

SENATE BILL NO. 3

INTRODUCED BY MAZUREK

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

JANUARY 3, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
JANUARY 13, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 14, 1989	PRINTING REPORT.
JANUARY 16, 1989	SECOND READING, DO PASS.
JANUARY 17, 1989	ENGROSSING REPORT.
JANUARY 18, 1989	THIRD READING, PASSED. AYES, 48; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 18, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
FEBRUARY 20, 1989	FIRST READING.
MARCH 4, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 6, 1989	SECOND READING, CONCURRED IN.
MARCH 7, 1989	THIRD READING, CONCURRED IN. AYES, 91; NOES, 2.
	RETURNED TO SENATE.

MARCH 8, 1989

IN THE SENATE

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

SENATE BILL NO. 3

INTRODUCED BY MAZUREK

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE TAX REPORT FILING REQUIREMENT FOR THE LICENSE TAX ON METAL MINES AND THE RESOURCE INDEMNITY TRUST TAX FROM QUARTERLY TO ANNUALLY; TO INCREASE THE PENALTY PROVISIONS; TO CHANGE THE DATE FOR PAYMENT OF THE TAXES; AMENDING SECTIONS 15-37-102, 15-37-104 THROUGH 15-37-106, 15-37-108, AND 15-38-105 THROUGH 15-38-107, MCA; AND PROVIDING A RETROACTIVE 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 annual reporting date", as used in this part, means the last day of the calendar quarter year. The "quarterly annual gross value of product", as used in this part, means the market value of all merchantable metals or precious and semiprecious gems and stones extracted or produced each calendar quarter year 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 annual 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 quarter year 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."

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

"15-37-104. Mine operator's statement of gross value -- reports and sampling. (1) Every person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead, or any other metal or metals, precious or semiprecious gems or stones are produced must, not later

1 than 60-days March 31 following the quarterly-reporting-date  
 2 end of each quarter calendar year when engaged in or  
 3 carrying on any such business, work, or operation, make out  
 4 a statement of the gross value of product from all mines and  
 5 mining properties worked or operated by such person during  
 6 the calendar quarter year immediately preceding. If good  
 7 cause is shown, the department may grant a reasonable  
 8 extension of the time for filing statements. The statement  
 9 shall be in the form prescribed by the department of revenue  
 10 and shall show the following:

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

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

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

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

22 (e) the gross yield of such ores, concentrates,  
 23 mineral products, or deposits in constituents of commercial  
 24 value, that is to say, the number of ounces of gold or  
 25 silver, pounds of copper, lead, or zinc, or other

1 commercially valuable constituents of said ores,  
 2 concentrates, or mineral products or deposits, measured by  
 3 standard units of measurement, during the period covered by  
 4 the statement;

5 (f) the quarterly annual gross value of product in  
 6 dollars and cents.

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

10 (3) Any sampling, testing, or assaying made necessary  
 11 to comply with this section must be completed within this  
 12 state and prior to any mixture of the ore or concentrate to  
 13 be assayed with ore or concentrate from any other mine or  
 14 mining property.

15 (4) If the quarterly annual statement of gross value  
 16 described herein is not filed with the department ~~within--60~~  
 17 days by March 31 following the calendar quarter-ending  
 18 yearend, a penalty shall be assessed. The penalty shall be  
 19 the greater of \$25 or ~~2%~~ 10% of the tax ~~that-would-be due~~  
 20 under this part ~~if-collected-quarterly~~. If good cause is  
 21 shown, the department may waive the penalty."

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

23 "15-37-105. Computation and payment of tax. (1) The  
 24 tax due under this part is computed according to 15-37-103  
 25 and is due and payable on or before March ~~±~~ 31 of each year

1 for the products produced in the preceding calendar year.  
 2 The tax due under this part becomes delinquent as of  
 3 midnight on March ± 31 of the year immediately following the  
 4 production year. If good cause is shown, the department may  
 5 grant a reasonable extension of time for payment of the tax.  
 6 During the period of any extension granted, the tax due  
 7 bears interest at a rate of 1% a month or any part thereof.

8 (2) If any such person has sold or otherwise disposed  
 9 of any of its mine's products at a price substantially below  
 10 the true market price of such product at the time and place  
 11 of such sale or disposal, then the department shall compute  
 12 the gross value of such portion of said mine's product so  
 13 sold or disposed of substantially below the market price as  
 14 aforesaid, which gross value shall be based upon the  
 15 quotations of the price of such mine's product in New York  
 16 City at the time such portion of the product was so sold or  
 17 otherwise disposed of as evidenced by some established  
 18 authority or market report, such as the Engineering and  
 19 Mining Journal of New York, or some other standard  
 20 publication, giving the market reports for the year covered  
 21 by such statement. Should there be no quotation covering any  
 22 particular product, then the department shall fix the value  
 23 of such gross product or such portion thereof as shall have  
 24 been sold or otherwise disposed of at a price substantially  
 25 below the true market price at the time and place of such

1 sale or disposal in such a manner as may seem to be  
 2 equitable."

