

SENATE BILL NO. 108

INTRODUCED BY B. BROWN

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE SENATE

January 11, 1983	Introduced and referred to Committee on Taxation.
January 12, 1983	Fiscal Note requested.
January 17, 1983	Fiscal Note returned.
February 17, 1983	Committee recommend bill do pass as amended. Report adopted.
February 18, 1983	Bill printed and placed on members' desks.
February 19, 1983	Second reading, do pass.
February 21, 1983	Correctly engrossed.
February 22, 1983	Third reading, passed. Ayes, 43; Noes, 6. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Taxation.
March 11, 1983	Committee recommend bill be concurred in. Report adopted.
March 12, 1983	Second reading, concurred in.
March 14, 1983	Third reading, concurred in.

IN THE SENATE

March 15, 1983

Returned to Senate. Sent to
enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *108*
 2 INTRODUCED BY *Bob Bawin*
 3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE
 6 METALLIFEROUS MINES LICENSE TAX FROM AN ANNUAL TAX TO A
 7 QUARTERLY TAX; REQUIRING PAYMENT OF THE TAX TO ACCOMPANY THE
 8 FILING OF THE RETURN; AMENDING SECTIONS 15-37-102 THROUGH
 9 15-37-106, 15-37-108, AND 15-37-109, MCA; AND PROVIDING AN
 10 APPLICABILITY DATE."
 11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 13 Section 1. Section 15-37-102, MCA, is amended to read:
 14 "15-37-102. Gross value of metal mine yield --
 15 computation. (1) ~~The "quarterly reporting date", as used in~~
 16 ~~this part, means the last day of the calendar quarter.~~ The
 17 ~~total~~ "quarterly gross value of product", as used in this
 18 part, ~~shall mean~~ ~~means~~ the market value of all merchantable
 19 metals or precious and semiprecious gems and stones
 20 extracted or produced each year ~~calendar quarter~~ from any
 21 mine or mining property in the state or recovered from the
 22 smelting, milling, reduction, or treatment in any manner of
 23 ores extracted from any such mine or mining property or from
 24 tailings resulting from the smelting, reduction, or
 25 treatment of any such ores. Whenever the ores require

1 smelting, reduction, or treatment to ascertain the metal
 2 contents of such ores, the ~~quarterly~~ gross value of the
 3 product thereof shall be determined by taking the market
 4 value of all merchantable metals or mineral products
 5 extracted or recovered thereby as shown by the gross smelter
 6 returns of such metals or mineral product in dollars and
 7 cents without any deductions for costs of smelting,
 8 reduction, or treatment or otherwise, based upon the average
 9 quotations of the price of such metals or mineral products
 10 in the city of New York, as evidenced by some established
 11 authority or market report, giving the market reports during
 12 the ~~calendar year--immediately-preceding quarter for which a~~
 13 ~~report is being made.~~ Should there be no quotation covering
 14 any particular product, the department of revenue shall fix
 15 the value of such gross product or such portion thereof in
 16 such a manner as may seem equitable.

17 (2) ~~The "cumulative gross value of product", as used~~
 18 ~~in this part, is the sum of all quarterly gross values of~~
 19 ~~product for a taxpayer for the calendar quarters during the~~
 20 ~~portion of the calendar year occurring between December 31~~
 21 ~~of the preceding calendar year and the most recent quarterly~~
 22 ~~reporting date."~~

23 Section 2. Section 15-37-103, MCA, is amended to read:
 24 "15-37-103. Rate of tax. The ~~annual~~ quarterly license
 25 tax to be paid by such person engaged in or carrying on the

INTRODUCED BILL

1 business of working or operating any mine or mining property
 2 in this state from which gold, silver, copper, lead, or any
 3 other metal or metals or precious or semiprecious gems or
 4 stones are produced shall be an amount computed based on the
 5 cumulative gross value of product which may have been
 6 derived by such person from such business, work, or
 7 operation within this state during the calendar year quarter
 8 immediately preceding, at the following rates each quarterly
 9 reporting date. The cumulative tax is computed according to
 10 the following rate schedule:

Cumulative Gross Value of Product	Rate of Tax (percentage of cumulative gross value)
first \$100,000	0.15%
more than \$100,000 and	
not more than \$250,000	0.575% of the increment
more than \$250,000 and	
not more than \$400,000	0.86% of the increment
more than \$400,000 and	
not more than \$500,000	1.15% of the increment
more than \$500,000	1.438% of the increment

11 The tax due for the first calendar quarter is the cumulative
 12 tax computed on the cumulative gross value of product for
 13 the first calendar quarter. The tax due in any succeeding
 14 calendar quarter of the year is the cumulative tax computed

1 for that quarter less the cumulative tax computed for the
 2 immediately preceding calendar quarter."

3 Section 3. Section 15-37-104, MCA, is amended to read:

4 "15-37-104. Mine operator's statement of gross value
 5 -- reports and sampling. (1) Every person engaged in or
 6 carrying on the business of working or operating any mine or
 7 mining property in this state from which gold, silver,
 8 copper, lead, or any other metal or metals, precious or
 9 semiprecious gems or stones are produced must, not later
 10 than April 15 in such year 60 days following the quarterly
 11 reporting date of each quarter when engaged in or carrying
 12 on any such business, work, or operation, make out a
 13 statement of the gross value of product from all mines and
 14 mining properties worked or operated by such person during
 15 the calendar year quarter immediately preceding. If good
 16 cause is shown, the department may grant a reasonable
 17 extension of the time for filing statements. Such the
 18 statement shall be in the form prescribed by the department
 19 of revenue and must be delivered to the department not later
 20 than April 15. The department may grant a reasonable
 21 extension of time for filing statements upon good cause
 22 shown therefore. Such statement shall show the following:

- 23 (a) the name, address, and telephone number of the
 24 owner, lessee, or operator of the mine or mining property;
 25 (b) the mine's location by county and legal

1 description]

2 (c) the number of tons of ore, concentrate, or other
3 mineral products or deposits extracted from the mine or
4 mining property during the period covered by the statement;

5 (d) the name and location of the smelter, mill, or
6 reduction works to which such ore or concentrate has been
7 shipped or sold during the period covered by the statement
8 and such other information as the department may require;

9 (e) the gross yield of such ores, concentrates,
10 mineral products, or deposits in constituents of commercial
11 value, that is to say, the number of ounces of gold or
12 silver, pounds of copper, lead, or zinc, or other
13 commercially valuable constituents of said ores,
14 concentrates, or mineral products or deposits, measured by
15 standard units of measurement, during the period covered by
16 the statement;

17 (f) the quarterly gross value of product in dollars
18 and cents; and

19 (g) the cumulative gross value of the product for the
20 calendar year in dollars and cents.

21 (2) This section applies regardless of the location of
22 any smelter, mill, or reduction works to which the ore or
23 concentrate is shipped.

24 (3) Any sampling, testing, or assaying made necessary
25 to comply with this section must be completed within this

1 state and prior to any mixture of the ore or concentrate to
2 be assayed with ore or concentrate from any other mine or
3 mining property."

