

SENATE BILL NO. 280

1/29 Introduced
1/30 Referred to Taxation
1/31 Fiscal Note Requested
2/05 Fiscal Note Received
2/12 Hearing
3/08 Committee Report-Bill Do Pass
3/11 2nd Reading Pass As Amended
3/13 3rd Reading Pass

Transmitted to House

3/14 Referred to Taxation
3/22 Hearing
Died in Committee

1 Senate BILL NO. 280
 2 INTRODUCED BY B. William Ernst
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBJECT THE GROSS
 5 PROCEEDS OF GEMSTONE MINES TO TAXATION; SETTING THE TAXABLE
 6 PERCENTAGE RATE APPLICABLE TO GEMSTONE MINES AT 50 PERCENT
 7 OF GROSS PROCEEDS; AMENDING SECTIONS 15-6-131, 15-6-132,
 8 15-23-101, 15-23-103, 15-23-104, 15-23-106, 15-23-115, AND
 9 15-23-502, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN
 10 APPLICABILITY DATE."
 11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 13 Section 1. Section 15-6-131, MCA, is amended to read:
 14 "15-6-131. Class one property -- description --
 15 taxable percentage. (1) Class one property includes the
 16 annual net proceeds of all mines and mining claims except
 17 ~~coal-and-metal-mines~~ those mines included in class two.
 18 (2) Class one property is taxed at 100% of its annual
 19 net proceeds after deducting the expenses specified and
 20 allowed by 15-23-503."
 21 Section 2. Section 15-6-132, MCA, is amended to read:
 22 "15-6-132. Class two property -- description --
 23 taxable percentage. (1) Class two property includes:
 24 (a) the annual gross proceeds of metal mines;
 25 (b) the annual gross proceeds of underground coal

1 mines; and
 2 (c) the annual gross proceeds of coal mines using the
 3 strip-mining method; and
 4 (d) the annual gross proceeds of gemstone mines.
 5 (2) Class two property is taxed as follows:
 6 (a) Property described in subsection (1)(a) is taxed
 7 at 3% of its annual gross proceeds, as defined in 15-23-801.
 8 (b) Property described in subsection (1)(b) is taxed
 9 at 33 1/3% of its annual gross proceeds.
 10 (c) Property described in subsection (1)(c) is taxed
 11 at 45% of its annual gross proceeds.
 12 (d) Property described in subsection (1)(d) is taxed
 13 at 50% of its annual gross proceeds."
 14 NEW SECTION. Section 3. Definitions. As used in
 15 [sections 3 through 9], the following definitions apply:
 16 (1) "Agreement not at arm's length" means an agreement
 17 between parties in which the sales price does not represent
 18 market value.
 19 (2) "Department" means the department of revenue.
 20 (3) "Gross proceeds" or "gross yield" means the
 21 revenue realized from the extraction of gemstones,
 22 determined by multiplying the quantity produced by the
 23 merchantable value.
 24 (4) "Market value" means the exchange value of a
 25 property in a competitive market.

1 (5) "Merchantable value" means the average market
2 value of all gemstones produced or extracted in a county
3 over a 12-month period.

4 NEW SECTION. Section 4. Gemstone mines -- ad valorem
5 taxation -- reports and sampling. (1) Each person mining or
6 extracting gemstones from any mine or mining property
7 located within this state must, on or before March 31 each
8 year, file with the department of revenue a statement of the
9 gross yield from each mine or mining property owned or
10 worked by such person in the preceding calendar year and the
11 value thereof. The statement must be in the form prescribed
12 by the department and must contain the following:

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

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

17 (c) the number of carats extracted from the mine or
18 mining property during the period covered by the statement;

19 (d) the name and location of each purchaser to whom
20 such gemstones or deposits have been shipped or sold during
21 the period covered by the statement;

22 (e) the gross value of product in dollars and cents;
23 and

24 (f) any other information requested by the department.

25 (2) This section applies regardless of the location of

1 any purchaser to whom the gemstones or other mineral
2 products or deposits are shipped.

3 (3) Any sampling, testing, or weighing made necessary
4 to comply with this section must be completed within this
5 state and prior to any mixture of the gemstones to be
6 sampled, tested, or weighed with gemstones from any other
7 mine or mining property.

8 NEW SECTION. Section 5. Valuation -- gross proceeds.
9 On or before July 1 each year, the department shall
10 determine the merchantable value of all gemstone production
11 from the previous calendar year. The department shall
12 transmit to its agent in each county where gemstones are
13 produced the merchantable value as has been determined by
14 the department for placement on the assessment roll after
15 subtracting such portion of the proceeds as may be exempt
16 from property taxation.

17 NEW SECTION. Section 6. Taxation of merchantable
18 value. The department's agent shall prepare from the
19 reported valuation a tax roll which must be transmitted to
20 the county treasurer on or before September 15 each year.
21 The county treasurer shall proceed to give full notice
22 thereof to each gemstone producer and to collect the taxes
23 due at the times provided for in 15-16-102, and any
24 delinquencies in the payment of same are subject to the
25 interest and penalties provided for in 15-16-102.