3 **Section 4.** Section 15-37-106, MCA, is amended to read:

4 "15-37-106. Procedure in case of failure to file  
 5 statements. If any person shall fail, refuse, or neglect to  
 6 make and file ~~all the~~ required ~~quarterly--statements~~ annual  
 7 statement of gross yield for a production year on or before  
 8 March ± 31 of the year immediately following the production  
 9 year, the department of revenue shall, immediately after  
 10 such time has expired, ascertain and determine as nearly as  
 11 may be possible from any returns or reports filed with any  
 12 state or county officer or board under any law of this state  
 13 and from any other information which the department may be  
 14 able to obtain the total gross value of product of such  
 15 person from such business during the calendar year  
 16 immediately preceding the year in which the license tax is  
 17 to be paid and shall make and file a statement showing the  
 18 amount of such gross value of product and shall ascertain,  
 19 determine, compute, and assess the amount of the license  
 20 taxes due from and to be paid by such person and shall  
 21 immediately give notice to such person in the same manner  
 22 as though such statement had been filed within time and  
 23 shall proceed to collect such license tax, adding thereto  
 24 and collecting therewith if the same is delinquent the same  
 25 penalty and interest as provided for herein for other

delinquencies."

**Section 5.** 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 on or before midnight of March 1 ~~1~~ of the year immediately following the production year. The department shall add to the amount of delinquent metalliferous mines tax a penalty of ~~8%~~ 10%. The whole amount of license tax, together with penalty, shall bear interest at the rate of 1% per month or fraction thereof. Interest shall be computed from the date the tax becomes delinquent until it is paid. The department may waive the ~~8%~~ 10% penalty if it determines that a reasonable cause exists for failure to pay the tax on or before March 1 ~~1~~ of the year immediately following the production year."

**Section 6.** Section 15-38-105, MCA, is amended to read:

"15-38-105. Report of gross yield from mines. A person who engages in or carries on the business of mining, extracting, or producing a mineral from any quartz vein or lode, placer claim, dump or tailings, or other place or source shall ~~make-out-a-quarterly~~ file an annual statement of gross yield of the mineral from each mine owned or worked by that person during the quarter calendar year. This form shall be in the form prescribed by the department and shall be signed by the person or the manager, superintendent,

agent, president, or vice-president of the corporation, association, or partnership, if any, and shall be delivered to the department on or before the ~~60th~~ day March 31 following the end of the calendar quarter year. The statement shall show the following:

(1) the name and address of the owner or lessee or operator of the mine;

(2) the description and location of the mine;

(3) the quantity of minerals extracted, produced, and treated or sold from the mine during the period covered by the statement;

(4) the amount and character of the mineral and the total yield of the mineral from the mine in constituents of commercial value; that is to say, the number of ounces of gold or silver, pounds of copper or lead, tons of coal, barrels of petroleum or other crude or mineral oil, cubic feet of natural gas, or other commercially valuable constituents of the ores or mineral products or deposits yielded to the person engaged in mining measured by standard units of measurement;

(5) the gross yield or value in dollars and cents."

**Section 7.** Section 15-38-106, MCA, is amended to read:

"15-38-106. Payment of tax -- records -- collection of taxes -- refunds. (1) The tax imposed by this chapter shall be paid by each person to which the tax applies, on or

1 before March 31, on the value of product in the year  
 2 preceding January 1 of the year in which the tax is paid.  
 3 The tax shall be paid to the department at the time the  
 4 statement of yield for the ~~last-calendar-quarter~~ preceding  
 5 calendar year is filed with the department.

6 (2) The department shall deposit the proceeds of the  
 7 tax in the resource indemnity trust fund of the  
 8 nonexpendable trust fund type. Every person to whom the tax  
 9 applies shall keep records in accordance with 15-38-105, and  
 10 the records are subject to inspection by the department upon  
 11 reasonable notice during normal business hours.

12 (3) The department shall examine ~~each--of the four~~  
 13 ~~quarterly--statements~~ statement and compute the taxes  
 14 thereon, and the amount computed by the department shall be  
 15 the taxes imposed, assessed against, and payable by the  
 16 taxpayer. If the tax found to be due is greater than the  
 17 amount paid, the excess shall be paid by the taxpayer to the  
 18 department within 30 days after written notice of the amount  
 19 of deficiency is mailed by the department to the taxpayer.  
 20 If the tax imposed is less than the amount paid, the  
 21 difference must be applied as a tax credit against tax  
 22 liability for subsequent years or refunded if requested by  
 23 the taxpayer."

24 **Section 8.** Section 15-38-107, MCA, is amended to read:

25 "15-38-107. Procedure in case of failure to file

1 statement. (1) If any person fails, refuses, or neglects to  
 2 make and file a statement and return it within the time  
 3 prescribed, the department shall immediately after such time  
 4 has expired determine, as nearly as may be possible from any  
 5 returns or reports filed with the state or from any other  
 6 information which the department may be able to obtain, the  
 7 gross yield of the mineral of such person from such business  
 8 during the calendar quarter year immediately preceding the  
 9 quarter year in which the statement is to be filed and shall  
 10 fix the amount of the tax ~~that-would-be~~ due to the state ~~if~~  
 11 ~~the--tax-were-paid-on-a-quarterly-basis~~ from such person for  
 12 such calendar quarter year and shall add to the amount of  
 13 such tax a penalty of \$25 or 2% 10%, whichever is greater.

