6 reasonable cause for the failure and neglect to file the  
7 statement required by 15-38-105 is provided to the  
8 department."

9 Section 14. Section 15-51-103, MCA, is amended to  
10 read:

11 "15-51-103. Disposition of revenue -- interest on  
12 delinquency. The department of revenue shall receipt  
13 therefor and promptly turn the same over to the state  
14 treasurer. Taxes not met on the due date shall become  
15 delinquent, and a penalty of 10% plus interest at the rate  
16 ~~of-1%-per-month-or-fraction--of-a-month~~ provided for in  
17 [section 1] computed on the total of tax and penalty shall  
18 be charged."

19 Section 15. Section 15-53-111, MCA, is amended to  
20 read:

21 "15-53-111. Penalty and interest for delinquency --  
22 waiver. (1) License taxes due under this chapter become  
23 delinquent if not paid within 60 days after the end of each  
24 calendar quarter. The department of revenue shall add to the  
25 amount of all delinquent telephone company license taxes a

1 penalty of 10% of the amount of license taxes plus interest  
2 at the rate of ~~1% per month or fraction thereof~~ provided for  
3 in [section 1] computed on the total amount of license taxes  
4 and penalty. Interest is computed from the date the license  
5 taxes were due to the date of payment.

6 (2) The 10% penalty may be waived by the department if  
7 reasonable cause for the failure or neglect to file the  
8 statement required by 15-53-102 or pay the tax due is  
9 provided to the department."

10 Section 16. Section 15-54-111, MCA, is amended to  
11 read:

12 "15-54-111. Penalty and interest for delinquency --  
13 waiver. (1) License taxes assessed under this chapter become  
14 delinquent if not paid on or before September 30 following  
15 the date assessed. The department of revenue shall add to  
16 the amount of all delinquent express company license taxes a  
17 penalty of 10% of the amount of license taxes plus interest  
18 at the rate of ~~1% per month or fraction thereof~~ provided for  
19 in [section 1] computed on the total amount of license taxes  
20 and penalty. Interest is computed from the date the license  
21 taxes become delinquent until paid.

22 (2) The 10% penalty may be waived by the department if  
23 reasonable cause for the failure or neglect to file the  
24 statement required by 15-54-103 or pay the tax due is  
25 provided to the department."

1 Section 17. Section 15-55-108, MCA, is amended to  
2 read:

3 "15-55-108. Penalty and interest for delinquency --  
4 waiver. (1) License taxes due under this chapter become  
5 delinquent if not paid by March 1. The department shall add  
6 to the amount of all delinquent freight line company license  
7 taxes a penalty of 10% of the amount of license taxes plus  
8 interest at the rate of ~~1% per month or fraction thereof~~  
9 provided for in [section 1] computed on the total amount of  
10 license taxes and penalty. Interest is computed from the  
11 date the license taxes were due to the date of payment.

12 (2) The 10% penalty may be waived by the department if  
13 reasonable cause for the failure or neglect to file the  
14 statement required by 15-55-103 or pay the tax due is  
15 provided to the department."

16 Section 18. Section 15-56-111, MCA, is amended to  
17 read:

18 "15-56-111. Penalty and interest for delinquency --  
19 waiver. (1) License taxes assessed under this chapter become  
20 delinquent if not paid within 60 days following the date  
21 assessed. The department shall add to the amount of all  
22 delinquent sleeping car company license taxes a penalty of  
23 10% of the amount of license taxes plus interest at the rate  
24 of ~~1% per month or fraction thereof~~ provided for in [section  
25 1] computed on the total amount of license taxes and

1 penalty. Interest is computed from the date the taxes become  
2 delinquent until paid.

3 (2) The 10% penalty may be waived by the department if  
4 reasonable cause for the failure or neglect to file the  
5 report required by 15-56-103 or pay the tax due is provided  
6 to the department."

7 Section 19. Section 15-58-106, MCA, is amended to  
8 read:

9 "15-58-106. Procedure to determine tax on failure to  
10 file statement -- penalty. (1) If any person shall fail,  
11 neglect, or refuse to make or file the statement required by  
12 15-58-105 or shall fail to make payment of such license tax  
13 within the time therein required, the department of revenue  
14 shall, immediately after such time has expired, proceed to  
15 inform itself as best it may regarding the matters required  
16 to be set forth in such statement and shall fix and  
17 determine the amount of the license taxes due from such  
18 person for such quarter.

19 (2) The department shall add to the amount of all such  
20 delinquent license taxes a penalty of 10% of the amount of  
21 such license taxes plus interest at the rate of ~~1% per month~~  
22 ~~or fraction thereof~~ provided for in [section 1] computed on  
23 the total amount of license taxes and penalty. Interest  
24 shall be computed from the date the license taxes were due  
25 to the date of payment.

1 (3) The department shall mail to the person required  
2 to file a quarterly statement and pay any license tax a  
3 letter setting forth the amount of license tax, penalty, and  
4 interest due, and the letter shall further contain a  
5 statement that if payment is not made, a warrant for  
6 distraint may be filed.

7 (4) The 10% penalty herein provided may be waived by  
8 the department if reasonable cause for the failure and  
9 neglect to file the statement required by 15-58-105 is  
10 provided to the department."

11 Section 20. Section 15-59-106, MCA, is amended to  
12 read:

13 "15-59-106. Procedure to estimate tax on failure to  
14 file statement -- penalty. (1) If any such person shall  
15 fail, neglect, or refuse to file any statement required by  
16 15-59-105 within the time required or shall fail to pay the  
17 tax required by this part on or before the date such payment  
18 is due, the department of revenue shall, immediately after  
19 such time has expired, proceed to inform itself as best it  
20 may regarding the amounts of the respective articles or  
21 products enumerated in 15-59-101(1) and 15-59-102  
22 manufactured or produced by such person within this state or  
23 imported by such person into the state during such quarter  
24 and during each month thereof and shall determine and fix  
25 the amount of the license taxes due to the state from such

1 person for such quarter.