4 Section 4. Section 15-37-103, MCA, is amended to read:

5 "15-37-103. Computation and notice payment of tax. (1)
6 ~~The department of revenue shall examine each such statement~~
7 ~~and return filed and determine and ascertain therefrom and~~
8 ~~compute and assess the amount of the license tax to be paid~~
9 ~~by the person making and filing the same and shall not~~
10 ~~later than June 15 mail to each person making and filing~~
11 ~~such statement and return a written notice of the amount of~~
12 ~~the license tax to be paid by each respectively, that the~~
13 ~~same is due and payable, that it will become delinquent at 5~~
14 ~~p.m. on June 30 immediately following, that if the same~~
15 ~~becomes delinquent a penalty of 10% will be added thereto,~~
16 ~~and that the whole amount of such license tax, with penalty~~
17 ~~added, will bear interest at the rate of 1% per month or~~
18 ~~fraction thereof from the date the same becomes delinquent~~
19 ~~until paid. The tax due under this chapter is computed~~
20 ~~according to 15-37-103 and is due 60 days following the~~
21 ~~quarterly reporting date of each quarter. The tax due under~~
22 ~~this chapter becomes delinquent as of midnight of the 60th~~
23 ~~day following the quarterly reporting date. If good cause is~~
24 ~~shown, the department may grant a reasonable extension of~~
25 ~~time for payment of the tax. During the period of any~~

extension granted, the tax due bears interest at a rate of 1% a month or any part thereof.

(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 add it to the cumulative gross value of product of the mine, and compute the tax due according to the formula provided in 15-37-103. Tax computed according to this process is considered to have been due as of midnight of the 60th day following the quarterly reporting date for the quarter in which the sale or disposal occurred. The 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 reports, 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."

Section 5. Section 15-37-106, MCA, is amended to read: "15-37-106. Procedure in case of failure to file statement. If any person shall fail, refuse, or neglect to make and file such statement and return within the time prescribed, the department of revenue shall, immediately after such time has expired, ascertain and determine as nearly as may be possible from any returns or reports filed with any state or county officer or board under any law of this state and from any other information which the department may be able to obtain the ~~total~~ cumulative gross value of product of such person from such business during ~~for the calendar year--immediately--preceding--the--year--in--~~ quarter for which the license tax is to be paid and shall make and file a statement showing the amount of such cumulative gross value of product and shall ascertain, determine, compute, and assess the amount of the license taxes due from and to be paid by such person and shall immediately give notice to such person in the same manner as though such statement had been filed within time and shall proceed to collect such license tax, adding thereto and collecting therewith if the same is delinquent the same penalty and interest as provided for herein for other delinquencies."

Section 6. Section 15-37-108, MCA, is amended to read:

"15-37-108. Delinquent taxes -- penalty. All license taxes assessed under the provisions of this part shall become delinquent if not paid by ~~5 p.m. on June 30 following the date when the same are assessed, and as the same become delinquent, on or before midnight of the 60th day following the quarterly reporting date. The department shall add to the amount of delinquent metalliferous mines tax~~ a penalty of 10% ~~shall be added thereto and the~~ the whole amount of said license tax, ~~together~~ with penalty added, shall bear interest at the rate of 1% per month or fraction thereof ~~from the date of becoming delinquent until paid. Interest shall be computed from the date the tax becomes delinquent until it is paid. The department may waive the 10% penalty if it determines that a reasonable cause exists for failure to pay the tax on or before the 60th day following the quarterly reporting date.~~"

Section 7. Section 15-37-109, MCA, is amended to read:

"15-37-109. False or erroneous statements -- investigation. (1) Should the director of the department of revenue have reason to believe that any statement and return is false or erroneous in any particular, he may require the person or, if made by a corporation, association, or company, the officers thereof and the employees of any such person, corporation, association, or company to appear

before the director of revenue or his agent and testify concerning the same and any statement contained therein and may examine all books, records, papers, and documents of such person pertaining to such business, upon giving 5 days' written notice to such persons or officers or employees thereof having custody of such books, records, papers, and documents. Any person failing, refusing, or neglecting to so appear or refusing to be sworn or to testify or refusing to answer any material question propounded by the director or any of his employees or refusing to permit the director or his employees to examine such books, records, papers, or documents or any thereof pertaining to such business shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment in the county jail for a term not exceeding 6 months or by both such fine and imprisonment. If the director, after hearing such evidence and after such examination of the books, papers, documents, and records of such person, shall find and determine that such statement and return are erroneous or false in any material matter, the director shall change and correct the same so as to show the true cumulative gross value of product and shall reassess the amount of the license tax due from such person and may add thereto a penalty of not exceeding 50% and shall thereupon immediately mail to such person a written notice

1 of the corrections and changes made in such statement and
2 return and the amount of the license tax and penalty due and
3 payable.

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

24 (3) The books, records, papers, and documents of such
25 person engaged in the business of smelting, milling,

1 reduction, or treatment in any manner of ores extracted or
2 produced by any mine or mining property in the state shall
3 be open to inspection and examination by the director of
4 revenue or his employees at any time or place that the
5 director may designate.

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

23 NEW SECTION. Section 8. Applicability. This act is
24 applicable to tax years beginning after December 31, 1983.

-End-

STATE OF MONTANA

REQUEST NO. 086-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 12, , 19 83 , there is hereby submitted a Fiscal Note
or Senate Bill 108 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).
Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members
of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 108 changes the metalliferous mines license tax from an annual tax to a quarterly tax; requires payment of the tax to accompany the filing of the return; and provides an applicability date.

ASSUMPTIONS:

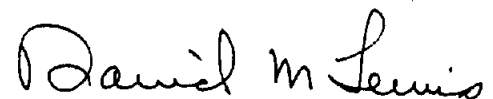
- 1) The FY 84 and FY 85 revenue estimate assume no production by the Anaconda Mineral Company in Silver Bow County after June 30, 1983.

	<u>Collections Under Current Law</u>	<u>Collections Under Proposed Law</u>
FY 84	\$ 968,000	\$ 968,000
FY 85	482,000	482,000

FISCAL IMPACT:

The proposed legislation should have no fiscal impact other than accelerating tax collections, which may result in a slight increase in investment earnings.

FISCAL NOTE 4:J/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-17-83

Approved by committee
on Taxation

SENATE BILL NO. 108

INTRODUCED BY B. BROWN

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE METALLIFEROUS MINES LICENSE TAX FROM--AN ANNUAL TAX--TO A REPORTING REQUIREMENT--TO A QUARTERLY TAX REPORTING REQUIREMENT; REQUIRING PAYMENT OF THE TAX TO ACCOMPANY THE FILING OF THE MARCH 1 RETURN; AMENDING SECTIONS 15-37-102, 15-37-104 THROUGH 15-37-106, AND 15-37-108, AND 15-37-109, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 15-37-102, MCA, is amended to read:
"15-37-102. Gross value of metal mine yield -- computation. ~~the~~ The "quarterly reporting date", as used in this part, means the last day of the calendar quarter. The ~~total~~ "quarterly gross value of product", as used in this part, shall mean means the market value of all merchantable metals or precious and semiprecious gems and stones extracted or produced each year calendar quarter from any mine or mining property in the state or recovered from the smelting, milling, reduction, or treatment in any manner of ores extracted from any such mine or mining property or from tailings resulting from the smelting, reduction, or

treatment of any such ores. Whenever the ores require smelting, reduction, or treatment to ascertain the metal contents of such ores, the quarterly gross value of the product thereof shall be determined by taking the market value of all merchantable metals or mineral products extracted or recovered thereby as shown by the gross smelter returns of such metals or mineral product in dollars and cents without any deductions for costs of smelting, reduction, or treatment or otherwise, based upon the average quotations of the price of such metals or mineral products in the city of New York, as evidenced by some established authority or market report, giving the market reports during the calendar year--immediately-preceding quarter for which a report is being made. Should there be no quotation covering any particular product, the department of revenue shall fix the value of such gross product or such portion thereof in such a manner as may seem equitable.