14 (2) If any person fails, refuses, or neglects to pay  
 15 the tax when due, the department shall immediately  
 16 determine, as nearly as may be possible from any information  
 17 which the department may be able to obtain, the total gross  
 18 value of product of the person from the business during the  
 19 year for which the tax is due and shall fix the amount of  
 20 tax due to the state and shall add to the amount a penalty  
 21 of 8% 10% plus interest at the rate of 1% a month or  
 22 fraction thereof computed on the total amount of tax and  
 23 penalty. Interest shall be computed from the date the tax  
 24 was due to the date of payment.

25 (3) The department shall mail to the person failing to

LC 0361/01

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

5 (4) Penalties may be waived by the department if  
6 reasonable cause for the failure and neglect to file the  
7 statement required by 15-38-105 or the failure to pay the  
8 tax required by 15-38-106 is provided to the department."

9 **Section 9. Extension of authority.** Any existing  
10 authority to make rules on the subject of the provisions of  
11 [this act] is extended to the provisions of [this act].

12 **Section 10. Retroactive applicability.** [Sections 1  
13 through 3] apply retroactively, within the meaning of  
14 1-2-109, to all taxable periods beginning after December 31,  
15 1988.

-End-



## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB003, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act to change the tax report filing requirement for the license tax on metal mines and the resource indemnity trust tax from quarterly to annually; to increase the penalty provisions; to change the date for payment of the taxes; and providing a retroactive applicability date.

ASSUMPTIONS:

1. RITT revenue is projected to be \$4.584 million in FY90 and \$4.324 in FY91.(REAC)
2. RITT revenue from Metal Mines is projected to be \$1.362 million in FY90 and \$1.285 million in FY91. (REAC)
3. Short term interest rates are projected to be 7.30% in FY90 and 6.95% in FY91.(REAC)
4. Current law RITT interest projections are \$6.859 million for FY90 and \$7.244 million for FY91.(REAC)
5. Delaying the receipt of RITT tax revenue for one month at .61% per month in FY90 and .58% per month in FY91 will decrease interest earnings on RITT by \$28,000 in FY90 and by \$25,000 in FY91.
6. No impact on Department expenditures.

FISCAL IMPACT:Revenue Impact:

	FY '90			FY '91		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
RITT Interest	\$6,859,000	\$6,831,000	(\$28,000)	\$7,244,000	\$7,219,000	(\$25,000)

  
RAY SHACKLEFORD, BUDGET DIRECTOR      1/7/89  
Office of Budget and Program Planning      DATE

JOSEPH P. MAZUREK, PRIMARY SPONSOR      DATE

Fiscal Note for SB003, as introduced

**SB 3**

TECHNICAL NOTE:

The intent of the Department of Revenue was to extend the due date for RITT to March 31 only for metal producers. The introduced version of the bill applies to all RITT producers and the financial impact is reflected in the fiscal note.

Metal producers currently do not have the data needed regarding recovered quantities by the time tax returns are due. Producers must estimate quantities for shipments made in the last month of the reporting period and then make an adjustment on the next tax return. Extending the due date 30 days should eliminate the problem. Also, limiting the due date extension for only Metal Mines reduces the estimate of revenue loss of RITT interest earnings:

RITT Collections for Metal Mines	\$1,362,000	\$1,285,000
Estimated Loss in Investment Earnings	\$ 8,300	\$ 7,400
@ .61%/.58% per month		

APPROVED BY COMM. ON  
NATURAL RESOURCES

SENATE BILL NO. 3

INTRODUCED BY MAZUREK

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE TAX REPORT FILING REQUIREMENT FOR THE LICENSE TAX ON METAL MINES AND THE RESOURCE INDEMNITY TRUST TAX FROM QUARTERLY TO ANNUALLY; TO INCREASE THE PENALTY PROVISIONS; TO CHANGE THE DATE FOR PAYMENT OF THE TAXES; AMENDING SECTIONS 15-37-102, 15-37-104 THROUGH 15-37-106, 15-37-108, AND 15-38-105 THROUGH 15-38-107, MCA; AND PROVIDING A RETROACTIVE 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 annual reporting date", as used in this part, means the last day of the calendar quarter year. The "quarterly annual gross value of product", as used in this part, means the market value of all merchantable metals or precious and semiprecious gems and stones extracted or produced each calendar quarter year 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 annual 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 quarter year 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."

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

"15-37-104. Mine operator's statement of gross value -- reports and sampling. (1) Every person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead, or any other metal or metals, precious or semiprecious gems or stones are produced must, not later

1 than 60-days March 31 following the quarterly-reporting-date  
 2 end of each quarter calendar year when engaged in or  
 3 carrying on any such business, work, or operation, make out  
 4 a statement of the gross value of product from all mines and  
 5 mining properties worked or operated by such person during  
 6 the calendar quarter year immediately preceding. If good  
 7 cause is shown, the department may grant a reasonable  
 8 extension of the time for filing statements. The statement  
 9 shall be in the form prescribed by the department of revenue  
 10 and shall show the following:

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

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

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

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

22 (e) the gross yield of such ores, concentrates,  
 23 mineral products, or deposits in constituents of commercial  
 24 value, that is to say, the number of ounces of gold or  
 25 silver, pounds of copper, lead, or zinc, or other

1 commercially valuable constituents of said ores,  
 2 concentrates, or mineral products or deposits, measured by  
 3 standard units of measurement, during the period covered by  
 4 the statement;

5 (f) the quarterly annual gross value of product in  
 6 dollars and cents.