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

9 NEW SECTION. Section 8. Lien of tax. The tax or
 10 penalty on gross proceeds is a lien upon the mine from which
 11 the gemstones are extracted and is a prior lien upon all
 12 owned or leased personal property and improvements used in
 13 extracting the gemstones. The tax must be collected in the
 14 manner provided in chapters 16 through 18 of this title.

15 NEW SECTION. Section 9. Assessment procedures. The
 16 gross proceeds of gemstone mines must be assessed under the
 17 provisions of 15-23-101 through 15-23-107.

18 Section 10. Section 15-23-101, MCA, is amended to
 19 read:

20 "15-23-101. Properties centrally assessed. The
 21 department of revenue shall centrally assess each year:

22 (1) the franchise, roadway, roadbeds, rails, rolling
 23 stock, and all other operating property of railroads
 24 operating in more than one county in the state or more than
 25 one state;

1 (2) property owned by a corporation or other person
 2 operating a single and continuous property operated in more
 3 than one county or more than one state, including telegraph,
 4 telephone, microwave, electric power or transmission lines;
 5 natural gas or oil pipelines; canals, ditches, flumes, or
 6 like properties;

7 (3) all property of scheduled airlines;

8 (4) the net proceeds of mines and of oil and gas
 9 wells;

10 (5) the gross proceeds of coal mines and gemstone
 11 mines; and

12 (6) property described in subsections (1) and (2)
 13 which is subject to the provisions of Title 15, chapter 24,
 14 part 12."

15 Section 11. Section 15-23-103, MCA, is amended to
 16 read:

17 "15-23-103. Due date of reports and returns --
 18 extensions. (1) Except as provided in subsection (2) and
 19 15-23-602, each report or return described in 15-23-301,
 20 15-23-402, 15-23-502, ~~or~~ 15-23-701, or [section 4] shall be
 21 delivered to the department on or before March 31 each year.

22 (2) Each report or return for a natural gas or oil
 23 pipeline described in 15-23-301 must be delivered to the
 24 department on or before April 15 each year.

25 (3) Each report described in 15-23-201 shall be

1 delivered to the department before April 15 each year.

2 (4) The department may for good cause extend the time
3 for filing a return or report for not more than 30 days."

4 Section 12. Section 15-23-104, MCA, is amended to
5 read:

6 "15-23-104. Failure to file -- estimate by department
7 -- penalty. If any person fails to file a report or return
8 within the time established in 15-23-103 or by such later
9 date as the department may approve, the department shall
10 estimate the value of the property to have been reported on
11 the basis of the best available information. In estimating
12 the value of the net proceeds of mines, the department shall
13 proceed under 15-23-506, and in estimating the value of the
14 gross proceeds of coal mines, the department shall proceed
15 under 15-35-107, and in estimating the value of gross
16 proceeds of gemstone mines, the department shall proceed
17 under [section 7]. In estimating value under this section,
18 the department may subpoena a person or his agent as
19 specified in 15-1-302. An assessment based on estimated
20 value is subject to review under 15-8-601. Each month or
21 part of a month a report is delinquent, the department shall
22 impose and collect a \$25 penalty, the total not to exceed
23 \$200, and shall deposit such penalty to the credit of the
24 general fund. The department will also inform its agents in
25 the counties of the delinquency, and the agents shall assess

1 a penalty of 1% of the tax due for each month or part of a
2 month the report is delinquent."

3 Section 13. Section 15-23-106, MCA, is amended to
4 read:

5 "15-23-106. Transmission to the counties. (1) On or
6 before July 1, the department shall transmit to its agent in
7 each county a statement listing:

8 (a) the assessed value of railroad property, as
9 determined under 15-23-202, apportioned to the county,
10 including the length or other description of such property;

11 (b) the assessed value of utility property, as
12 determined under 15-23-302, apportioned to the county,
13 including the length or other description of such property;

14 (c) the assessed value of property of airline
15 companies, as determined under 15-23-403, apportioned to the
16 county; 90% of the value of the property of airline
17 companies apportioned to any county by reason of a state
18 airport being located in the county shall be stated
19 separately from the remaining assessed value of the property
20 of airline companies apportioned to the county;

21 (d) the assessed value of the net proceeds and
22 royalties from mines and oil and gas wells in the county, as
23 determined under 15-23-503, 15-23-505, 15-23-603, and
24 15-23-605; and

25 (e) the assessed value of the gross proceeds from coal

1 mines, as described in 15-23-701; and
 2 (f) the assessed value of the gross proceeds from
 3 gemstone mines, as described in [section 4].

4 (2) The agent of the department shall enter the
 5 assessed values so transmitted in the assessment book in a
 6 manner prescribed by the department."

7 Section 14. Section 15-23-115, MCA, is amended to
 8 read:

9 "15-23-115. Interest. If the department determines
 10 that a taxpayer has incorrectly reported a value under
 11 15-23-502, 15-23-602, 15-23-701, or 15-23-802, or [section
 12 4], the department shall inform its agents at the county
 13 level of such determination, and if any additional tax is
 14 due, there must be added thereto until paid in full interest
 15 at the rate of 1% a month or fraction thereof from the date
 16 the original tax was due and payable. In no instance will a
 17 taxpayer subject to imposition of interest pursuant to this
 18 section be also subject to the penalty and interest
 19 provisions contained in 15-16-102."