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

9 (3) The department shall mail to the person required  
10 to file a quarterly statement and pay any license tax a  
11 letter setting forth the amount of license tax, penalty, and  
12 interest due, and the letter shall further contain a  
13 statement that if payment is not made, a warrant for  
14 distraint may be filed.

15 (4) The 10% penalty may be waived by the department if  
16 reasonable cause for the failure and neglect to file the  
17 statement required by 15-59-105 is provided to the  
18 department."

19 Section 21. Section 15-59-205, MCA, is amended to  
20 read:

21 "15-59-205. Procedure to estimate tax on failure to  
22 file -- penalty. (1) If any person shall fail, neglect, or  
23 refuse to make or file the statement required by 15-59-204  
24 within the time required, the department of revenue shall,  
25 immediately after such time has expired, proceed to inform

1 itself as best it may regarding the matters required to be  
2 set forth in such statement and shall fix and determine the  
3 amount of the license tax due from such person for such  
4 quarter.

5 (2) The department shall add to the amount of all such  
6 delinquent license tax a penalty of 10% of the amount of  
7 such license tax plus interest at the rate of ~~1% per month~~  
8 ~~or fraction thereof~~ provided for in [section 1] computed on  
9 the total amount of license taxes and penalty. Interest  
10 shall be computed from the date the license tax was due to  
11 the date of payment.

12 (3) The department shall mail to the person required  
13 to file a quarterly statement and pay any license tax a  
14 letter setting forth the amount of license tax, penalty, and  
15 interest due, and the letter shall further contain a  
16 statement that if payment is not made, a warrant for  
17 distraint may be filed.

18 (4) The 10% penalty herein provided may be waived by  
19 the department if reasonable cause for the failure and  
20 neglect to file the statement required by 15-59-204 is  
21 provided to the department."

22 Section 22. Section 15-70-210, MCA, is amended to  
23 read:

24 "15-70-210. Tax penalty for delinquency. (1) Any  
25 license tax not paid within the time provided shall be

1 delinquent, and a penalty of 10% shall be added to the tax  
2 and the tax shall bear interest at the rate of ~~1% per month~~  
3 provided for in [section 1] from the date of delinquency  
4 until paid. Upon a showing of good cause by the distributor,  
5 the department of revenue may waive penalty.

6 (2) If any distributor or other person subject to the  
7 payment of such license tax shall willfully fail, neglect,  
8 or refuse to make any statement required by this part or  
9 shall willfully fail to make payment of such license tax  
10 within the time provided, the department shall be authorized  
11 to revoke any license issued under this part.

12 (3) In addition, the department shall inform itself  
13 regarding the matters required to be in such statement and  
14 determine the amount of the license tax due the state from  
15 such distributor and shall add thereto a penalty of \$25 or  
16 10% thereof, whichever is greater, together with interest at  
17 the rate of ~~1% per month~~ provided for in [section 1] from  
18 the date such statements should have been made and said  
19 license tax paid.

20 (4) The state treasurer shall proceed to collect such  
21 license tax, with penalties and interest. Upon the request  
22 of the state treasurer, the attorney general shall commence  
23 and prosecute to final determination in any court of  
24 competent jurisdiction an action to collect such license  
25 tax."

1 Section 23. Section 15-70-330, MCA, is amended to  
2 read:

3 "15-70-330. Penalties for refusal or failure to file  
4 return or pay tax when due. (1) In case of any special fuel  
5 dealer or special fuel user who refuses or fails to file a  
6 return required by this part within the time prescribed by  
7 15-70-103 and 15-70-325, there is hereby imposed a penalty  
8 of \$25 or a sum equal to 10% of the tax due, whichever is  
9 greater, together with interest at the rate of ~~1% on the tax~~  
10 ~~due for each calendar month or fraction thereof provided for~~  
11 ~~in [section 1]~~ during which such refusal or failure  
12 continues; provided, however, that if any such special fuel  
13 dealer or special fuel user shall establish to the  
14 satisfaction of the department that his failure to file a  
15 return within the time prescribed was due to reasonable  
16 cause, the department shall waive the penalty provided by  
17 this section.

18 (2) Where a special fuel dealer or a special fuel user  
19 files a return but fails to pay in whole or in part the tax  
20 due hereunder, there shall be added to the amount due and  
21 unpaid interest at the rate of ~~1% per month or fraction~~  
22 ~~thereof provided for in [section 1]~~ from the date such tax  
23 was due to the date of payment in full thereof."

24 Section 24. Section 15-70-331, MCA, is amended to  
25 read:

1 "15-70-331. Deficiency. If it be determined by the  
2 department that the tax reported by any special fuel dealer  
3 or special fuel user is deficient, it shall proceed to  
4 assess the deficiency on the basis of information available  
5 to it and there shall be added to this deficiency interest  
6 at the rate of ~~1% per month or fraction thereof provided for~~  
7 ~~in [section 1]~~ from the date the return was due."

8 NEW SECTION. Section 25. Applicability. This act  
9 applies to taxes that are due but unpaid after December 31,  
10 1983.