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

10 (3) Any sampling, testing, or assaying made necessary  
 11 to comply with this section must be completed within this  
 12 state and prior to any mixture of the ore or concentrate to  
 13 be assayed with ore or concentrate from any other mine or  
 14 mining property.

15 (4) If the quarterly annual statement of gross value  
 16 described herein is not filed with the department ~~within--60~~  
 17 days by March 31 following the calendar quarter-ending  
 18 yearend, a penalty shall be assessed. The penalty shall be  
 19 the greater of \$25 or 2% 10% of the tax ~~that would be due~~  
 20 under this part ~~if collected quarterly~~. If good cause is  
 21 shown, the department may waive the penalty."

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

23 "15-37-105. **Computation and payment of tax.** (1) The  
 24 tax due under this part is computed according to 15-37-103  
 25 and is due and payable on or before March ± 31 of each year

1 for the products produced in the preceding calendar year.  
 2 The tax due under this part becomes delinquent as of  
 3 midnight on March ± 31 of the year immediately following the  
 4 production year. If good cause is shown, the department may  
 5 grant a reasonable extension of time for payment of the tax.  
 6 During the period of any extension granted, the tax due  
 7 bears interest at a rate of 1% a month or any part thereof.

8 (2) If any such person has sold or otherwise disposed  
 9 of any of its mine's products at a price substantially below  
 10 the true market price of such product at the time and place  
 11 of such sale or disposal, then the department shall compute  
 12 the gross value of such portion of said mine's product so  
 13 sold or disposed of substantially below the market price as  
 14 aforesaid, which gross value shall be based upon the  
 15 quotations of the price of such mine's product in New York  
 16 City at the time such portion of the product was so sold or  
 17 otherwise disposed of as evidenced by some established  
 18 authority or market report, such as the Engineering and  
 19 Mining Journal of New York, or some other standard  
 20 publication, giving the market reports for the year covered  
 21 by such statement. Should there be no quotation covering any  
 22 particular product, then the department shall fix the value  
 23 of such gross product or such portion thereof as shall have  
 24 been sold or otherwise disposed of at a price substantially  
 25 below the true market price at the time and place of such

1 sale or disposal in such a manner as may seem to be  
 2 equitable."

3 **Section 4.** Section 15-37-106, MCA, is amended to read:

4 "15-37-106. Procedure in case of failure to file  
 5 statements. If any person shall fail, refuse, or neglect to  
 6 make and file ~~all the~~ required ~~quarterly--statements~~ annual  
 7 statement of gross yield for a production year on or before  
 8 March ± 31 of the year immediately following the production  
 9 year, the department of revenue shall, immediately after  
 10 such time has expired, ascertain and determine as nearly as  
 11 may be possible from any returns or reports filed with any  
 12 state or county officer or board under any law of this state  
 13 and from any other information which the department may be  
 14 able to obtain the total gross value of product of such  
 15 person from such business during the calendar year  
 16 immediately preceding the year in which the license tax is  
 17 to be paid and shall make and file a statement showing the  
 18 amount of such gross value of product and shall ascertain,  
 19 determine, compute, and assess the amount of the license  
 20 taxes due from and to be paid by such person and shall  
 21 immediately give notice to such person in the same manner  
 22 as though such statement had been filed within time and  
 23 shall proceed to collect such license tax, adding thereto  
 24 and collecting therewith if the same is delinquent the same  
 25 penalty and interest as provided for herein for other

delinquencies."

**Section 5.** 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 on or before midnight of March ~~1~~ 31 of the year immediately following the production year. The department shall add to the amount of delinquent metalliferous mines tax a penalty of ~~8%~~ 10%. The whole amount of license tax, together with penalty, shall bear interest at the rate of 1% per month or fraction thereof. Interest shall be computed from the date the tax becomes delinquent until it is paid. The department may waive the ~~8%~~ 10% penalty if it determines that a reasonable cause exists for failure to pay the tax on or before March ~~1~~ 31 of the year immediately following the production year."

**Section 6.** Section 15-38-105, MCA, is amended to read:

"15-38-105. Report of gross yield from mines. A person who engages in or carries on the business of mining, extracting, or producing a mineral from any quartz vein or lode, placer claim, dump or tailings, or other place or source shall ~~make-out-a-quarterly~~ file an annual statement of gross yield of the mineral from each mine owned or worked by that person during the quarter calendar year. This ~~form~~ shall STATEMENT MUST be in the form prescribed by the department and shall be signed by the person or the manager,

superintendent, agent, president, or vice-president of the corporation, association, or partnership, if any, and METAL PRODUCERS shall be-delivered DELIVER THE STATEMENT to the department on or before ~~the-60th-day~~ March 31 following the end of the calendar quarter year. MINERAL PRODUCERS, INCLUDING OIL AND GAS PRODUCERS, SHALL DELIVER THE STATEMENT TO THE DEPARTMENT ON OR BEFORE THE 60TH DAY FOLLOWING THE END OF THE CALENDAR YEAR. The statement shall show the following:

- (1) the name and address of the owner or lessee or operator of the mine;
- (2) the description and location of the mine;
- (3) the quantity of minerals extracted, produced, and treated or sold from the mine during the period covered by the statement;
- (4) the amount and character of the mineral and the total yield of the mineral from the mine in constituents of commercial value; that is to say, the number of ounces of gold or silver, pounds of copper or lead, tons of coal, barrels of petroleum or other crude or mineral oil, cubic feet of natural gas, or other commercially valuable constituents of the ores or mineral products or deposits yielded to the person engaged in mining measured by standard units of measurement;
- (5) the gross yield or value in dollars and cents."