20 Section 15. Section 15-23-502, MCA, is amended to
 21 read:

22 "15-23-502. Net proceeds tax -- statement of yield.
 23 Every person engaged in mining, extracting, or producing
 24 from any quartz vein or lode, placer claim, dump or
 25 tailings, or other place or source whatever precious-stones

1 or-gems, vermiculite, bentonite, or other valuable mineral,
 2 except coal, and metals, and gemstones, must on or before
 3 March 31 each year make out a statement of the gross yield
 4 and value of the above-named metals or minerals from each
 5 mine owned or worked by such person during the year
 6 preceding January 1 of the year in which such statement is
 7 made. Such statement shall be in the form prescribed by the
 8 department of revenue and must be verified by the oath of
 9 the person completing the statement or the manager,
 10 superintendent, agent, president, or vice-president, if a
 11 corporation, association, or partnership, and must be
 12 delivered to the department on or before March 31. Such
 13 statement shall show the following:

14 (1) the name and address of the owner or lessee or
 15 operator of the mine, together with the names and addresses
 16 of any and all persons owning or claiming any royalty
 17 interest in the mineral product of such mine or the proceeds
 18 derived from the sale thereof, and the amount or amounts
 19 paid or yielded as royalty to each of such persons during
 20 the period covered by the statement;

21 (2) the description and location of the mine;

22 (3) the number of tons of ore or other mineral
 23 products or deposits extracted, produced, and treated or
 24 sold from the mine during the period covered by the
 25 statement;

1 (4) the amount and character of such ores, mineral
 2 products, or deposits and the yield of such ores, mineral
 3 products, or deposits from such mine in constituents of
 4 commercial value; that is, commercially valuable
 5 constituents of the ores, mineral products, or deposits,
 6 measured by standard units of measurement, yielded to such
 7 person so engaged in mining and to each royalty holder, if
 8 any, during the period covered by the statement;

9 (5) the gross yield or value in dollars and cents;

10 (6) cost of extracting from the mine;

11 (7) cost of transporting to place of reduction or
 12 sale;

13 (8) cost of reduction or sale;

14 (9) cost of marketing the product and conversion of
 15 same into money;

16 (10) cost of construction, repairs, and betterments of
 17 mines and cost of repairs and replacements of reduction
 18 works;

19 (11) the assessed valuation of reduction works for the
 20 calendar year for which such return is made;

21 (12) cost of fire insurance, workers' compensation
 22 insurance, boiler and machinery insurance, and public
 23 liability insurance paid for the mine, reduction works, or
 24 beneficiation process;

25 (13) cost of welfare and retirement fund payments

1 provided for in wage contracts; and

2 (14) cost of testing extracted minerals for the purpose
 3 of satisfying federal or state health and safety laws or
 4 regulations, the cost of plant security in Montana, the cost
 5 of assaying and sampling the extracted minerals, and the
 6 costs incurred in Montana for engineering and geological
 7 services for existing mining operations but not including
 8 any such services beyond the stage of reduction and
 9 beneficiation of the minerals."

10 NEW SECTION. Section 16. Extension of authority. Any
 11 existing authority of the department of revenue to make
 12 rules on the subject of the provisions of this act is
 13 extended to the provisions of this act.

14 NEW SECTION. Section 17. Effective date --
 15 applicability. This act is effective on passage and approval
 16 and applies to taxable years beginning after December 31,
 17 1984.

-End-

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. FNN299-85

Form BD-15

In compliance with a written request received February 1 19 85, there is hereby submitted a Fiscal Note for S.B. 280 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:

An act to subject the gross proceeds of gemstone mines to taxation; setting the taxable percentage rate applicable to gemstone mines at 50 percent of gross proceeds.

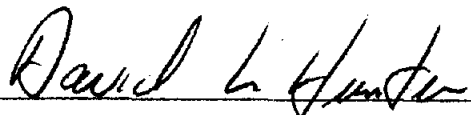
ASSUMPTIONS:

1. A rate of \$4.00 per carat at the mine will be used for valuation purposes. This rate will be tied to the Consumer Price Index and could change in future years.
2. The number of carats of sapphires mined in 1983 was 123,014. This amount will remain constant through FY87.
3. The average mill levy for Judith Basin county in FY84 was 257.39.
4. School foundation program levy will remain constant at 45 mills through FY87.
5. University levy will remain constant at 6 mills through FY87.
6. The Intergem company in Utica, MT is the only company mining gemstones in Montana.