-End-

## HOUSE BILL NO. 593

INTRODUCED BY FAGG, HANNAH, SANDS,

WALLIN, KITSELMAN, ASAY, ELLISON,

IVERSON, COMPTON, SWITZER,

DEVLIN, RAMIREZ

A BILL FOR AN ACT ENTITLED: "AN ACT TYING THE RATE OF INTEREST CHARGED ON CERTAIN STATE TAXES THAT ARE DUE BUT UNPAID TO THE ADJUSTED PRIME RATE; ~~PROVIDING MINIMUM INTEREST RATES~~; AMENDING SECTIONS 15-30-142, 15-30-144, 15-30-321, 15-30-323, 15-31-502, 15-35-105, 15-36-107, 15-37-105, 15-37-108, 15-37-109, 15-37-205, 15-38-107, 15-51-103, 15-53-111, 15-54-111, 15-55-108, 15-56-111, 15-58-106, 15-59-106, 15-59-205, 15-70-210, 15-70-330, AND 15-70-331, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Interest on taxes due and unpaid ~~--- MINIMUM.~~ (1) For ~~EXCEPT AS PROVIDED IN SUBSECTION (5).~~ FOR periods beginning after December 31, 1983, the interest rate charged for taxes which are due but unpaid is the adjusted prime rate.

(2) The adjusted prime rate is 90% of the average predominant prime rate quoted by banks to large businesses as determined by the board of governors of the federal

reserve system during the 6-month periods ending March 31 and September 30 of each year, rounded to the nearest full percent. The adjusted prime rate for the 6-month period ending March 31 is effective from the following July 1 through December 31. The adjusted prime rate for the 6-month period ending September 30 is effective from the following January 1 through June 30.

(3) The interest charged on taxes that are due but unpaid is to be compounded each month or fraction of a month until the taxes are paid.

(4) The rate of interest charged on taxes that are due but unpaid is not dependent on the date the taxes become due but upon the rate of interest in effect for each of the periods that the tax remains unpaid.

(5) THE MINIMUM INTEREST RATE CHARGED FOR TAXES WHICH ARE DUE BUT UNPAID IS AS FOLLOWS:

(A) 9% FOR TAXES UNDER THE PROVISIONS OF 15-30-142, 15-30-144, 15-30-321, EXCEPT SUBSECTION (2) OF THAT SECTION, AND 15-30-323; AND

(B) 12% FOR TAXES UNDER THE PROVISIONS OF 15-30-321(2), 15-31-502, 15-35-105, 15-36-107, 15-37-105, 15-37-108, 15-37-109, 15-37-205, 15-38-107, 15-51-103, 15-53-111, 15-54-111, 15-55-108, 15-56-111, 15-58-106, 15-59-106, 15-59-205, 15-70-210, 15-70-330, AND 15-70-331.

Section 2. Section 15-30-142, MCA, is amended to read:

1       "15-30-142. Returns and payment of tax -- penalty and  
 2 interest -- refunds -- credits. (1) Every single individual  
 3 and every married individual not filing a joint return with  
 4 his or her spouse and having a gross income for the taxable  
 5 year of more than \$1,000, as adjusted under the provisions  
 6 of subsection (7), and married individuals not filing  
 7 separate returns and having a combined gross income for the  
 8 taxable year of more than \$2,000, as adjusted under the  
 9 provisions of subsection (7), shall be liable for a return  
 10 to be filed on such forms and according to such rules as the  
 11 department may prescribe. The gross income amounts referred  
 12 to in the preceding sentence shall be increased by \$800, as  
 13 adjusted under the provisions of 15-30-112(7) and (8), for  
 14 each additional personal exemption allowance the taxpayer is  
 15 entitled to claim for himself and his spouse under  
 16 15-30-112(3) and (4). A nonresident shall be required to  
 17 file a return if his gross income for the taxable year  
 18 derived from sources within Montana exceeds the amount of  
 19 the exemption deduction he is entitled to claim for himself  
 20 and his spouse under the provisions of 15-30-112(2), (3),  
 21 and (4), as prorated according to 15-30-112(6).

22       (2) In accordance with instructions set forth by the  
 23 department, every taxpayer who is married and living with  
 24 husband or wife and is required to file a return may, at his  
 25 or her option, file a joint return with husband or wife even

1 though one of the spouses has neither gross income nor  
 2 deductions. If a joint return is made, the tax shall be  
 3 computed on the aggregate taxable income and the liability  
 4 with respect to the tax shall be joint and several. If a  
 5 joint return has been filed for a taxable year, the spouses  
 6 may not file separate returns after the time for filing the  
 7 return of either has expired unless the department so  
 8 consents.

9       (3) If any such taxpayer is unable to make his own  
 10 return, the return shall be made by a duly authorized agent  
 11 or by a guardian or other person charged with the care of  
 12 the person or property of such taxpayer.

13       (4) All taxpayers, including but not limited to those  
 14 subject to the provisions of 15-30-202 and 15-30-241, shall  
 15 compute the amount of income tax payable and shall, at the  
 16 time of filing the return required by this chapter, pay to  
 17 the department any balance of income tax remaining unpaid  
 18 after crediting the amount withheld as provided by 15-30-202  
 19 and/or any payment made by reason of an estimated tax return  
 20 provided for in 15-30-241; provided, however, the tax so  
 21 computed is greater by \$1 than the amount withheld and/or  
 22 paid by estimated return as provided in this chapter. If the  
 23 amount of tax withheld and/or payment of estimated tax  
 24 exceeds by more than \$1 the amount of income tax as  
 25 computed, the taxpayer shall be entitled to a refund of the



1 excess.

2 (5) As soon as practicable after the return is filed,  
3 the department shall examine and verify the tax.