**Section 7.** Section 15-38-106, MCA, is amended to read:

"15-38-106. **Payment of tax -- records -- collection of taxes -- refunds.** (1) The tax imposed by this chapter shall be paid by each person to which the tax applies, on or before March ~~1~~ 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax shall be paid to the department at the time the statement of yield for the ~~last-calendar--quarter~~ preceding calendar year is filed with the department.

(2) The department shall deposit the proceeds of the tax in the resource indemnity trust fund of the nonexpendable trust fund type. Every person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(3) The department shall examine ~~each--of the four quarterly--statements~~ statement and compute the taxes thereon, and the amount computed by the department shall be the taxes imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess shall be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax

liability for subsequent years or refunded if requested by the taxpayer."

**Section 8.** Section 15-38-107, MCA, is amended to read:

"15-38-107. **Procedure in case of failure to file statement.** (1) If any person fails, refuses, or neglects to make and file a statement and return it within the time prescribed, the department shall immediately after such time has expired determine, as nearly as may be possible from any returns or reports filed with the state or from any other information which the department may be able to obtain, the gross yield of the mineral of such person from such business during the calendar quarter year immediately preceding the quarter year in which the statement is to be filed and shall fix the amount of the tax ~~that-would-be~~ due to the state ~~if the-tax-were-paid-on-a-quarterly-basis~~ from such person for such calendar quarter year and shall add to the amount of such tax a penalty of \$25 or ~~2%~~ 10%, whichever is greater.

(2) If any person fails, refuses, or neglects to pay the tax when due, the department shall immediately determine, as nearly as may be possible from any information which the department may be able to obtain, the total gross value of product of the person from the business during the year for which the tax is due and shall fix the amount of tax due to the state and shall add to the amount a penalty of ~~8%~~ 10% plus interest at the rate of ~~1%~~ a month or

SB 0003/02

1 fraction thereof computed on the total amount of tax and  
2 penalty. Interest shall be computed from the date the tax  
3 was due to the date of payment.

4 (3) The department shall mail to the person failing to  
5 file ~~a-quarterly~~ an annual statement or pay any tax a letter  
6 setting forth the amount of tax, penalty, and interest due.  
7 The letter shall advise that if payment is not received, a  
8 warrant for distraint may be filed.

9 (4) Penalties may be waived by the department if  
10 reasonable cause for the failure and neglect to file the  
11 statement required by 15-38-105 or the failure to pay the  
12 tax required by 15-38-106 is provided to the department."

13 NEW SECTION. **Section 9. Extension of authority.** Any  
14 existing authority to make rules on the subject of the  
15 provisions of [this act] is extended to the provisions of  
16 [this act].

17 NEW SECTION. **Section 10. Retroactive applicability.**  
18 [Sections 1 through 3] apply retroactively, within the  
19 meaning of 1-2-109, to all taxable periods beginning after  
20 December 31, 1988.

-End-



## 1 SENATE BILL NO. 3

2 INTRODUCED BY MAZUREK

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE TAX  
6 REPORT FILING REQUIREMENT FOR THE LICENSE TAX ON METAL MINES  
7 AND THE RESOURCE INDEMNITY TRUST TAX FROM QUARTERLY TO  
8 ANNUALLY; TO INCREASE THE PENALTY PROVISIONS; TO CHANGE THE  
9 DATE FOR PAYMENT OF THE TAXES; AMENDING SECTIONS 15-37-102,  
10 15-37-104 THROUGH 15-37-106, 15-37-108, AND 15-38-105  
11 THROUGH 15-38-107, MCA; AND PROVIDING A RETROACTIVE  
12 APPLICABILITY DATE."  
13

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

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

16 "15-37-102. Gross value of metal mine yield --  
17 computation. The "quarterly annual reporting date", as used  
18 in this part, means the last day of the calendar quarter  
19 year. The "quarterly annual gross value of product", as used  
20 in this part, means the market value of all merchantable  
21 metals or precious and semiprecious gems and stones  
22 extracted or produced each calendar quarter year from any  
23 mine or mining property in the state or recovered from the  
24 smelting, milling, reduction, or treatment in any manner of  
25 ores extracted from any such mine or mining property or from

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

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

20 "15-37-104. Mine operator's statement of gross value  
21 -- reports and sampling. (1) Every person engaged in or  
22 carrying on the business of working or operating any mine or  
23 mining property in this state from which gold, silver,  
24 copper, lead, or any other metal or metals, precious or  
25 semiprecious gems or stones are produced must, not later

1 than 60-days March 31 following the quarterly-reporting-date  
 2 end of each quarter calendar year when engaged in or  
 3 carrying on any such business, work, or operation, make out  
 4 a statement of the gross value of product from all mines and  
 5 mining properties worked or operated by such person during  
 6 the calendar quarter year immediately preceding. If good  
 7 cause is shown, the department may grant a reasonable  
 8 extension of the time for filing statements. The statement  
 9 shall be in the form prescribed by the department of revenue  
 10 and shall show the following:

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

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

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

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

22 (e) the gross yield of such ores, concentrates,  
 23 mineral products, or deposits in constituents of commercial  
 24 value, that is to say, the number of ounces of gold or  
 25 silver, pounds of copper, lead, or zinc, or other

1 commercially valuable constituents of said ores,  
 2 concentrates, or mineral products or deposits, measured by  
 3 standard units of measurement, during the period covered by  
 4 the statement;

5 (f) the quarterly annual gross value of product in  
 6 dollars and cents.