	<u>FY86</u>			<u>FY87</u>		
	<u>Under</u>	<u>Under</u>	<u>Difference</u>	<u>Under</u>	<u>Under</u>	<u>Difference</u>
	<u>Current Law</u>	<u>Proposed Law</u>		<u>Current Law</u>	<u>Proposed Law</u>	
School Foundation Program	0	0	0	0	\$ 11,071	\$ 11,071
University Levy	0	0	0	0	1,476	1,476
Total Revenue	0	0	0	0	\$ 12,547	\$ 12,547

EFFECT ON COUNTY OR OTHER LOCAL REVENUE:

Local governments will receive an additional \$50,778 in FY87 under this proposal.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 5, 1985

SB280

APPROVED BY COMMITTEE
ON TAXATION

Senate BILL NO. 280

INTRODUCED BY *B. Williams*

A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBJECT THE GROSS PROCEEDS OF GEMSTONE MINES TO TAXATION; SETTING THE TAXABLE PERCENTAGE RATE APPLICABLE TO GEMSTONE MINES AT 50 PERCENT OF GROSS PROCEEDS; AMENDING SECTIONS 15-6-131, 15-6-132, 15-23-101, 15-23-103, 15-23-104, 15-23-106, 15-23-115, AND 15-23-502, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-6-131, MCA, is amended to read:

"15-6-131. Class one property -- description -- taxable percentage. (1) Class one property includes the annual net proceeds of all mines and mining claims except ~~coal-and-metal-mines~~ those mines included in class two.

(2) Class one property is taxed at 100% of its annual net proceeds after deducting the expenses specified and allowed by 15-23-503."

Section 2. Section 15-6-132, MCA, is amended to read:

"15-6-132. Class two property -- description -- taxable percentage. (1) Class two property includes:

(a) the annual gross proceeds of metal mines;

(b) the annual gross proceeds of underground coal

mines; and

(c) the annual gross proceeds of coal mines using the strip-mining method; and

(d) the annual gross proceeds of gemstone mines.

(2) Class two property is taxed as follows:

(a) Property described in subsection (1)(a) is taxed at 3% of its annual gross proceeds, as defined in 15-23-801.

(b) Property described in subsection (1)(b) is taxed at 33 1/3% of its annual gross proceeds.

(c) Property described in subsection (1)(c) is taxed at 45% of its annual gross proceeds.

(d) Property described in subsection (1)(d) is taxed at 50% of its annual gross proceeds."

NEW SECTION. Section 3. Definitions. As used in [sections 3 through 9], the following definitions apply:

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

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

(3) "Gross proceeds" or "gross yield" means the revenue realized from the extraction of gemstones, determined by multiplying the quantity produced by the merchantable value.

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

1 (5) "Merchantable value" means the average market
2 value of all gemstones produced or extracted in a county
3 over a 12-month period.

4 NEW SECTION. Section 4. Gemstone mines -- ad valorem
5 taxation -- reports and sampling. (1) Each person mining or
6 extracting gemstones from any mine or mining property
7 located within this state must, on or before March 31 each
8 year, file with the department of revenue a statement of the
9 gross yield from each mine or mining property owned or
10 worked by such person in the preceding calendar year and the
11 value thereof. The statement must be in the form prescribed
12 by the department and must contain the following:

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

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

17 (c) the number of carats extracted from the mine or
18 mining property during the period covered by the statement;

19 (d) the name and location of each purchaser to whom
20 such gemstones or deposits have been shipped or sold during
21 the period covered by the statement;

22 (e) the gross value of product in dollars and cents;
23 and

24 (f) any other information requested by the department.

25 (2) This section applies regardless of the location of

1 any purchaser to whom the gemstones or other mineral
2 products or deposits are shipped.

3 (3) Any sampling, testing, or weighing made necessary
4 to comply with this section must be completed within this
5 state and prior to any mixture of the gemstones to be
6 sampled, tested, or weighed with gemstones from any other
7 mine or mining property.

8 NEW SECTION. Section 5. Valuation -- gross proceeds.
9 On or before July 1 each year, the department shall
10 determine the merchantable value of all gemstone production
11 from the previous calendar year. The department shall
12 transmit to its agent in each county where gemstones are
13 produced the merchantable value as has been determined by
14 the department for placement on the assessment roll after
15 subtracting such portion of the proceeds as may be exempt
16 from property taxation.

17 NEW SECTION. Section 6. Taxation of merchantable
18 value. The department's agent shall prepare from the
19 reported valuation a tax roll which must be transmitted to
20 the county treasurer on or before September 15 each year.
21 The county treasurer shall proceed to give full notice
22 thereof to each gemstone producer and to collect the taxes
23 due at the times provided for in 15-16-102, and any
24 delinquencies in the payment of same are subject to the
25 interest and penalties provided for in 15-16-102.

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

9 NEW SECTION. Section 8. Lien of tax. The tax or
 10 penalty on gross proceeds is a lien upon the mine from which
 11 the gemstones are extracted and is a prior lien upon all
 12 owned or leased personal property and improvements used in
 13 extracting the gemstones. The tax must be collected in the
 14 manner provided in chapters 16 through 18 of this title.

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 16 gross proceeds of gemstone mines must be assessed under the
 17 provisions of 15-23-101 through 15-23-107.

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 21 department of revenue shall centrally assess each year:

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 23 stock, and all other operating property of railroads
 24 operating in more than one county in the state or more than
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 2 operating a single and continuous property operated in more
 3 than one county or more than one state, including telegraph,
 4 telephone, microwave, electric power or transmission lines;
 5 natural gas or oil pipelines; canals, ditches, flumes, or
 6 like properties;

7 (3) all property of scheduled airlines;

8 (4) the net proceeds of mines and of oil and gas
 9 wells;

10 (5) the gross proceeds of coal mines and gemstone
 11 mines; and

12 (6) property described in subsections (1) and (2)
 13 which is subject to the provisions of Title 15, chapter 24,
 14 part 12."