4 (6) If the amount of tax as verified is greater than  
5 the amount theretofore paid, the excess shall be paid by the  
6 taxpayer to the department within 60 days after notice of  
7 the amount of the tax as computed, with interest added at  
8 the rate of ~~9% per annum or fraction thereof~~ provided for in  
9 [section 1] on the additional tax. In such case there shall  
10 be no penalty because of such understatement, provided the  
11 deficiency is paid within 60 days after the first notice of  
12 the amount is mailed to the taxpayer.

13 (7) By November 1 of each year, the department shall  
14 multiply the minimum amount of gross income necessitating  
15 the filing of a return by the inflation factor for the  
16 taxable year. These adjusted amounts are effective for that  
17 taxable year, and persons having gross incomes less than  
18 these adjusted amounts are not required to file a return.

19 (8) Individual income tax forms distributed by the  
20 department for each taxable year must contain instructions  
21 and tables based on the adjusted base year structure for  
22 that taxable year."

23 Section 3. Section 15-30-144, MCA, is amended to read:

24 "15-30-144. Time for filing -- extensions of time. (1)

25 Returns shall be made to the department on or before the

1 15th day of the 4th month following the close of the  
2 taxpayer's fiscal year, or if the return is made on the  
3 basis of the calendar year, then the return shall be made on  
4 or before the 15th day of April following the close of the  
5 calendar year. Each return shall set forth such facts as the  
6 department considers necessary for the proper enforcement of  
7 this chapter. There shall be annexed to such return the  
8 affidavit or affirmation of the persons making the return to  
9 the effect that the statements contained therein are true.  
10 Blank forms of return shall be furnished by the department  
11 upon application, but failure to secure the form shall not  
12 relieve any taxpayer of the obligation to make any return  
13 required under this law. Every taxpayer liable for a tax  
14 under this law shall pay a minimum tax of \$1.

15 (2) An automatic 6-month extension of time for filing  
16 a return is allowed, provided that on or before the due date  
17 of the return, an application is made on forms available  
18 from the department or in writing to the department.

19 ~~(3) When an extension of time for filing is allowed,~~  
20 ~~any tax not paid as of the original due date accrues~~  
21 ~~interest from the original due date at the rate provided for~~  
22 ~~in [section 1]."~~

23 Section 4. Section 15-30-321, MCA, is amended to read:

24 "15-30-321. Penalties for violation of chapter. (1) If  
25 any person, without purposely or knowingly violating any

1 requirement imposed by this chapter, fails to file a return  
 2 of income on or before its due date (determined with regard  
 3 to an extension of time granted for filing the return),  
 4 there shall be imposed a penalty of 5% of any balance of tax  
 5 unpaid with respect to such return as of its due date, but  
 6 in no event shall the penalty for failure to file a return  
 7 by its due date be less than \$5. The department may abate  
 8 the penalty if the taxpayer establishes that the failure to  
 9 file on time was due to reasonable cause and was not due to  
 10 neglect on his part. If any person, without purposely or  
 11 knowingly violating any requirement imposed by this chapter,  
 12 fails to pay any tax on or before its due date (determined  
 13 with regard to an extension of time granted for the filing  
 14 of a return), there shall be added to the tax a penalty of  
 15 10% of said tax, but not less than \$5, and interest shall  
 16 accrue on the tax at the rate of ~~9%~~ per annum provided for  
 17 in [section 1] for the entire period it remains unpaid. The  
 18 department may abate the penalty if the taxpayer establishes  
 19 that the failure to pay on time was due to reasonable cause  
 20 and was not due to neglect on his part.

21 (2) If any person fails, purposely or knowingly  
 22 violating any requirement imposed by this chapter, to make a  
 23 return of income or to pay a tax if one is due at the time  
 24 required by or under the provisions of this chapter, there  
 25 shall be added to the tax an additional amount equal to 25%

1 thereof, but such additional amount shall in no case be less  
 2 than \$25, and interest at ~~1%~~ the rate provided for in  
 3 [section 1] for each month or fraction of a month during  
 4 which the tax remains unpaid.

5 (3) Any individual, corporation, or partnership or any  
 6 officer or employee of any corporation or member or employee  
 7 of any partnership who, with intent to evade any tax or any  
 8 requirement of this chapter or any lawful requirement of the  
 9 department thereunder, purposely or knowingly, fails to pay  
 10 the tax or to make, render, or sign any return or to supply  
 11 any information within the time required by or under the  
 12 provisions of this chapter or who, with like intent,  
 13 purposely or knowingly makes, renders, or signs any false or  
 14 fraudulent return or statement or supplies any false or  
 15 fraudulent information shall be liable to a penalty of not  
 16 more than \$1,000, to be recovered by the attorney general in  
 17 the name of the state by action in any court of competent  
 18 jurisdiction, and shall also be guilty of a misdemeanor and  
 19 shall upon conviction be fined not to exceed \$1,000 or be  
 20 imprisoned not to exceed 1 year, or both, at the discretion  
 21 of the court.

22 (4) With respect to the imposition of a civil penalty,  
 23 evidence produced by the department to the effect that a tax  
 24 has not been paid, that a return has not been filed, or that  
 25 information has not been supplied as required under the

provisions of this chapter is prima facie evidence that the tax has not been paid, the return has not been filed, or the information has not been supplied."

Section 5. Section 15-30-323, MCA, is amended to read:

"15-30-323. Penalty for deficiency. (1) If the payment required by 15-30-142(6) is not made within 60 days or if the understatement is due to negligence on the part of the taxpayer but without fraud, there shall be added to the amount of the deficiency 5% thereof; provided, however, that no deficiency penalty shall be less than \$2. Interest will be computed at the rate of ~~9% per annum or fraction thereof~~ provided for in [section 1] on the additional assessment. Except as otherwise expressly provided in this subsection, the interest shall in all cases be computed from the date the return and tax were originally due as distinguished from the due date as it may have been extended to the date of payment.