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

10 (3) Any sampling, testing, or assaying made necessary  
 11 to comply with this section must be completed within this  
 12 state and prior to any mixture of the ore or concentrate to  
 13 be assayed with ore or concentrate from any other mine or  
 14 mining property.

15 (4) If the quarterly annual statement of gross value  
 16 described herein is not filed with the department within--60  
 17 days by March 31 following the calendar quarter ending  
 18 yearend, a penalty shall be assessed. The penalty shall be  
 19 the greater of \$25 or 2% 10% of the tax that would be due  
 20 under this part ~~if collected quarterly~~. If good cause is  
 21 shown, the department may waive the penalty."

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

23 "15-37-105. **Computation and payment of tax.** (1) The  
 24 tax due under this part is computed according to 15-37-103  
 25 and is due and payable on or before March 1 31 of each year

1 for the products produced in the preceding calendar year.  
 2 The tax due under this part becomes delinquent as of  
 3 midnight on March ~~1~~ 31 of the year immediately following the  
 4 production year. If good cause is shown, the department may  
 5 grant a reasonable extension of time for payment of the tax.  
 6 During the period of any extension granted, the tax due  
 7 bears interest at a rate of 1% a month or any part thereof.

8 (2) If any such person has sold or otherwise disposed  
 9 of any of its mine's products at a price substantially below  
 10 the true market price of such product at the time and place  
 11 of such sale or disposal, then the department shall compute  
 12 the gross value of such portion of said mine's product so  
 13 sold or disposed of substantially below the market price as  
 14 aforesaid, which gross value shall be based upon the  
 15 quotations of the price of such mine's product in New York  
 16 City at the time such portion of the product was so sold or  
 17 otherwise disposed of as evidenced by some established  
 18 authority or market report, such as the Engineering and  
 19 Mining Journal of New York, or some other standard  
 20 publication, giving the market reports for the year covered  
 21 by such statement. Should there be no quotation covering any  
 22 particular product, then the department shall fix the value  
 23 of such gross product or such portion thereof as shall have  
 24 been sold or otherwise disposed of at a price substantially  
 25 below the true market price at the time and place of such

1 sale or disposal in such a manner as may seem to be  
 2 equitable."

3 **Section 4.** Section 15-37-106, MCA, is amended to read:

4 "15-37-106. Procedure in case of failure to file  
 5 statements. If any person shall fail, refuse, or neglect to  
 6 make and file ~~all the~~ required ~~quarterly--statements~~ annual  
 7 statement of gross yield for a production year on or before  
 8 March ~~1~~ 31 of the year immediately following the production  
 9 year, the department of revenue shall, immediately after  
 10 such time has expired, ascertain and determine as nearly as  
 11 may be possible from any returns or reports filed with any  
 12 state or county officer or board under any law of this state  
 13 and from any other information which the department may be  
 14 able to obtain the total gross value of product of such  
 15 person from such business during the calendar year  
 16 immediately preceding the year in which the license tax is  
 17 to be paid and shall make and file a statement showing the  
 18 amount of such gross value of product and shall ascertain,  
 19 determine, compute, and assess the amount of the license  
 20 taxes due from and to be paid by such person and shall  
 21 immediately give notice to such person in the same manner  
 22 as though such statement had been filed within time and  
 23 shall proceed to collect such license tax, adding thereto  
 24 and collecting therewith if the same is delinquent the same  
 25 penalty and interest as provided for herein for other

1 delinquencies."

2 **Section 5.** Section 15-37-108, MCA, is amended to read:

3 "15-37-108. Delinquent taxes -- penalty. All license  
4 taxes assessed under the provisions of this part shall  
5 become delinquent if not paid on or before midnight of March  
6 ± 31 of the year immediately following the production year.  
7 The department shall add to the amount of delinquent  
8 metalliferous mines tax a penalty of 8% 10%. The whole  
9 amount of license tax, together with penalty, shall bear  
10 interest at the rate of 1% per month or fraction thereof.  
11 Interest shall be computed from the date the tax becomes  
12 delinquent until it is paid. The department may waive the 8%  
13 10% penalty if it determines that a reasonable cause exists  
14 for failure to pay the tax on or before March ± 31 of the  
15 year immediately following the production year."