15 Section 11. Section 15-23-103, MCA, is amended to
 16 read:

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 18 extensions. (1) Except as provided in subsection (2) and
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 20 15-23-402, 15-23-502, ~~or~~ 15-23-701, or [section 4] shall be
 21 delivered to the department on or before March 31 each year.

22 (2) Each report or return for a natural gas or oil
 23 pipeline described in 15-23-301 must be delivered to the
 24 department on or before April 15 each year.

25 (3) Each report described in 15-23-201 shall be

1 delivered to the department before April 15 each year.

2 (4) The department may for good cause extend the time
3 for filing a return or report for not more than 30 days."

4 Section 12. Section 15-23-104, MCA, is amended to
5 read:

6 "15-23-104. Failure to file -- estimate by department
7 -- penalty. If any person fails to file a report or return
8 within the time established in 15-23-103 or by such later
9 date as the department may approve, the department shall
10 estimate the value of the property to have been reported on
11 the basis of the best available information. In estimating
12 the value of the net proceeds of mines, the department shall
13 proceed under 15-23-506, and in estimating the value of the
14 gross proceeds of coal mines, the department shall proceed
15 under 15-35-107, and in estimating the value of gross
16 proceeds of gemstone mines, the department shall proceed
17 under [section 7]. In estimating value under this section,
18 the department may subpoena a person or his agent as
19 specified in 15-1-302. An assessment based on estimated
20 value is subject to review under 15-8-601. Each month or
21 part of a month a report is delinquent, the department shall
22 impose and collect a \$25 penalty, the total not to exceed
23 \$200, and shall deposit such penalty to the credit of the
24 general fund. The department will also inform its agents in
25 the counties of the delinquency, and the agents shall assess

1 a penalty of 1% of the tax due for each month or part of a
2 month the report is delinquent."

3 Section 13. Section 15-23-106, MCA, is amended to
4 read:

5 "15-23-106. Transmission to the counties. (1) On or
6 before July 1, the department shall transmit to its agent in
7 each county a statement listing:

8 (a) the assessed value of railroad property, as
9 determined under 15-23-202, apportioned to the county,
10 including the length or other description of such property;

11 (b) the assessed value of utility property, as
12 determined under 15-23-302, apportioned to the county,
13 including the length or other description of such property;

14 (c) the assessed value of property of airline
15 companies, as determined under 15-23-403, apportioned to the
16 county; 90% of the value of the property of airline
17 companies apportioned to any county by reason of a state
18 airport being located in the county shall be stated
19 separately from the remaining assessed value of the property
20 of airline companies apportioned to the county;

21 (d) the assessed value of the net proceeds and
22 royalties from mines and oil and gas wells in the county, as
23 determined under 15-23-503, 15-23-505, 15-23-603, and
24 15-23-605; and

25 (e) the assessed value of the gross proceeds from coal

1 mines, as described in 15-23-701; and
 2 (f) the assessed value of the gross proceeds from
 3 gemstone mines, as described in [section 4].

4 (2) The agent of the department shall enter the
 5 assessed values so transmitted in the assessment book in a
 6 manner prescribed by the department."

7 Section 14. Section 15-23-115, MCA, is amended to
 8 read:

9 "15-23-115. Interest. If the department determines
 10 that a taxpayer has incorrectly reported a value under
 11 15-23-502, 15-23-602, 15-23-701, or 15-23-802, or [section
 12 4], the department shall inform its agents at the county
 13 level of such determination, and if any additional tax is
 14 due, there must be added thereto until paid in full interest
 15 at the rate of 1% a month or fraction thereof from the date
 16 the original tax was due and payable. In no instance will a
 17 taxpayer subject to imposition of interest pursuant to this
 18 section be also subject to the penalty and interest
 19 provisions contained in 15-16-102."

20 Section 15. Section 15-23-502, MCA, is amended to
 21 read:

22 "15-23-502. Net proceeds tax -- statement of yield.
 23 Every person engaged in mining, extracting, or producing
 24 from any quartz vein or lode, placer claim, dump or
 25 tailings, or other place or source whatever ~~precious-stones~~

1 ~~or-gems~~, vermiculite, bentonite, or other valuable mineral,
 2 except coal, and metals, and gemstones, must on or before
 3 March 31 each year make out a statement of the gross yield
 4 and value of the above-named metals or minerals from each
 5 mine owned or worked by such person during the year
 6 preceding January 1 of the year in which such statement is
 7 made. Such statement shall be in the form prescribed by the
 8 department of revenue and must be verified by the oath of
 9 the person completing the statement or the manager,
 10 superintendent, agent, president, or vice-president, if a
 11 corporation, association, or partnership, and must be
 12 delivered to the department on or before March 31. Such
 13 statement shall show the following:

14 (1) the name and address of the owner or lessee or
 15 operator of the mine, together with the names and addresses
 16 of any and all persons owning or claiming any royalty
 17 interest in the mineral product of such mine or the proceeds
 18 derived from the sale thereof, and the amount or amounts
 19 paid or yielded as royalty to each of such persons during
 20 the period covered by the statement;