(2) If the time for filing a return is extended, the taxpayer shall pay in addition interest thereon at the rate of ~~9% per annum~~ provided for in [section 1] from the time when the return was originally required to be filed to the time of payment."

Section 6. Section 15-31-502, MCA, is amended to read:

"15-31-502. Assessment and payment of tax, penalty, and interest. All taxpayers shall compute the amount of tax

payable under this chapter and shall remit such amount to the department of revenue on or before the 15th day of the 5th month following the close of the taxable period. If the tax is not paid on or before the due date, there shall be assessed a penalty of 10% of the amount of the tax unless it is shown that the failure was due to reasonable cause and not due to neglect. If any tax due under this chapter is not paid when due, by reason of extension granted or otherwise, interest shall be added thereto at the rate of ~~12% per annum~~ provided for in [section 1] from the due date until paid."

Section 7. Section 15-35-105, MCA, is amended to read:

"15-35-105. Penalty for delinquent tax. The department shall add to the amount of all delinquent severance taxes a penalty of 10% of the delinquent amount plus interest at the rate of ~~1% per month or fraction thereof~~ provided for in [section 1] computed on the total amount of severance tax and penalty. Interest shall be computed from the date the severance tax was due to the date of payment. The department shall mail to the person required to file a quarterly report and pay any severance tax, a letter setting forth the amount of tax, penalty, and interest due, and the letter shall further contain a statement that if payment is not made, a warrant for distraint may be filed. The penalty amount may be waived by the department if reasonable cause for the failure or neglect to file the quarterly statement is

provided to the department."

Section 8. Section 15-36-107, MCA, is amended to read:

"15-36-107. Procedure to compute tax in absence of statement -- penalty and interest. If any such person shall fail, neglect, or refuse to file any statement required by 15-36-105 within the time therein required, the department of revenue shall, immediately after such time has expired, proceed to inform itself as best it may regarding the number of barrels of petroleum and other mineral or crude oil or cubic feet of gas extracted and produced by such person in this state during such quarter and during each month thereof and the average value thereof during each such month and shall determine and fix the amount of the severance taxes due to the state from such person for such quarter and shall add to the amount of such severance taxes a penalty of 10% thereof plus interest at the rate of ~~--1%--per-month--or fraction--thereof~~ provided for in [section 1] computed on the total amount of severance taxes and penalty. Interest shall be computed from the date the severance taxes were due to the date of payment. The department shall mail to the person required to file a quarterly statement and pay any severance tax, a letter setting forth the amount of severance tax, penalty, and interest due, and the letter shall further contain a statement that if payment is not made, a warrant for distraint may be filed. The 10% penalty herein provided

may be waived by the department if reasonable cause for the failure and neglect to file the statement required by 15-36-105 is provided to the department."

Section 9. Section 15-37-105, MCA, is amended to read:

"15-37-105. Computation and notice of tax. (1) The department of revenue shall examine each such statement and return filed and determine and ascertain therefrom and compute and assess the amount of the license tax to be paid by the person making and filing the same and shall, not later than June 1, mail to each person making and filing such statement and return a written notice of the amount of the license tax to be paid by each, respectively; that the same is due and payable; that it will become delinquent at 5 p.m. on June 30 immediately following; that if the same becomes delinquent, a penalty of 10% will be added thereto; and that the whole amount of such license tax, with penalty added, will bear interest at the rate of ~~--1%--per--month--or fraction--thereof~~ provided for in [section 1] from the date the same becomes delinquent until paid.

(2) If any such person has sold or otherwise disposed of any of its mine's products at a price substantially below the true market price of such product at the time and place of such sale or disposal, then the department shall compute the gross value of such portion of said mine's product so sold or disposed of substantially below the market price as

1 aforesaid, which gross value shall be based upon the  
 2 quotations of the price of such mine's product in New York  
 3 City at the time such portion of the product was so sold or  
 4 otherwise disposed of as evidenced by some established  
 5 authority or market report, such as the Engineering and  
 6 Mining Journal of New York, or some other standard  
 7 publication, giving the market reports for the year covered  
 8 by such statement. Should there be no quotation covering any  
 9 particular product, then the department shall fix the value  
 10 of such gross product or such portion thereof as shall have  
 11 been sold or otherwise disposed of at a price substantially  
 12 below the true market price at the time and place of such  
 13 sale or disposal in such a manner as may seem to be  
 14 equitable."

15 Section 10. Section 15-37-108, MCA, is amended to  
 16 read:

17 "15-37-108. Delinquent taxes -- penalty. All license  
 18 taxes assessed under the provisions of this part shall  
 19 become delinquent if not paid by 5 p.m. on June 30 following  
 20 the date when the same are assessed, and as the same become  
 21 delinquent, a penalty of 10% shall be added thereto and the  
 22 whole amount of said license tax, with penalty added, shall  
 23 bear interest at the rate of ~~14~~ per month or fraction  
 24 thereof provided for in ~~section 1~~ from the date of  
 25 becoming delinquent until paid."