~~(2) The "cumulative gross value of product", as used in this part, is the sum of all quarterly gross values of product for a taxpayer for the calendar quarters during the portion of the calendar year occurring between December 31 of the preceding calendar year and the most recent quarterly reporting date."~~

Section 2. Section 15-37-103, MCA, is amended to read:
"15-37-103. Rate of tax--The annual quarterly license

1 tax--to-be-paid-by-such-person-engaged-in-or-carrying-on-the
 2 business-of-working-or-operating-any-mine-or-mining-property
 3 in-this-state-from-which-gold,-silver,-copper,-lead,-or-any
 4 other--metal--or--metals-or-precious-or-semiprecious-gems-or
 5 stones-are-produced-shall-be-an-amount-computed based on-the
 6 cumulative gross--value--of--product--which--may--have--been
 7 derived---by--such--person--from--such--business--work--or
 8 operation-within-this-state-during-the-calendar-year quarter
 9 immediately-preceding-at-the-following-rates each-quarterly
 10 reporting-date-the-cumulative-tax-is-computed-according--to
 11 the-following-rate-schedule:

12 Cumulative Gross-Value	Rate-of-Tax
13 of-Product	(percentage-of
14 cumulative gross-value)	
15 first-\$100,000	0.15%
16 more-than-\$100,000-and	
17 not-more-than-\$250,000	0.575% of-the-increment
18 more-than-\$250,000-and	
19 not-more-than-\$400,000	0.66% of-the-increment
20 more-than-\$400,000-and	
21 not-more-than-\$500,000	1.15% of-the-increment
22 more-than-\$500,000	1.438% of-the-increment
23 the-tax-due-for-the-first-calendar-quarter-is-the-cumulative	
24 tax-computed-on-the-cumulative-gross-value-of-product-for	
25 the-first-calendar-quarter-the-tax-due-in-any-succeeding	

1 calendar--quarter-of-the-year-is-the-cumulative-tax-computed
 2 for-that-quarter-less-the-cumulative-tax-computed--for--the
 3 immediately-preceding-calendar-quarter."

4 Section 2. Section 15-37-104, MCA, is amended to read:
 5 "15-37-104. Mine operator's statement of gross value
 6 -- reports and sampling. (1) Every person engaged in or
 7 carrying on the business of working or operating any mine or
 8 mining property in this state from which gold, silver,
 9 copper, lead, or any other metal or metals, precious or
 10 semiprecious gems or stones are produced must, not later
 11 than April 15 in such year 60 days following the quarterly
 12 reporting date of each quarter when engaged in or carrying
 13 on any such business, work, or operation, make out a
 14 statement of the gross value of product from all mines and
 15 mining properties worked or operated by such person during
 16 the calendar year quarter immediately preceding. If good
 17 cause is shown, the department may grant a reasonable
 18 extension of the time for filing statements. Such the
 19 statement shall be in the form prescribed by the department
 20 of revenue and must be delivered to the department not later
 21 than April 15. The department may grant a reasonable
 22 extension of time for filing statements upon good cause
 23 shown therefore. Such statement shall show the following:

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

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

(c) the number of tons of ore, concentrate, or other mineral products or deposits extracted from the mine or mining property during the period covered by the statement;

(d) the name and location of the smelter, mill, or reduction works to which such ore or concentrate has been shipped or sold during the period covered by the statement and such other information as the department may require;

(e) the gross yield of such ores, concentrates, mineral products, or deposits in constituents of commercial value, that is to say, the number of ounces of gold or silver, pounds of copper, lead, or zinc, or other commercially valuable constituents of said ores, concentrates, or mineral products or deposits, measured by standard units of measurement, during the period covered by the statement;

(f) the quarterly gross value of product in dollars and cents ~~and~~

~~that the cumulative gross value of the product for the calendar year in dollars and cents.~~

(2) This section applies regardless of the location of any smelter, mill, or reduction works to which the ore or concentrate is shipped.

(3) Any sampling, testing, or assaying made necessary

to comply with this section must be completed within this state and prior to any mixture of the ore or concentrate to be assayed with ore or concentrate from any other mine or mining property.

~~(4) IF THE QUARTERLY STATEMENT OF GROSS VALUE DESCRIBED HEREIN IS NOT FILED WITH THE DEPARTMENT WITHIN 60 DAYS FOLLOWING THE CALENDAR QUARTER ENDING, A PENALTY SHALL BE ASSESSED. THE PENALTY SHALL BE THE GREATER OF \$25 OR 2% OF THE TAX THAT WOULD BE DUE UNDER [THIS ACT] IF COLLECTED QUARTERLY. IF GOOD CAUSE IS SHOWN, THE DEPARTMENT MAY WAIVE THE PENALTY."~~

Section 3. Section 15-37-105, MCA, is amended to read:

"15-37-105. Computation and notice payment 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 15 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 pm on June 30 immediately following; that if the same becomes delinquent a penalty of 18% 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~~

1 fraction--thereof--from the date the same becomes delinquent
 2 until paid. The tax due under this chapter is computed
 3 according to 15-37-103 and is due 60 days following the
 4 quarterly reporting date of each quarter. The tax due under
 5 this chapter becomes delinquent as of midnight of the 60th
 6 day following the quarterly reporting date AND PAYABLE ON OR
 7 BEFORE MARCH 1 OF EACH YEAR FOR THE PRODUCTS PRODUCED IN THE
 8 PRECEDING CALENDAR YEAR. THE TAX DUE UNDER THIS CHAPTER
 9 BECOMES DELINQUENT AS OF MIDNIGHT ON MARCH 1 OF THE YEAR
 10 IMMEDIATELY FOLLOWING THE PRODUCTION YEAR. If good cause is
 11 shown, the department may grant a reasonable extension of
 12 time for payment of the tax. During the period of any
 13 extension granted, the tax due bears interest at a rate of
 14 12 a month or any part thereof.