21 (2) the description and location of the mine;

22 (3) the number of tons of ore or other mineral
 23 products or deposits extracted, produced, and treated or
 24 sold from the mine during the period covered by the
 25 statement;

1 (4) the amount and character of such ores, mineral
 2 products, or deposits and the yield of such ores, mineral
 3 products, or deposits from such mine in constituents of
 4 commercial value; that is, commercially valuable
 5 constituents of the ores, mineral products, or deposits,
 6 measured by standard units of measurement, yielded to such
 7 person so engaged in mining and to each royalty holder, if
 8 any, during the period covered by the statement;

9 (5) the gross yield or value in dollars and cents;

10 (6) cost of extracting from the mine;

11 (7) cost of transporting to place of reduction or
 12 sale;

13 (8) cost of reduction or sale;

14 (9) cost of marketing the product and conversion of
 15 same into money;

16 (10) cost of construction, repairs, and betterments of
 17 mines and cost of repairs and replacements of reduction
 18 works;

19 (11) the assessed valuation of reduction works for the
 20 calendar year for which such return is made;

21 (12) cost of fire insurance, workers' compensation
 22 insurance, boiler and machinery insurance, and public
 23 liability insurance paid for the mine, reduction works, or
 24 beneficiation process;

25 (13) cost of welfare and retirement fund payments

1 provided for in wage contracts; and

2 (14) cost of testing extracted minerals for the purpose
 3 of satisfying federal or state health and safety laws or
 4 regulations, the cost of plant security in Montana, the cost
 5 of assaying and sampling the extracted minerals, and the
 6 costs incurred in Montana for engineering and geological
 7 services for existing mining operations but not including
 8 any such services beyond the stage of reduction and
 9 beneficiation of the minerals."

10 NEW SECTION. Section 16. Extension of authority. Any
 11 existing authority of the department of revenue to make
 12 rules on the subject of the provisions of this act is
 13 extended to the provisions of this act.

14 NEW SECTION. Section 17. Effective date --
 15 applicability. This act is effective on passage and approval
 16 and applies to taxable years beginning after December 31,
 17 1984.

-End-

SENATE BILL NO. 280

INTRODUCED BY B. WILLIAMS, ERNST

A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBJECT THE GROSS PROCEEDS OF GEMSTONE MINES TO TAXATION; SETTING THE TAXABLE PERCENTAGE RATE APPLICABLE TO GEMSTONE MINES AT 50 45 PERCENT OF GROSS PROCEEDS; AMENDING SECTIONS 15-6-131, 15-6-132, 15-6-208, 15-23-101, 15-23-103, 15-23-104, 15-23-106, 15-23-115, AND 15-23-502, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-6-131, MCA, is amended to read:

"15-6-131. Class one property -- description -- taxable percentage. (1) Class one property includes the annual net proceeds of all mines and mining claims except coal-and-metal-mines those mines included in class two.

(2) Class one property is taxed at 100% of its annual net proceeds after deducting the expenses specified and allowed by 15-23-503."

Section 2. Section 15-6-132, MCA, is amended to read:

"15-6-132. Class two property -- description -- taxable percentage. (1) Class two property includes:

- (a) the annual gross proceeds of metal mines;
- (b) the annual gross proceeds of underground coal

mines; and

(c) the annual gross proceeds of coal mines using the strip-mining method; and

(d) the annual gross proceeds of gemstone mines.

(2) Class two property is taxed as follows:

(a) Property described in subsection (1)(a) is taxed at 3% of its annual gross proceeds, as defined in 15-23-801.

(b) Property described in subsection (1)(b) is taxed at 33 1/3% of its annual gross proceeds.

(c) Property described in subsection (1)(c) is taxed at 45% of its annual gross proceeds.

(d) Property described in subsection (1)(d) is taxed at ~~50%~~ 45% of its annual gross proceeds."

NEW SECTION. Section 3. Definitions. As used in [sections 3 through 9], the following definitions apply:

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

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

(3) "Gross proceeds" or "gross yield" means the revenue realized from the extraction of gemstones, determined by multiplying the quantity produced by the merchantable value.

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

THIRD READING

1 (5) "Merchantable value" means the average market
2 value of all gemstones produced or extracted in a county
3 over a 12-month period.

4 NEW SECTION. Section 4. Gemstone mines -- ad valorem
5 taxation -- reports and sampling. (1) Each person mining or
6 extracting gemstones from any mine or mining property
7 located within this state must, on or before March 31 each
8 year, file with the department of revenue a statement of the
9 gross yield from each mine or mining property owned or
10 worked by such person in the preceding calendar year and the
11 value thereof. The statement must be in the form prescribed
12 by the department and must contain the following:

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

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

17 (c) the number of carats extracted from the mine or
18 mining property during the period covered by the statement;

19 (d) the name and location of each purchaser to whom
20 such gemstones or deposits have been shipped or sold during
21 the period covered by the statement;

22 (e) the gross value of product in dollars and cents;
23 and

24 (f) any other information requested by the department.

25 (2) This section applies regardless of the location of

1 any purchaser to whom the gemstones or other mineral
2 products or deposits are shipped.