1 Section 11. Section 15-37-109, MCA, is amended to  
 2 read:

3 "15-37-109. False or erroneous statements --  
 4 investigation. (1) Should the director of the department of  
 5 revenue have reason to believe that any statement and return  
 6 is false or erroneous in any particular, he may require the  
 7 person or, if made by a corporation, association, or  
 8 company, the officers thereof and the employees of any such  
 9 person, corporation, association, or company to appear  
 10 before the director of revenue or his agent and testify  
 11 concerning the same and any statement contained therein and  
 12 may examine all books, records, papers, and documents of  
 13 such person pertaining to such business, upon giving 5 days'  
 14 written notice to such persons or officers or employees  
 15 thereof having custody of such books, records, papers, and  
 16 documents. Any person failing, refusing, or neglecting to  
 17 so appear or refusing to be sworn or to testify or refusing  
 18 to answer any material question propounded by the director  
 19 or any of his employees or refusing to permit the director  
 20 or his employees to examine such books, records, papers, or  
 21 documents or any thereof pertaining to such business shall  
 22 be deemed guilty of a misdemeanor and upon conviction  
 23 thereof shall be punished by a fine of not more than \$1,000  
 24 or by imprisonment in the county jail for a term not  
 25 exceeding 6 months or by both such fine and imprisonment. If

1 the director, after hearing such evidence and after such  
 2 examination of the books, papers, documents, and records of  
 3 such person, shall find and determine that such statement  
 4 and return are erroneous or false in any material matter,  
 5 the director shall change and correct the same so as to show  
 6 the true gross value of product and shall reassess the  
 7 amount of the license tax due from such person and may add  
 8 thereto a penalty of not exceeding 50% and shall thereupon  
 9 immediately mail to such person a written notice of the  
 10 corrections and changes made in such statement and return  
 11 and the amount of the license tax and penalty due and  
 12 payable.

13 (2) The department shall collect such license tax with  
 14 penalty added, and if the same has become delinquent, it  
 15 shall also collect interest thereon from the date of  
 16 delinquency until paid, at the rate of ~~--1%--per--month--or~~  
 17 ~~fraction--thereof provided for in [section 1]~~. In order to  
 18 verify such statement and return, the department may require  
 19 any person engaged in the business of smelting, milling,  
 20 reduction, or treatment in any manner of ores extracted or  
 21 produced from any mine or mining property in the state of  
 22 Montana to appear before the director of revenue and testify  
 23 concerning the gross mineral content of any such ore or at  
 24 the request of said director to furnish sworn statements  
 25 showing the gross yield of such ores, mineral products, or

1 deposits in constituents of commercial value, that is to  
 2 say, the number of ounces of gold or silver, pounds of  
 3 copper, lead, or zinc, or other commercially valuable  
 4 constituents of said ores or mineral products or deposits,  
 5 measured by standard units of measurement, during the period  
 6 covered by such statement, without any deductions whatsoever  
 7 for smelting, milling, reduction, or treatment of such ores  
 8 or mineral product.

9 (3) The books, records, papers, and documents of such  
 10 person engaged in the business of smelting, milling,  
 11 reduction, or treatment in any manner of ores extracted or  
 12 produced by any mine or mining property in the state shall  
 13 be open to inspection and examination by the director of  
 14 revenue or his employees at any time or place that the  
 15 director may designate.

16 (4) If any person required by this part to make or  
 17 file any statement or to verify, under oath, any statement  
 18 shall make such statement false in any material respect or  
 19 shall verify, under oath, any statement false in any respect  
 20 or shall fail, neglect, or refuse to file any statement  
 21 required by said department or shall refuse to appear before  
 22 the director of revenue to testify concerning the gross  
 23 mineral content of any such ore or shall refuse to allow the  
 24 director or his employees at any time or place to inspect or  
 25 examine the books, records, papers, and documents of such

1 person engaged in the business of smelting, milling,  
2 reduction, or treatment in any manner of ores extracted or  
3 produced by any mine or mining property in the state of  
4 Montana shall be deemed guilty of a misdemeanor and shall be  
5 punished by a fine of not exceeding \$1,000 or by  
6 imprisonment in the county jail for not exceeding 6 months  
7 or by both such fine and imprisonment."

8 Section 12. Section 15-37-205, MCA, is amended to  
9 read:

10 "15-37-205. Procedure on failure to file statement.

11 (1) If any person shall fail, neglect, or refuse to file any  
12 statement required by 15-37-204 within the time required or  
13 shall fail to pay the tax required by this part on or before  
14 the date such payment is due, the department of revenue  
15 shall immediately after such time has expired proceed to  
16 inform itself as best it may regarding the amount produced  
17 by such person within this state during such quarter and  
18 during each month thereof and shall determine and fix the  
19 amount of the license taxes due to the state from such  
20 person for such quarter.

21 (2) The department shall add to the amount of all  
22 delinquent micaceous mineral mines license taxes a penalty  
23 of 10% of the amount of such license taxes plus interest at  
24 the rate of ~~12~~ per month or fraction thereof provided for in  
25 [section 1] computed on the total amount of license taxes

1 and penalty. Interest shall be computed from the date the  
2 license taxes were due to the date of payment. The 10%  
3 penalty may be waived by the department if reasonable cause  
4 for the failure and neglect to file the statement required  
5 by 15-37-204 is provided."

6 Section 13. Section 15-38-107, MCA, is amended to  
7 read:

8 "15-38-107. Procedure in case of failure to file  
9 statement. (1) If any person fails, refuses, or neglects to  
10 make and file a statement and return it within the time  
11 prescribed, the department shall immediately after such time  
12 has expired determine, as nearly as may be possible from any  
13 returns or reports filed with the state or from any other  
14 information which the department may be able to obtain, the  
15 total gross value of product of such person from such  
16 business during the calendar year immediately preceding the  
17 year in which the tax is to be paid and shall fix the amount  
18 of the tax due to the state from such person for such  
19 calendar year and shall add to the amount of such tax a  
20 penalty of 10% thereof plus interest at the rate of ~~12~~ a  
21 ~~month or fraction thereof~~ provided for in [section 1]  
22 computed on the total amount of tax and penalty. Interest  
23 shall be computed from the date the tax was due to the date  
24 of payment.