15 (2) If any such person has sold or otherwise disposed
 16 of any of its mine's products at a price substantially below
 17 the true market price of such product at the time and place
 18 of such sale or disposal, then the department shall compute
 19 the gross value of such portion of said mine's product so
 20 sold or disposed of substantially below the market price as
 21 aforesaid, which add--it--to--the--cumulative--gross--value--of
 22 product--of--the--mine--and--compute--the--tax--due--according--to
 23 the--formula--provided--in--15-37-103--tax--computed--according--to
 24 this--process--is--considered--to--have--been--due--as--of--midnight
 25 of--the--60th--day--following--the--quarterly--reporting--date--for

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

15 Section 4. Section 15-37-106, MCA, is amended to read:
 16 "15-37-106. Procedure in case of failure to file
 17 statement STATEMENTS. If any person shall fail, refuse, or
 18 neglect to make and file such statement--and--return--within
 19 the--time--prescribed ALL REQUIRED QUARTERLY STATEMENTS OF
 20 GROSS YIELD FOR A PRODUCTION YEAR ON OR BEFORE MARCH 1 OF
 21 THE YEAR IMMEDIATELY FOLLOWING THE PRODUCTION YEAR, the
 22 department of revenue shall, immediately after such time has
 23 expired, ascertain and determine as nearly as may be
 24 possible from any returns or reports filed with any state or
 25 county officer or board under any law of this state and from

1 any other information which the department may be able to
 2 obtain the ~~total cumulative~~ total gross value of product of
 3 such person from such business during ~~for~~ DURING the
 4 calendar year ~~immediately preceding the year in~~ quarter ~~for~~
 5 YEAR IMMEDIATELY PRECEDING THE YEAR IN which the license tax
 6 is to be paid and shall make and file a statement showing
 7 the amount of such ~~cumulative~~ gross value of product and
 8 shall ascertain, determine, compute, and assess the amount
 9 of the license taxes due from and to be paid by such person
 10 and shall immediately give notice to such person in the
 11 same manner as though such statement had been filed within
 12 time and shall proceed to collect such license tax, adding
 13 thereto and collecting therewith if the same is delinquent
 14 the same penalty and interest as provided for herein for
 15 other delinquencies."

16 Section 5. Section 15-37-108, MCA, is amended to 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, on or before midnight of the 60th day following~~
 22 ~~the quarterly reporting date MARCH 1 OF THE YEAR IMMEDIATELY~~
 23 ~~FOLLOWING THE PRODUCTION YEAR. The department shall add to~~
 24 ~~the amount of delinquent metalliferous mines tax a penalty~~
 25 ~~of 10% 8% shall be added thereto and the the whole amount~~

1 of said license tax, together with penalty added, shall bear
 2 interest at the rate of 1% per month or fraction thereof
 3 ~~from the date of becoming delinquent until paid. Interest~~
 4 ~~shall be computed from the date the tax becomes delinquent~~
 5 ~~until it is paid. The department may waive the 10% 8%~~
 6 ~~penalty if it determines that a reasonable cause exists for~~
 7 ~~failure to pay the tax on or before the 60th day following~~
 8 ~~the quarterly reporting date MARCH 1 OF THE YEAR IMMEDIATELY~~
 9 ~~FOLLOWING THE PRODUCTION YEAR."~~

10 Section 7. Section 15-37-109, MCA, is amended to read:
 11 "15-37-109. False or erroneous statements --
 12 investigation -- (1) Should the director of the department of
 13 revenue have reason to believe that any statement and return
 14 is false or erroneous in any particular, he may require the
 15 person or, if made by a corporation, association, or
 16 company, the officers thereof and the employees of any such
 17 person, corporation, association, or company to appear
 18 before the director of revenue or his agent and testify
 19 concerning the same and any statement contained therein and
 20 may examine all books, records, papers, and documents of
 21 such person pertaining to such business, upon giving 5 days
 22 written notice to such persons or officers or employees
 23 thereof having custody of such books, records, papers, and
 24 documents. Any person failing, refusing, or neglecting to
 25 so appear or refusing to be sworn or to testify or refusing

1 to--answer--any--material--question--propounded--by--the--director
 2 or--any--of--his--employees--or--refusing--to--permit--the--director
 3 or--his--employees--to--examine--such--books--records--papers--or
 4 documents--or--any--thereof--pertaining--to--such--business--shall
 5 be--deemed--guilty--of--a--misdemeanor--and--upon--conviction
 6 thereof--shall--be--punished--by--a--fine--of--not--more--than--\$1000
 7 or--by--imprisonment--in--the--county--jail--for--a--term--not
 8 exceeding--6--months--or--by--both--such--fine--and--imprisonment--if
 9 the--director--after--hearing--such--evidence--and--after--such
 10 examination--of--the--books--papers--documents--and--records--of
 11 such--person--shall--find--and--determine--that--such--statement
 12 and--return--are--erroneous--or--false--in--any--material--matter
 13 the--director--shall--change--and--correct--the--same--so--as--to--show
 14 the--true ~~aggregate~~ gross--value--of--product--and--shall
 15 reassess--the--amount--of--the--license--tax--due--from--such--person
 16 and--may--add--thereto--a--penalty--of--not--exceeding--50%--and--shall
 17 thereupon--immediately--mail--to--such--person--a--written--notice
 18 of--the--corrections--and--changes--made--in--such--statement--and
 19 return--and--the--amount--of--the--license--tax--and--penalty--due--and
 20 payable

21 {2}--The--department--shall--collect--such--license--tax--with
 22 penalty--added--and--if--the--same--has--become--delinquent--it
 23 shall--also--collect--interest--thereon--from--the--date--of
 24 delinquency--until--paid--at--the--rate--of--1%--per--month--or
 25 fraction--thereof--in--order--to--verify--such--statement--and

1 return--the--department--may--require--any--person--engaged--in--the
 2 business--of--smelting--milling--reduction--or--treatment--in
 3 any--manner--of--ores--extracted--or--produced--from--any--mine--or
 4 mining--property--in--the--state--of--Montana--to--appear--before--the
 5 director--of--revenue--and--testify--concerning--the--gross--mineral
 6 content--of--any--such--ore--or--at--the--request--of--said--director
 7 to--furnish--sworn--statements--showing--the--gross--yield--of--such
 8 ores--mineral--products--or--deposits--in--constituents--of
 9 commercial--value--that--is--to--say--the--number--of--ounces--of
 10 gold--silver--pounds--of--copper--lead--or--zinc--or--other
 11 commercial--valuable--constituents--of--said--ores--or--mineral
 12 products--or--deposits--measured--by--standard--units--of
 13 measurements--during--the--period--covered--by--such--statement
 14 without--any--deductions--whatsoever--for--smelting--milling
 15 reduction--or--treatment--of--such--ores--or--mineral--products

16 {3}--The--books--records--papers--and--documents--of--such
 17 person--engaged--in--the--business--of--smelting--milling
 18 reduction--or--treatment--in--any--manner--of--ores--extracted--or
 19 produced--by--any--mine--or--mining--property--in--the--state--shall
 20 be--open--to--inspection--and--examination--by--the--director--of
 21 revenue--or--his--employees--at--any--time--or--place--that--the
 22 director--may--designate

23 {4}--If--any--person--required--by--this--part--to--make--or
 24 file--any--statement--or--to--verify--under--oath--any--statement
 25 shall--make--such--statement--false--in--any--material--respect--or

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

15 NEW SECTION. Section 6. Applicability. This act is
 16 applicable to tax years beginning after December 31, 1983.

-End-

SENATE BILL NO. 108

INTRODUCED BY B. BROWN

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE METALLIFEROUS MINES LICENSE TAX FROM--AN ANNUAL TAX--TO A REPORTING REQUIREMENT TO A QUARTERLY TAX REPORTING REQUIREMENT; REQUIRING PAYMENT OF THE TAX TO ACCOMPANY THE FILING OF THE MARCH 1 RETURN; AMENDING SECTIONS 15-37-102, 15-37-104 THROUGH 15-37-106, AND 15-37-108, AND 15-37-109, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 15-37-102, MCA, is amended to read:

"15-37-102. Gross value of metal mine yield -- computation. ~~the "quarterly reporting date", as used in this part, means the last day of the calendar quarter.~~ The total "quarterly gross value of product", as used in this part, ~~shall mean~~ means the market value of all merchantable metals or precious and semiprecious gems and stones extracted or produced each year calendar quarter from any mine or mining property in the state or recovered from the smelting, milling, reduction, or treatment in any manner of ores extracted from any such mine or mining property or from tailings resulting from the smelting, reduction, or

treatment of any such ores. Whenever the ores require smelting, reduction, or treatment to ascertain the metal contents of such ores, the quarterly gross value of the product thereof shall be determined by taking the market value of all merchantable metals or mineral products extracted or recovered thereby as shown by the gross smelter returns of such metals or mineral product in dollars and cents without any deductions for costs of smelting, reduction, or treatment or otherwise, based upon the average quotations of the price of such metals or mineral products in the city of New York, as evidenced by some established authority or market report, giving the market reports during the calendar year--~~immediately preceding quarter for which a report is being made.~~ Should there be no quotation covering any particular product, the department of revenue shall fix the value of such gross product or such portion thereof in such a manner as may seem equitable.

~~the "cumulative gross value of product", as used in this part, is the sum of "all quarterly gross values of product for a taxpayer for the calendar quarters during the portion of the calendar year occurring between December 31 of the preceding calendar year and the most recent quarterly reporting date"~~

Section 2. Section 15-37-103, MCA, is amended to read: "15-37-103. Rate of tax. The annual quarterly license

1 tax--to-be-paid-by-such-person-engaged-in-or-carrying-on-the
 2 business-of-working-or-operating-any-mine-or-mining-property
 3 in-this-state-from-which-gold-silver-copper-lead-or-any
 4 other--metal--or--metals--or--precious--or--semiprecious-gems--or
 5 stones--ore-produced-shall-be-an-amount-computed based on-the
 6 cumulative gross--value--of--product--which--may--have--been
 7 derived--by--such--person--from--such--business--work--or
 8 operation-within-this-state-during-the-calendar-year quarter
 9 immediately-preceding-at-the-following-rates each-quarterly
 10 reporting-date-the-cumulative-tax-is-computed-according--to
 11 the-following-rate-schedule:

12 Cumulative Gross-Value	Rate-of-Tax
13 of-Product	(percentage-of
14 cumulative gross-value)	
15 first-\$100,000	0+15%
16 more-than-\$100,000-and	
17 not-more-than-\$250,000	0+575%--of-the-increment
18 more-than-\$250,000-and	
19 not-more-than-\$400,000	0+06%--of-the-increment
20 more-than-\$400,000-and	
21 not-more-than-\$500,000	1+15%--of-the-increment
22 more-than-\$500,000	1+430%--of-the-increment

23 the-tax-due-for-the-first-calendar-quarter-is-the-cumulative
 24 tax--computed--on--the-cumulative-gross-value-of-product-for
 25 the-first-calendar-quarter-the-tax-due--in--any--successing

1 calendar--quarter-of-the-year-is-the-cumulative-tax-computed
 2 for-that-quarter-less-the-cumulative-tax-computed--for--the
 3 immediately-preceding-calendar-quarters"

4 Section 2. Section 15-37-104, MCA, is amended to read:

5 "15-37-104. Mine operator's statement of gross value
 6 -- reports and sampling. (1) Every person engaged in or
 7 carrying on the business of working or operating any mine or
 8 mining property in this state from which gold, silver,
 9 copper, lead, or any other metal or metals, precious or
 10 semiprecious gems or stones are produced must, not later
 11 than April+15-in-such-year 60 days following the quarterly
 12 reporting--date--of--each-quarter when engaged in or carrying
 13 on any such business, work, or operation, make out a
 14 statement of the gross value of product from all mines and
 15 mining properties worked or operated by such person during
 16 the calendar year quarter immediately preceding. If good
 17 cause-is-shown-the-department-may-grant-a-reasonable
 18 extension--of--the--time--for--filing--statements. Such the
 19 statement shall be in the form prescribed by the department
 20 of revenue and must-be-delivered-to-the-department-not-later
 21 than-April+15--The--department--may--grant--a--reasonable
 22 extension-of-time-for--filing--statements-upon--good--cause
 23 shown-therefore-Such-statement shall show the following:

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

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

(c) the number of tons of ore, concentrate, or other mineral products or deposits extracted from the mine or mining property during the period covered by the statement;

(d) the name and location of the smelter, mill, or reduction works to which such ore or concentrate has been shipped or sold during the period covered by the statement and such other information as the department may require;

(e) the gross yield of such ores, concentrates, mineral products, or deposits in constituents of commercial value, that is to say, the number of ounces of gold or silver, pounds of copper, lead, or zinc, or other commercially valuable constituents of said ores, concentrates, or mineral products or deposits, measured by standard units of measurement, during the period covered by the statement;

(f) the quarterly gross value of product in dollars and cents; and

~~g) the cumulative gross value of the product for the calendar year in dollars and cents.~~

(2) This section applies regardless of the location of any smelter, mill, or reduction works to which the ore or concentrate is shipped.

(3) Any sampling, testing, or assaying made necessary

to comply with this section must be completed within this state and prior to any mixture of the ore or concentrate to be assayed with ore or concentrate from any other mine or mining property.

~~(4) IF THE QUARTERLY STATEMENT OF GROSS VALUE DESCRIBED HEREIN IS NOT FILED WITH THE DEPARTMENT WITHIN 60 DAYS FOLLOWING THE CALENDAR QUARTER ENDING, A PENALTY SHALL BE ASSESSED. THE PENALTY SHALL BE THE GREATER OF \$25 OR 2% OF THE TAX THAT WOULD BE DUE UNDER [THIS ACT] IF COLLECTED QUARTERLY. IF GOOD CAUSE IS SHOWN, THE DEPARTMENT MAY WAIVE THE PENALTY."~~

Section 3. Section 15-37-105, MCA, is amended to read:

"15-37-105. Computation and notice payment 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 15 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~~

1 ~~fraction thereof from the date the same becomes delinquent~~
 2 ~~until paid. The tax due under this chapter is computed~~
 3 ~~according to 15-37-103 and is due 60 days following the~~
 4 ~~quarterly reporting date of each quarter. The tax due under~~
 5 ~~this chapter becomes delinquent as of midnight of the 60th~~
 6 ~~day following the quarterly reporting date AND PAYABLE ON OR~~
 7 ~~BEFORE MARCH 1 OF EACH YEAR FOR THE PRODUCE PRODUCED IN THE~~
 8 ~~PRECEDING CALENDAR YEAR. THE TAX DUE UNDER THIS CHAPTER~~
 9 ~~BECOMES DELINQUENT AS OF MIDNIGHT ON MARCH 1 OF THE YEAR~~
 10 ~~IMMEDIATELY FOLLOWING THE PRODUCTION YEAR. If good cause is~~
 11 ~~shown, the department may grant a reasonable extension of~~
 12 ~~time for payment of the tax. During the period of any~~
 13 ~~extension granted, the tax due bears interest at a rate of~~
 14 ~~1% a month or any part thereof.~~