16 **Section 6.** Section 15-38-105, MCA, is amended to read:

17 "15-38-105. Report of gross yield from mines. A person  
18 who engages in or carries on the business of mining,  
19 extracting, or producing a mineral from any quartz vein or  
20 lode, placer claim, dump or tailings, or other place or  
21 source shall ~~make-out-a-quarterly~~ file an annual statement  
22 of gross yield of the mineral from each mine owned or worked  
23 by that person during the quarter calendar year. This form  
24 ~~shall~~ STATEMENT MUST be in the form prescribed by the  
25 department and shall be signed by the person or the manager,

1 superintendent, agent, president, or vice-president of the  
2 corporation, association, or partnership, if any, and METAL  
3 PRODUCERS shall ~~be-delivered~~ DELIVER THE STATEMENT to the  
4 department on or before ~~the-60th-day~~ March 31 following the  
5 end of the calendar ~~quarter~~ year. MINERAL PRODUCERS,  
6 INCLUDING OIL AND GAS PRODUCERS, SHALL DELIVER THE STATEMENT  
7 TO THE DEPARTMENT ON OR BEFORE THE 60TH DAY FOLLOWING THE  
8 END OF THE CALENDAR YEAR. The statement shall show the  
9 following:

- 10 (1) the name and address of the owner or lessee or  
11 operator of the mine;
- 12 (2) the description and location of the mine;
- 13 (3) the quantity of minerals extracted, produced, and  
14 treated or sold from the mine during the period covered by  
15 the statement;
- 16 (4) the amount and character of the mineral and the  
17 total yield of the mineral from the mine in constituents of  
18 commercial value; that is to say, the number of ounces of  
19 gold or silver, pounds of copper or lead, tons of coal,  
20 barrels of petroleum or other crude or mineral oil, cubic  
21 feet of natural gas, or other commercially valuable  
22 constituents of the ores or mineral products or deposits  
23 yielded to the person engaged in mining measured by standard  
24 units of measurement;
- 25 (5) the gross yield or value in dollars and cents."

**Section 7.** Section 15-38-106, MCA, is amended to read:

"15-38-106. Payment of tax -- records -- collection of taxes -- refunds. (1) The tax imposed by this chapter shall be paid by each person to which the tax applies, on or before March ~~1~~ 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax shall be paid to the department at the time the statement of yield for the ~~last-calendar--quarter~~ preceding calendar year is filed with the department.

(2) The department shall deposit the proceeds of the tax in the resource indemnity trust fund of the nonexpendable trust fund type. Every person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(3) The department shall examine ~~each--of the four quarterly---statements~~ statement and compute the taxes thereon, and the amount computed by the department shall be the taxes imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess shall be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax

liability for subsequent years or refunded if requested by the taxpayer."

**Section 8.** Section 15-38-107, MCA, is amended to read:

"15-38-107. Procedure in case of failure to file statement. (1) If any person fails, refuses, or neglects to make and file a statement and return it within the time prescribed, the department shall immediately after such time has expired determine, as nearly as may be possible from any returns or reports filed with the state or from any other information which the department may be able to obtain, the gross yield of the mineral of such person from such business during the calendar quarter year immediately preceding the quarter year in which the statement is to be filed and shall fix the amount of the tax ~~that-would-be~~ due to the state if ~~the-tax-were-paid-on-a-quarterly-basis~~ from such person for such calendar quarter year and shall add to the amount of such tax a penalty of \$25 or ~~2%~~ 10%, whichever is greater.

(2) If any person fails, refuses, or neglects to pay the tax when due, the department shall immediately determine, as nearly as may be possible from any information which the department may be able to obtain, the total gross value of product of the person from the business during the year for which the tax is due and shall fix the amount of tax due to the state and shall add to the amount a penalty of ~~8%~~ 10% plus interest at the rate of 1% a month or

SB 0003/02

1 fraction thereof computed on the total amount of tax and  
2 penalty. Interest shall be computed from the date the tax  
3 was due to the date of payment.

4 (3) The department shall mail to the person failing to  
5 file ~~a quarterly~~ an annual statement or pay any tax a letter  
6 setting forth the amount of tax, penalty, and interest due.  
7 The letter shall advise that if payment is not received, a  
8 warrant for distraint may be filed.

9 (4) Penalties may be waived by the department if  
10 reasonable cause for the failure and neglect to file the  
11 statement required by 15-38-105 or the failure to pay the  
12 tax required by 15-38-106 is provided to the department."

13 NEW SECTION. **Section 9. Extension of authority.** Any  
14 existing authority to make rules on the subject of the  
15 provisions of [this act] is extended to the provisions of  
16 [this act].

17 NEW SECTION. **Section 10. Retroactive applicability.**  
18 [Sections 1 through 3] apply retroactively, within the  
19 meaning of 1-2-109, to all taxable periods beginning after  
20 December 31, 1988.

-End-

## SENATE BILL NO. 3

INTRODUCED BY MAZUREK

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE TAX REPORT FILING REQUIREMENT FOR THE LICENSE TAX ON METAL MINES AND THE RESOURCE INDEMNITY TRUST TAX FROM QUARTERLY TO ANNUALLY; TO INCREASE THE PENALTY PROVISIONS; TO CHANGE THE DATE FOR PAYMENT OF THE TAXES; AMENDING SECTIONS 15-37-102, 15-37-104 THROUGH 15-37-106, 15-37-108, AND 15-38-105 THROUGH 15-38-107, MCA; AND PROVIDING A RETROACTIVE 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 annual reporting date", as used in this part, means the last day of the calendar quarter year. The "quarterly annual gross value of product", as used in this part, means the market value of all merchantable metals or precious and semiprecious gems and stones extracted or produced each calendar quarter year 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 annual 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 quarter year 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."