25 (2) The department shall mail to the person required

1 to file an annual statement and pay any tax a letter setting  
2 forth the amount of tax, penalty, and interest due. The  
3 letter shall advise that if payment is not received, a  
4 warrant for distraint may be filed.

5 (3) The 10% penalty may be waived by the department if  
6 reasonable cause for the failure and neglect to file the  
7 statement required by 15-38-105 is provided to the  
8 department."

9 Section 14. Section 15-51-103, MCA, is amended to  
10 read:

11 "15-51-103. Disposition of revenue -- interest on  
12 delinquency. The department of revenue shall receipt  
13 therefor and promptly turn the same over to the state  
14 treasurer. Taxes not met on the due date shall become  
15 delinquent, and a penalty of 10% plus interest at the rate  
16 ~~of-1% per month or fraction thereof~~ provided for in  
17 [section 1] computed on the total of tax and penalty shall  
18 be charged."

19 Section 15. Section 15-53-111, MCA, is amended to  
20 read:

21 "15-53-111. Penalty and interest for delinquency --  
22 waiver. (1) License taxes due under this chapter become  
23 delinquent if not paid within 60 days after the end of each  
24 calendar quarter. The department of revenue shall add to the  
25 amount of all delinquent telephone company license taxes a

1 penalty of 10% of the amount of license taxes plus interest  
2 at the rate of ~~1% per month or fraction thereof~~ provided for  
3 in [section 1] computed on the total amount of license taxes  
4 and penalty. Interest is computed from the date the license  
5 taxes were due to the date of payment.

6 (2) The 10% penalty may be waived by the department if  
7 reasonable cause for the failure or neglect to file the  
8 statement required by 15-53-102 or pay the tax due is  
9 provided to the department."

10 Section 16. Section 15-54-111, MCA, is amended to  
11 read:

12 "15-54-111. Penalty and interest for delinquency --  
13 waiver. (1) License taxes assessed under this chapter become  
14 delinquent if not paid on or before September 30 following  
15 the date assessed. The department of revenue shall add to  
16 the amount of all delinquent express company license taxes a  
17 penalty of 10% of the amount of license taxes plus interest  
18 at the rate of ~~1% per month or fraction thereof~~ provided for  
19 in [section 1] computed on the total amount of license taxes  
20 and penalty. Interest is computed from the date the license  
21 taxes become delinquent until paid.

22 (2) The 10% penalty may be waived by the department if  
23 reasonable cause for the failure or neglect to file the  
24 statement required by 15-54-103 or pay the tax due is  
25 provided to the department."



1 Section 17. Section 15-55-108, MCA, is amended to  
2 read:

3 "15-55-108. Penalty and interest for delinquency --  
4 waiver. (1) License taxes due under this chapter become  
5 delinquent if not paid by March 1. The department shall add  
6 to the amount of all delinquent freight line company license  
7 taxes a penalty of 10% of the amount of license taxes plus  
8 interest at the rate of ~~1% per month or fraction thereof~~  
9 provided for in [section 1] computed on the total amount of  
10 license taxes and penalty. Interest is computed from the  
11 date the license taxes were due to the date of payment.

12 (2) The 10% penalty may be waived by the department if  
13 reasonable cause for the failure or neglect to file the  
14 statement required by 15-55-103 or pay the tax due is  
15 provided to the department."

16 Section 18. Section 15-56-111, MCA, is amended to  
17 read:

18 "15-56-111. Penalty and interest for delinquency --  
19 waiver. (1) License taxes assessed under this chapter become  
20 delinquent if not paid within 60 days following the date  
21 assessed. The department shall add to the amount of all  
22 delinquent sleeping car company license taxes a penalty of  
23 10% of the amount of license taxes plus interest at the rate  
24 of ~~1% per month or fraction thereof~~ provided for in [section  
25 1] computed on the total amount of license taxes and

1 penalty. Interest is computed from the date the taxes become  
2 delinquent until paid.

3 (2) The 10% penalty may be waived by the department if  
4 reasonable cause for the failure or neglect to file the  
5 report required by 15-56-103 or pay the tax due is provided  
6 to the department."

7 Section 19. Section 15-58-106, MCA, is amended to  
8 read:

9 "15-58-106. Procedure to determine tax on failure to  
10 file statement -- penalty. (1) If any person shall fail,  
11 neglect, or refuse to make or file the statement required by  
12 15-58-105 or shall fail to make payment of such license tax  
13 within the time therein required, the department of revenue  
14 shall, immediately after such time has expired, proceed to  
15 inform itself as best it may regarding the matters required  
16 to be set forth in such statement and shall fix and  
17 determine the amount of the license taxes due from such  
18 person for such quarter.

19 (2) The department shall add to the amount of all such  
20 delinquent license taxes a penalty of 10% of the amount of  
21 such license taxes plus interest at the rate of ~~1% per month~~  
22 ~~or fraction thereof~~ provided for in [section 1] computed on  
23 the total amount of license taxes and penalty. Interest  
24 shall be computed from the date the license taxes were due  
25 to the date of payment.

(3) The department shall mail to the person required to file a quarterly statement and pay any license tax a letter setting forth the amount of license tax, penalty, and interest due, and the letter shall further contain a statement that if payment is not made, a warrant for distraint may be filed.

(4) The 10% penalty herein provided may be waived by the department if reasonable cause for the failure and neglect to file the statement required by 15-58-105 is provided to the department."