15 (2) If any such person has sold or otherwise disposed
 16 of any of its mine's products at a price substantially below
 17 the true market price of such product at the time and place
 18 of such sale or disposal, then the department shall compute
 19 the gross value of such portion of said mine's product so
 20 sold or disposed of substantially below the market price as
 21 aforesaid, which ~~add it to the cumulative gross value of~~
 22 ~~product of the mine and compute the tax due according to~~
 23 ~~the formula provided in 15-37-103. Tax computed according to~~
 24 ~~this process is considered to have been due as of midnight~~
 25 ~~of the 60th day following the quarterly reporting date for~~

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

15 Section 4. Section 15-37-106, MCA, is amended to read:
 16 "15-37-106. Procedure in case of failure to file
 17 statement STATEMENTS. If any person shall fail, refuse, or
 18 neglect to make and file such statement--and--return--within
 19 the--time--prescribed ALL REQUIRED QUARTERLY STATEMENTS OF
 20 GROSS YIELD FOR A PRODUCTION YEAR ON OR BEFORE MARCH 1 OF
 21 THE YEAR IMMEDIATELY FOLLOWING THE PRODUCTION YEAR, the
 22 department of revenue shall, immediately after such time has
 23 expired, ascertain and determine as nearly as may be
 24 possible from any returns or reports filed with any state or
 25 county officer or board under any law of this state and from

1 any other information which the department may be able to
 2 obtain the ~~total cumulative~~ total gross value of product of
 3 such person from such business during ~~for~~ DURING the
 4 calendar year ~~immediately preceding the year in quarter for~~
 5 YEAR IMMEDIATELY PRECEDING THE YEAR IN which the license tax
 6 is to be paid and shall make and file a statement showing
 7 the amount of such ~~cumulative~~ gross value of product and
 8 shall ascertain, determine, compute, and assess the amount
 9 of the license taxes due from and to be paid by such person
 10 and shall immediately give notice to such person in the
 11 same manner as though such statement had been filed within
 12 time and shall proceed to collect such license tax, adding
 13 thereto and collecting therewith if the same is delinquent
 14 the same penalty and interest as provided for herein for
 15 other delinquencies."

16 Section 5. Section 15-37-108, MCA, is amended to 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 on or before midnight of the 60th day following~~
 22 ~~the quarterly reporting date MARCH 1 OF THE YEAR IMMEDIATELY~~
 23 FOLLOWING THE PRODUCTION YEAR. The department shall add to
 24 the amount of delinquent metalliferous mines tax a penalty
 25 of 18% 8% shall be added thereto and the the whole amount

1 of said license tax, together with penalty added, shall bear
 2 interest at the rate of 1% per month or fraction thereof
 3 ~~from the date of becoming delinquent until paid. Interest~~
 4 ~~shall be computed from the date the tax becomes delinquent~~
 5 ~~until it is paid. The department may waive the 18% 8%~~
 6 ~~penalty if it determines that a reasonable cause exists for~~
 7 ~~failure to pay the tax on or before the 60th day following~~
 8 ~~the quarterly reporting date MARCH 1 OF THE YEAR IMMEDIATELY~~
 9 FOLLOWING THE PRODUCTION YEAR."

10 Section 7. Section 15-37-109, MCA, is amended to read:
 11 "15-37-109. ~~False or erroneous statements~~
 12 ~~investigation--(1) Should the director of the department of~~
 13 ~~revenue have reason to believe that any statement and return~~
 14 ~~is false or erroneous in any particular, he may require the~~
 15 ~~person or, if made by a corporation, association, or~~
 16 ~~company, the officers thereof and the employees of any such~~
 17 ~~person, corporation, association, or company, to appear~~
 18 ~~before the director of revenue or his agent and testify~~
 19 ~~concerning the same and any statement contained therein and~~
 20 ~~may examine all books, records, papers, and documents of~~
 21 ~~such person pertaining to such business upon giving 5 days~~
 22 ~~written notice to such persons or officers or employees~~
 23 ~~thereof having custody of such books, records, papers, and~~
 24 ~~documents. Any person failing, refusing, or neglecting to~~
 25 ~~so appear or refusing to be sworn or to testify or refusing~~

1 to--answer--any-material-question-propounded-by-the-director
 2 or-any-of-his-employees-or-refusing-to-permit--the--director
 3 or--his-employees-to-examine-such-books--records--papers--or
 4 documents-or-any-thereof-pertaining-to-such--business--shall
 5 be--deemed--guilty--of--a--misdemeanor--and--upon-conviction
 6 thereof--shall-be-punished-by-a-fine-of-not-more-than--\$1000
 7 or--by--imprisonment--in--the--county--jail--for--a-term-not
 8 exceeding-6-months-or-by-both-such-fine-and-imprisonment--if
 9 the-director--after-hearing-such--evidence--and--after--such
 10 examination--of-the-books--papers--documents--and-records-of
 11 such-person--shall-find-and-determine--that--such--statement
 12 and--return--are--erroneous-or-false-in-any-material-matter
 13 the-director--shall-change-and-correct-the-same-so-as-to-show
 14 the--true ~~cumulative~~ gross-value-of-product--and--shall
 15 reassess--the-amount-of-the-license-tax-due-from-such-person
 16 and-may-add-thereto-a-penalty-of-not-exceeding-50%--and--shall
 17 thereupon--immediately-notify-to-such-person-a-written--notice
 18 of--the--corrections--and-changes-made-in-such-statement-and
 19 return-and-the-amount-of-the-license-tax-and-penalty-due-and
 20 payable

21 (2)--The-department--shall--collect--such--license-tax-with
 22 penalty-added--and-if-the-same--has--become--delinquent--it
 23 shall--also--collect--interest--thereon--from--the--date--of
 24 delinquency-until-paid--at-the--rate--of--1%--per--month--or
 25 fraction--thereof--in-order--to-verify-such-statement-and

1 return--the-department-may-require-any-person-engaged-in-the
 2 business-of-smelting--milling--reduction--or--treatment--in
 3 any-manner--of--ores-extracted-or-produced-from-any-mine-or
 4 mining-property-in-the-state-of-Montana-to-appear-before-the
 5 director-of-revenue-and-testify-concerning-the-gross-mineral
 6 content-of-any-such-ore-or-at-the-request-of--said--director
 7 to--furnish-sworn-statements-showing-the-gross-yield-of-such
 8 ores--mineral--products--or--deposits--in--constituents--of
 9 commercial--value--that--is-to-say--the-number-of-ounces-of
 10 gold--or--silver--pounds-of-copper--lead--or--zinc--or--other
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 13 measurement--during--the--period-covered-by-such-statements
 14 without-any-deductions--whatsoever--for--smelting--milling
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16 (3)--The-books--records--papers--and-documents-of-such
 17 person--engaged--in--the--business--of--smelting--milling
 18 reduction--or--treatment--in-any-manner-of-ores-extracted-or
 19 produced-by-any-mine-or-mining-property-in-the--state--shall
 20 be--open--to--inspection--and-examination-by-the-director-of
 21 revenue-or-his-employees-at--any--time--or--place--that--the
 22 director-may-designate

23 (4)--If-any--person--required--by-this-part-to-make-or
 24 file-any-statement-or-to-verify-under-oath--any--statement
 25 shall--make--such-statement-false-in-any-material-respect-or

1 shall verify under oath any statement false in any respect
 2 or shall fairly neglect or refuse to file any statement
 3 required by said department or shall refuse to appear before
 4 the director of revenue to testify concerning the gross
 5 mineral content of any such ore or shall refuse to allow the
 6 director or his employees at any time or place to inspect or
 7 examine the books, records, papers, and documents of such
 8 person engaged in the business of smelting, milling,
 9 reduction or treatment in any manner of ores extracted or
 10 produced by any mine or mining property in the state of
 11 Montana shall be deemed guilty of a misdemeanor and shall be
 12 punished by a fine of not exceeding \$1,600 or by
 13 imprisonment in the county jail for not exceeding 6 months
 14 or by both such fine and imprisonment."