3 (3) Any sampling, testing, or weighing made necessary
4 to comply with this section must be completed within this
5 state and prior to any mixture of the gemstones to be
6 sampled, tested, or weighed with gemstones from any other
7 mine or mining property.

8 NEW SECTION. Section 5. Valuation -- gross proceeds.
9 On or before July 1 each year, the department shall
10 determine the merchantable value of all gemstone production
11 from the previous calendar year. The department shall
12 transmit to its agent in each county where gemstones are
13 produced the merchantable value as has been determined by
14 the department for placement on the assessment roll after
15 subtracting ~~such portion of the proceeds as may be~~ THE FIRST
16 \$40,000 OF MERCHANTABLE VALUE, WHICH IS exempt from property
17 taxation.

18 NEW SECTION. Section 6. Taxation of merchantable
19 value. The department's agent shall prepare from the
20 reported valuation a tax roll which must be transmitted to
21 the county treasurer on or before September 15 each year.
22 The county treasurer shall proceed to give full notice
23 thereof to each gemstone producer and to collect the taxes
24 due at the times provided for in 15-16-102, and any
25 delinquencies in the payment of same are subject to the

1 interest and penalties provided for in 15-16-102.

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

10 NEW SECTION. Section 8. Lien of tax. The tax or
11 penalty on gross proceeds is a lien upon the mine from which
12 the gemstones are extracted and is a prior lien upon all
13 owned or leased personal property and improvements used in
14 extracting the gemstones. The tax must be collected in the
15 manner provided in chapters 16 through 18 of this title.

16 NEW SECTION. Section 9. Assessment procedures. The
17 gross proceeds of gemstone mines must be assessed under the
18 provisions of 15-23-101 through 15-23-107.

19 Section 10. Section 15-23-101, MCA, is amended to
20 read:

21 "15-23-101. Properties centrally assessed. The
22 department of revenue shall centrally assess each year:

23 (1) the franchise, roadway, roadbeds, rails, rolling
24 stock, and all other operating property of railroads
25 operating in more than one county in the state or more than

1 one state;

2 (2) property owned by a corporation or other person
3 operating a single and continuous property operated in more
4 than one county or more than one state, including telegraph,
5 telephone, microwave, electric power or transmission lines;
6 natural gas or oil pipelines; canals, ditches, flumes, or
7 like properties;

8 (3) all property of scheduled airlines;

9 (4) the net proceeds of mines and of oil and gas
10 wells;

11 (5) the gross proceeds of coal mines and gemstone
12 mines; and

13 (6) property described in subsections (1) and (2)
14 which is subject to the provisions of Title 15, chapter 24,
15 part 12."

16 Section 11. Section 15-23-103, MCA, is amended to
17 read:

18 "15-23-103. Due date of reports and returns --
19 extensions. (1) Except as provided in subsection (2) and
20 15-23-602, each report or return described in 15-23-301,
21 15-23-402, 15-23-502, or 15-23-701, or [section 4] shall be
22 delivered to the department on or before March 31 each year.

23 (2) Each report or return for a natural gas or oil
24 pipeline described in 15-23-301 must be delivered to the
25 department on or before April 15 each year.

1 (3) Each report described in 15-23-201 shall be
2 delivered to the department before April 15 each year.

3 (4) The department may for good cause extend the time
4 for filing a return or report for not more than 30 days."

5 Section 12. Section 15-23-104, MCA, is amended to
6 read:

7 "15-23-104. Failure to file -- estimate by department
8 -- penalty. If any person fails to file a report or return
9 within the time established in 15-23-103 or by such later
10 date as the department may approve, the department shall
11 estimate the value of the property to have been reported on
12 the basis of the best available information. In estimating
13 the value of the net proceeds of mines, the department shall
14 proceed under 15-23-506, and in estimating the value of the
15 gross proceeds of coal mines, the department shall proceed
16 under 15-35-107, and in estimating the value of gross
17 proceeds of gemstone mines, the department shall proceed
18 under [section 7]. In estimating value under this section,
19 the department may subpoena a person or his agent as
20 specified in 15-1-302. An assessment based on estimated
21 value is subject to review under 15-8-601. Each month or
22 part of a month a report is delinquent, the department shall
23 impose and collect a \$25 penalty, the total not to exceed
24 \$200, and shall deposit such penalty to the credit of the
25 general fund. The department will also inform its agents in

1 the counties of the delinquency, and the agents shall assess
2 a penalty of 1% of the tax due for each month or part of a
3 month the report is delinquent."

4 Section 13. Section 15-23-106, MCA, is amended to
5 read:

6 "15-23-106. Transmission to the counties. (1) On or
7 before July 1, the department shall transmit to its agent in
8 each county a statement listing:

9 (a) the assessed value of railroad property, as
10 determined under 15-23-202, apportioned to the county,
11 including the length or other description of such property;

12 (b) the assessed value of utility property, as
13 determined under 15-23-302, apportioned to the county,
14 including the length or other description of such property;

15 (c) the assessed value of property of airline
16 companies, as determined under 15-23-403, apportioned to the
17 county; 90% of the value of the property of airline
18 companies apportioned to any county by reason of a state
19 airport being located in the county shall be stated
20 separately from the remaining assessed value of the property
21 of airline companies apportioned to the county;

22 (d) the assessed value of the net proceeds and
23 royalties from mines and oil and gas wells in the county, as
24 determined under 15-23-503, 15-23-505, 15-23-603, and
25 15-23-605; and

1 (e) the assessed value of the gross proceeds from coal
2 mines, as described in 15-23-701; and

3 (f) the assessed value of the gross proceeds from
4 gemstone mines, as described in [section 4].