Section 20. Section 15-59-106, MCA, is amended to read:

"15-59-106. Procedure to estimate tax on failure to file statement -- penalty. (1) If any such person shall fail, neglect, or refuse to file any statement required by 15-59-105 within the time required or shall fail to pay the tax required by this part on or before the date such payment is due, the department of revenue shall, immediately after such time has expired, proceed to inform itself as best it may regarding the amounts of the respective articles or products enumerated in 15-59-101(1) and 15-59-102 manufactured or produced by such person within this state or imported by such person into the state during such quarter and during each month thereof and shall determine and fix the amount of the license taxes due to the state from such

person for such quarter.

(2) The department shall add to the amount of all such delinquent license taxes a penalty of 10% of the amount of such license taxes plus interest at the rate of ~~14~~ ~~per month~~ ~~or fraction thereof~~ provided for in ~~section 11~~ computed on the total amount of license taxes and penalty. Interest shall be computed from the date the license taxes were due to the date of payment.

(3) The department shall mail to the person required to file a quarterly statement and pay any license tax a letter setting forth the amount of license tax, penalty, and interest due, and the letter shall further contain a statement that if payment is not made, a warrant for distraint may be filed.

(4) The 10% penalty may be waived by the department if reasonable cause for the failure and neglect to file the statement required by 15-59-105 is provided to the department."

Section 21. Section 15-59-205, MCA, is amended to read:

"15-59-205. Procedure to estimate tax on failure to file -- penalty. (1) If any person shall fail, neglect, or refuse to make or file the statement required by 15-59-204 within the time required, the department of revenue shall, immediately after such time has expired, proceed to inform

1 itself as best it may regarding the matters required to be  
2 set forth in such statement and shall fix and determine the  
3 amount of the license tax due from such person for such  
4 quarter.

5 (2) The department shall add to the amount of all such  
6 delinquent license tax a penalty of 10% of the amount of  
7 such license tax plus interest at the rate of ~~1% per month~~  
8 ~~or fraction thereof~~ provided for in [section 1] computed on  
9 the total amount of license taxes and penalty. Interest  
10 shall be computed from the date the license tax was due to  
11 the date of payment.

12 (3) The department shall mail to the person required  
13 to file a quarterly statement and pay any license tax a  
14 letter setting forth the amount of license tax, penalty, and  
15 interest due, and the letter shall further contain a  
16 statement that if payment is not made, a warrant for  
17 distraint may be filed.

18 (4) The 10% penalty herein provided may be waived by  
19 the department if reasonable cause for the failure and  
20 neglect to file the statement required by 15-59-204 is  
21 provided to the department."

22 Section 22. Section 15-70-210, MCA, is amended to  
23 read:

24 "15-70-210. Tax penalty for delinquency. (1) Any  
25 license tax not paid within the time provided shall be

1 delinquent, and a penalty of 10% shall be added to the tax  
2 and the tax shall bear interest at the rate of ~~1% per month~~  
3 provided for in [section 1] from the date of delinquency  
4 until paid. Upon a showing of good cause by the distributor,  
5 the department of revenue may waive penalty.

6 (2) If any distributor or other person subject to the  
7 payment of such license tax shall willfully fail, neglect,  
8 or refuse to make any statement required by this part or  
9 shall willfully fail to make payment of such license tax  
10 within the time provided, the department shall be authorized  
11 to revoke any license issued under this part.

12 (3) In addition, the department shall inform itself  
13 regarding the matters required to be in such statement and  
14 determine the amount of the license tax due the state from  
15 such distributor and shall add thereto a penalty of \$25 or  
16 10% thereof, whichever is greater, together with interest at  
17 the rate of ~~1% per month~~ provided for in [section 1] from  
18 the date such statements should have been made and said  
19 license tax paid.

20 (4) The state treasurer shall proceed to collect such  
21 license tax, with penalties and interest. Upon the request  
22 of the state treasurer, the attorney general shall commence  
23 and prosecute to final determination in any court of  
24 competent jurisdiction an action to collect such license  
25 tax."

1 Section 23. Section 15-70-330, MCA, is amended to  
2 read:

3 "15-70-330. Penalties for refusal or failure to file  
4 return or pay tax when due. (1) In case of any special fuel  
5 dealer or special fuel user who refuses or fails to file a  
6 return required by this part within the time prescribed by  
7 15-70-103 and 15-70-325, there is hereby imposed a penalty  
8 of \$25 or a sum equal to 10% of the tax due, whichever is  
9 greater, together with interest at the rate of ~~14~~ on the tax  
10 ~~due for each calendar month or fraction thereof provided for~~  
11 ~~in [section 1]~~ during which such refusal or failure  
12 continues; provided, however, that if any such special fuel  
13 dealer or special fuel user shall establish to the  
14 satisfaction of the department that his failure to file a  
15 return within the time prescribed was due to reasonable  
16 cause, the department shall waive the penalty provided by  
17 this section.

18 (2) Where a special fuel dealer or a special fuel user  
19 files a return but fails to pay in whole or in part the tax  
20 due hereunder, there shall be added to the amount due and  
21 unpaid interest at the rate of ~~14~~ per month or fraction  
22 thereof ~~provided for in [section 1]~~ from the date such tax  
23 was due to the date of payment in full thereof."

24 Section 24. Section ~~15-70-331~~, MCA, is amended to  
25 read:

1 "15-70-331. Deficiency. If it be determined by the  
2 department that the tax reported by any special fuel dealer  
3 or special fuel user is deficient, it shall proceed to  
4 assess the deficiency on the basis of information available  
5 to it and there shall be added to this deficiency interest  
6 at the rate of ~~14~~ per month or fraction thereof provided for  
7 in [section 1] from the date the return was due."

8 NEW SECTION. Section 25. Applicability. This act  
9 applies to taxes that are due but unpaid after December 31,  
10 1983.

-End-