15 NEW SECTION. Section 6. Applicability. This act is
 16 applicable to tax years beginning after December 31, 1983.

-End-

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INTRODUCED BY B. BROWN

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~~the "cumulative gross value of product" as used in this part, is the sum of all quarterly gross values of product for a taxpayer for the calendar quarters during the portion of the calendar year occurring between December 31 of the preceding calendar year and the most recent quarterly reporting date"~~

Section 2. Section 15-37-103, MCA, is amended to read:

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1 tax--to-be-paid-by-such-person-engaged-in-or-carrying-on-the
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 3 in-this-state-from-which-gold-silver-copper-lead-or-any
 4 other-metal-or-metals-or-precious-or-semiprecious-gems-or
 5 stones-are-produced-shall-be-an-amount-computed based on-the
 6 cumulative gross-value-of-product-which-may-have-been
 7 derived-by-such-person-from-such-business-work-or
 8 operation-within-this-state-during-the-calendar-year quarter
 9 immediately-preceding-at-the-following-rates each-quarterly
 10 reporting-date-the-cumulative-tax-is-computed-according-to
 11 the-following-rate-schedule:

12 Cumulative Gross-Value	Rate-of-Tax
13 of-Product	(percentage-of
14 Cumulative gross-value)	
15 first-\$100,000	0.15%
16 more-than-\$100,000-and	
17 not-more-than-\$250,000	0.575%-of-the-increment
18 more-than-\$250,000-and	
19 not-more-than-\$400,000	0.86%-of-the-increment
20 more-than-\$400,000-and	
21 not-more-than-\$500,000	1.15%-of-the-increment
22 more-than-\$500,000	1.438%-of-the-increment
23 The-tax-due-for-the-first-calendar-quarter-is-the-cumulative	
24 tax-computed-on-the-cumulative-gross-value-of-product-for	
25 the-first-calendar-quarter-The-tax-due-in-any-succeeding	

1 calendar--quarter-of-the-year-is-the-cumulative-tax-computed
 2 for-that-quarter-is--the-cumulative-tax-computed-for-the
 3 immediately-preceding-calendar-quarter"

4 Section 2. Section 15-37-104, MCA, is amended to read:
 5 "15-37-104. Mine operator's statement of gross value
 6 -- reports and sampling. (1) Every person engaged in or
 7 carrying on the business of working or operating any mine or
 8 mining property in this state from which gold, silver,
 9 copper, lead, or any other metal or metals, precious or
 10 semiprecious gems or stones are produced must, not later
 11 than April 15 in such year 60 days following the quarterly
 12 reporting date of each quarter when engaged in or carrying
 13 on any such business, work, or operation, make out a
 14 statement of the gross value of product from all mines and
 15 mining properties worked or operated by such person during
 16 the calendar year quarter immediately preceding. If good
 17 cause is shown, the department may grant a reasonable
 18 extension of the time for filing statements. Such the
 19 statement shall be in the form prescribed by the department
 20 of revenue and must be delivered to the department not later
 21 than April 15. The department may grant a reasonable
 22 extension of time for filing statements upon good cause
 23 shown therefor. Such statement shall show the following:

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

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

(c) the number of tons of ore, concentrate, or other mineral products or deposits extracted from the mine or mining property during the period covered by the statement;

(d) the name and location of the smelter, mill, or reduction works to which such ore or concentrate has been shipped or sold during the period covered by the statement and such other information as the department may require;

(e) the gross yield of such ores, concentrates, mineral products, or deposits in constituents of commercial value, that is to say, the number of ounces of gold or silver, pounds of copper, lead, or zinc, or other commercially valuable constituents of said ores, concentrates, or mineral products or deposits, measured by standard units of measurement, during the period covered by the statement;

(f) the quarterly gross value of product in dollars and cents; and

~~g) the cumulative gross value of the product for the calendar year in dollars and cents.~~

(2) This section applies regardless of the location of any smelter, mill, or reduction works to which the ore or concentrate is shipped.

(3) Any sampling, testing, or assaying made necessary

to comply with this section must be completed within this state and prior to any mixture of the ore or concentrate to be assayed with ore or concentrate from any other mine or mining property.

~~(4) IF THE QUARTERLY STATEMENT OF GROSS VALUE DESCRIBED HEREIN IS NOT FILED WITH THE DEPARTMENT WITHIN 60 DAYS FOLLOWING THE CALENDAR QUARTER ENDING, A PENALTY SHALL BE ASSESSED. THE PENALTY SHALL BE THE GREATER OF \$25 OR 2% OF THE TAX THAT WOULD BE DUE UNDER [THIS ACT] IF COLLECTED QUARTERLY. IF GOOD CAUSE IS SHOWN, THE DEPARTMENT MAY WAIVE THE PENALTY."~~

Section 3. Section 15-37-105, MCA, is amended to read:

"15-37-105. Computation and notice payment 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 15 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 12% per month or~~

1 fraction--thereof--from the date the same becomes delinquent
 2 until paid. The tax due under this chapter is computed
 3 according to 15-37-103 and is due 60 days following the
 4 quarterly reporting date of each quarter. The tax due under
 5 this chapter becomes delinquent as of midnight of the 60th
 6 day following the quarterly reporting date AND PAYABLE ON OR
 7 BEFORE MARCH 1 OF EACH YEAR FOR THE PRODUCTS PRODUCED IN THE
 8 PRECEDING CALENDAR YEAR. THE TAX DUE UNDER THIS CHAPTER
 9 BECOMES DELINQUENT AS OF MIDNIGHT ON MARCH 1 OF THE YEAR
 10 IMMEDIATELY FOLLOWING THE PRODUCTION YEAR. If good cause is
 11 shown, the department may grant a reasonable extension of
 12 time for payment of the tax. During the period of any
 13 extension granted, the tax due bears interest at a rate of
 14 1% a month or any part thereof.