5 (2) The agent of the department shall enter the
6 assessed values so transmitted in the assessment book in a
7 manner prescribed by the department."

8 Section 14. Section 15-23-115, MCA, is amended to
9 read:

10 "15-23-115. Interest. If the department determines
11 that a taxpayer has incorrectly reported a value under
12 15-23-502, 15-23-602, 15-23-701, or 15-23-802, or [section
13 4], the department shall inform its agents at the county
14 level of such determination, and if any additional tax is
15 due, there must be added thereto until paid in full interest
16 at the rate of 1% a month or fraction thereof from the date
17 the original tax was due and payable. In no instance will a
18 taxpayer subject to imposition of interest pursuant to this
19 section be also subject to the penalty and interest
20 provisions contained in 15-16-102."

21 Section 15. Section 15-23-502, MCA, is amended to
22 read:

23 "15-23-502. Net proceeds tax -- statement of yield.
24 Every person engaged in mining, extracting, or producing
25 from any quartz vein or lode, placer claim, dump or

1 tailings, or other place or source whatever ~~precious--stones~~
2 ~~or--gems~~, vermiculite, bentonite, or other valuable mineral,
3 except coal, and metals, and gemstones, must on or before
4 March 31 each year make out a statement of the gross yield
5 and value of the above-named metals or minerals from each
6 mine owned or worked by such person during the year
7 preceding January 1 of the year in which such statement is
8 made. Such statement shall be in the form prescribed by the
9 department of revenue and must be verified by the oath of
10 the person completing the statement or the manager,
11 superintendent, agent, president, or vice-president, if a
12 corporation, association, or partnership, and must be
13 delivered to the department on or before March 31. Such
14 statement shall show the following:

15 (1) the name and address of the owner or lessee or
16 operator of the mine, together with the names and addresses
17 of any and all persons owning or claiming any royalty
18 interest in the mineral product of such mine or the proceeds
19 derived from the sale thereof, and the amount or amounts
20 paid or yielded as royalty to each of such persons during
21 the period covered by the statement;

22 (2) the description and location of the mine;

23 (3) the number of tons of ore or other mineral
24 products or deposits extracted, produced, and treated or
25 sold from the mine during the period covered by the

1 statement;

2 (4) the amount and character of such ores, mineral
3 products, or deposits and the yield of such ores, mineral
4 products, or deposits from such mine in constituents of
5 commercial value; that is, commercially valuable
6 constituents of the ores, mineral products, or deposits,
7 measured by standard units of measurement, yielded to such
8 person so engaged in mining and to each royalty holder, if
9 any, during the period covered by the statement;

10 (5) the gross yield or value in dollars and cents;

11 (6) cost of extracting from the mine;

12 (7) cost of transporting to place of reduction or
13 sale;

14 (8) cost of reduction or sale;

15 (9) cost of marketing the product and conversion of
16 same into money;

17 (10) cost of construction, repairs, and betterments of
18 mines and cost of repairs and replacements of reduction
19 works;

20 (11) the assessed valuation of reduction works for the
21 calendar year for which such return is made;

22 (12) cost of fire insurance, workers' compensation
23 insurance, boiler and machinery insurance, and public
24 liability insurance paid for the mine, reduction works, or
25 beneficiation process;

1 (13) cost of welfare and retirement fund payments
2 provided for in wage contracts; and

3 (14) cost of testing extracted minerals for the purpose
4 of satisfying federal or state health and safety laws or
5 regulations, the cost of plant security in Montana, the cost
6 of assaying and sampling the extracted minerals, and the
7 costs incurred in Montana for engineering and geological
8 services for existing mining operations but not including
9 any such services beyond the stage of reduction and
10 beneficiation of the minerals."

11 SECTION 16. SECTION 15-6-208, MCA, IS AMENDED TO READ:

12 "15-6-208. Mineral exemptions. (1) One-half of the
13 contract sales price of coal sold by a coal producer who
14 extracts less than 50,000 tons of coal in a calendar year is
15 exempt from taxation.

16 (2) Metal mines producing less than 20,000 tons of ore
17 in a taxable year shall be exempt from property taxation on
18 one-half of the merchantable value.

19 (3) The first \$40,000 of merchantable value of
20 gemstones produced annually from any gemstone mine are
21 exempt from taxation."

22 NEW SECTION. Section 17. Extension of authority. Any
23 existing authority of the department of revenue to make
24 rules on the subject of the provisions of this act is
25 extended to the provisions of this act.

1 NEW SECTION. Section 18. Effective date --
2 applicability. This act is effective on passage and approval
3 and applies to taxable years beginning after December 31,
4 1984.

-End-