15 (2) If any such person has sold or otherwise disposed
 16 of any of its mine's products at a price substantially below
 17 the true market price of such product at the time and place
 18 of such sale or disposal, then the department shall compute
 19 the gross value of such portion of said mine's product so
 20 sold or disposed of substantially below the market price as
 21 aforesaid, which add--it--to--the--cumulative--gross--value--of
 22 product--of--the--mine--and--compute--the--tax--due--according--to
 23 the--formula--provided--in--15-37-103--tax--computed--according--to
 24 this--process--is--considered--to--have--been--due--as--of--midnight
 25 of the 60th day following the quarterly reporting date for

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

15 Section 4. Section 15-37-106, MCA, is amended to read:
 16 "15-37-106. Procedure in case of failure to file
 17 statement STATEMENTS. If any person shall fail, refuse, or
 18 neglect to make and file such statement--and--return--within
 19 the--time--prescribed ALL REQUIRED QUARTERLY STATEMENTS OF
 20 GROSS YIELD FOR A PRODUCTION YEAR ON OR BEFORE MARCH 1 OF
 21 THE YEAR IMMEDIATELY FOLLOWING THE PRODUCTION YEAR, the
 22 department of revenue shall, immediately after such time has
 23 expired, ascertain and determine as nearly as may be
 24 possible from any returns or reports filed with any state or
 25 county officer or board under any law of this state and from

1 any other information which the department may be able to
 2 obtain the ~~total cumulative~~ **TOTAL** gross value of product of
 3 such person from such business during ~~for~~ **DURING** the
 4 calendar year ~~immediately preceding the year in~~ **quarter--for**
 5 **YEAR IMMEDIATELY PRECEDING THE YEAR IN** which the license tax
 6 is to be paid and shall make and file a statement showing
 7 the amount of such ~~cumulative~~ gross value of product and
 8 shall ascertain, determine, compute, and assess the amount
 9 of the license taxes due from and to be paid by such person
 10 and shall immediately give notice to such person in the
 11 same manner as though such statement had been filed within
 12 time and shall proceed to collect such license tax, adding
 13 thereto and collecting therewith if the same is delinquent
 14 the same penalty and interest as provided for herein for
 15 other delinquencies."

16 Section 5. Section 15-37-108, MCA, is amended to 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 on or before midnight of the 60th day following~~
 22 ~~the quarterly reporting date~~ **MARCH 1 OF THE YEAR IMMEDIATELY**
 23 **FOLLOWING THE PRODUCTION YEAR.** The department shall add to
 24 the amount of delinquent metalliferous mines tax a penalty
 25 of ~~10% 8%~~ shall be added thereto and the ~~the~~ whole amount

1 of said license tax, ~~together~~ with penalty added, shall bear
 2 interest at the rate of 1% per month or fraction thereof
 3 ~~from the date of becoming delinquent until paid.~~ **Interest**
 4 ~~shall be computed from the date the tax becomes delinquent~~
 5 ~~until it is paid. The department may waive the 10% 8%~~
 6 ~~penalty if it determines that a reasonable cause exists for~~
 7 ~~failure to pay the tax on or before the 60th day following~~
 8 ~~the quarterly reporting date~~ **MARCH 1 OF THE YEAR IMMEDIATELY**
 9 **FOLLOWING THE PRODUCTION YEAR."**

10 Section 7. Section 15-37-109, MCA, is amended to read:
 11 "15-37-109. False or erroneous statements --
 12 investigations -- (1) Should the director of the department of
 13 revenue have reason to believe that any statement and return
 14 is false or erroneous in any particular, he may require the
 15 person or, if made by a corporation, association or
 16 company, the officers thereof and the employees of any such
 17 person, corporation, association or company to appear
 18 before the director of revenue or his agent and testify
 19 concerning the same and any statement contained therein and
 20 may examine all books, records, papers and documents of
 21 such person pertaining to such business upon giving 5 days
 22 written notice to such persons or officers or employees
 23 thereof having custody of such books, records, papers and
 24 documents. Any person failing, refusing or neglecting to
 25 so appear or refusing to be sworn or to testify or refusing

1 to--answer--any-material-question-propounded-by-the-director
 2 or-any-of-his-employees-or-refusing-to-permit--the--director
 3 or--his-employees-to-examine-such-books--records--papers--or
 4 documents-or-any-thereof-pertaining-to-such--business--shall
 5 be--deemed--guilty--of--a--misdemeanor--and--upon-conviction
 6 thereof-shall-be-punished-by-a-fine-of-not-more-than--\$1000
 7 or--by--imprisonment--in--the--county--jail--for--a-term-not
 8 exceeding-6-months-or-by-both-such-fine-and-imprisonment-if
 9 the-director--after-hearing-such--evidence--and--after--such
 10 examination--of-the-books--papers--documents--and-records-of
 11 such-person--shall-find-and-determine--that--such--statement
 12 and--return--are--erroneous-or-false-in-any-material-matter
 13 the-director-shall-change-and-correct-the-same-so-as-to-show
 14 the--true cumulative gross--value--of--product--and--shall
 15 reassess--the-amount-of-the--license-tax-due-from-such-person
 16 and-may-add-thereto-a-penalty-of-not-exceeding-50%-and-shall
 17 thereupon-immediately-notify-to-such-person-a-written--notice
 18 of--the--corrections--and-changes-made-in-such-statement-and
 19 return-and-the-amount-of-the--license-tax-and-penalty-due-and
 20 payable

21 {2}--The-department-shall-collect-such--license-tax-with
 22 penalty-added--and-if-the-same--has--become--delinquent--it
 23 shall--also--collect--interest--thereon--from--the--date--of
 24 delinquency-until-paid--at-the--rate--of--1%-per-month-or
 25 fraction--thereof--in-order--to-verify-such-statement-and

1 return--the-department-may-require-any-person-engaged-in-the
 2 business-of-smelting--milling--reduction--or--treatment--in
 3 any--manner--of--ores-extracted-or-produced-from-any-mine-or
 4 mining-property-in-the-state-of-Montana-to-appear-before-the
 5 director-of-revenue-and-testify-concerning-the-gross-mineral
 6 content-of-any-such-ore-or-at-the-request-of--said--director
 7 to--furnish-sworn-statements-showing-the-gross-yield-of-such
 8 ores--mineral--products--or--deposits--in--constituents--of
 9 commercial--value--that--is-to-say--the-number-of-ounces-of
 10 gold-or-silver--pounds-of-copper--lead--or--zinc--or--other
 11 commercially--valuable--constituents-of-said-ores-or-mineral
 12 products--or--deposits--measured--by--standard--units--of
 13 measurement--during--the--period-covered-by-such-statements
 14 without-any-deductions--whatsoever--for--smelting--milling
 15 reduction--or--treatment-of-such-ores-or-mineral-products

16 {3}--The--books--records--papers--and-documents-of-such
 17 person--engaged--in--the--business--of--smelting--milling
 18 reduction--or--treatment--in-any-manner-of-ores-extracted-or
 19 produced-by-any-mine-or-mining-property-in-the--state--shall
 20 be--open--to--inspection--and-examination-by-the-director-of
 21 revenue-or-his-employees-at--any--time--or--place--that--the
 22 director-may-designate

23 {4}--If--any--person--required--by-this-part-to-make-or
 24 file-any-statement-or-to-verify--under-oath--any-statement
 25 shall--make--such-statement-false-in-any-material-respect-or

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

15 NEW SECTION. Section 6. Applicability. This act is
 16 applicable to tax years beginning after December 31, 1983.

-End-