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

"15-37-104. Mine operator's statement of gross value -- reports and sampling. (1) Every person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead, or any other metal or metals, precious or semiprecious gems or stones are produced must, not later

1 than 60-days March 31 following the quarterly-reporting-date  
 2 end of each quarter calendar year when engaged in or  
 3 carrying on any such business, work, or operation, make out  
 4 a statement of the gross value of product from all mines and  
 5 mining properties worked or operated by such person during  
 6 the calendar quarter year immediately preceding. If good  
 7 cause is shown, the department may grant a reasonable  
 8 extension of the time for filing statements. The statement  
 9 shall be in the form prescribed by the department of revenue  
 10 and shall show the following:

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

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

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

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

22 (e) the gross yield of such ores, concentrates,  
 23 mineral products, or deposits in constituents of commercial  
 24 value, that is to say, the number of ounces of gold or  
 25 silver, pounds of copper, lead, or zinc, or other

1 commercially valuable constituents of said ores,  
 2 concentrates, or mineral products or deposits, measured by  
 3 standard units of measurement, during the period covered by  
 4 the statement;

5 (f) the quarterly annual gross value of product in  
 6 dollars and cents.

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

10 (3) Any sampling, testing, or assaying made necessary  
 11 to comply with this section must be completed within this  
 12 state and prior to any mixture of the ore or concentrate to  
 13 be assayed with ore or concentrate from any other mine or  
 14 mining property.

15 (4) If the quarterly annual statement of gross value  
 16 described herein is not filed with the department ~~within~~-60  
 17 days by March 31 following the calendar quarter-ending  
 18 yearend, a penalty shall be assessed. The penalty shall be  
 19 the greater of \$25 or ~~2%~~ 10% of the tax that ~~would be~~ due  
 20 under this part ~~if collected quarterly~~. If good cause is  
 21 shown, the department may waive the penalty."

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

23 "15-37-105. Computation and payment of tax. (1) The  
 24 tax due under this part is computed according to 15-37-103  
 25 and is due and payable on or before March 1 31 of each year



1 for the products produced in the preceding calendar year.  
 2 The tax due under this part becomes delinquent as of  
 3 midnight on March ~~1~~ 31 of the year immediately following the  
 4 production year. If good cause is shown, the department may  
 5 grant a reasonable extension of time for payment of the tax.  
 6 During the period of any extension granted, the tax due  
 7 bears interest at a rate of 1% a month or any part thereof.

8 (2) If any such person has sold or otherwise disposed  
 9 of any of its mine's products at a price substantially below  
 10 the true market price of such product at the time and place  
 11 of such sale or disposal, then the department shall compute  
 12 the gross value of such portion of said mine's product so  
 13 sold or disposed of substantially below the market price as  
 14 aforesaid, which gross value shall be based upon the  
 15 quotations of the price of such mine's product in New York  
 16 City at the time such portion of the product was so sold or  
 17 otherwise disposed of as evidenced by some established  
 18 authority or market report, such as the Engineering and  
 19 Mining Journal of New York, or some other standard  
 20 publication, giving the market reports for the year covered  
 21 by such statement. Should there be no quotation covering any  
 22 particular product, then the department shall fix the value  
 23 of such gross product or such portion thereof as shall have  
 24 been sold or otherwise disposed of at a price substantially  
 25 below the true market price at the time and place of such

1 sale or disposal in such a manner as may seem to be  
 2 equitable."

3 **Section 4.** Section 15-37-106, MCA, is amended to read:

4 "15-37-106. Procedure in case of failure to file  
 5 statements. If any person shall fail, refuse, or neglect to  
 6 make and file ~~all the required quarterly--statements~~ annual  
 7 statement of gross yield for a production year on or before  
 8 March ~~1~~ 31 of the year immediately following the production  
 9 year, the department of revenue shall, immediately after  
 10 such time has expired, ascertain and determine as nearly as  
 11 may be possible from any returns or reports filed with any  
 12 state or county officer or board under any law of this state  
 13 and from any other information which the department may be  
 14 able to obtain the total gross value of product of such  
 15 person from such business during the calendar year  
 16 immediately preceding the year in which the license tax is  
 17 to be paid and shall make and file a statement showing the  
 18 amount of such gross value of product and shall ascertain,  
 19 determine, compute, and assess the amount of the license  
 20 taxes due from and to be paid by such person and shall  
 21 immediately give notice to such person in the same manner  
 22 as though such statement had been filed within time and  
 23 shall proceed to collect such license tax, adding thereto  
 24 and collecting therewith if the same is delinquent the same  
 25 penalty and interest as provided for herein for other

1 delinquencies."

2 **Section 5.** Section 15-37-108, MCA, is amended to read:

3 "15-37-108. Delinquent taxes -- penalty. All license  
4 taxes assessed under the provisions of this part shall  
5 become delinquent if not paid on or before midnight of March  
6 ± 31 of the year immediately following the production year.  
7 The department shall add to the amount of delinquent  
8 metalliferous mines tax a penalty of 8% 10%. The whole  
9 amount of license tax, together with penalty, shall bear  
10 interest at the rate of 1% per month or fraction thereof.  
11 Interest shall be computed from the date the tax becomes  
12 delinquent until it is paid. The department may waive the 8%  
13 10% penalty if it determines that a reasonable cause exists  
14 for failure to pay the tax on or before March ± 31 of the  
15 year immediately following the production year."

16 **Section 6.** Section 15-38-105, MCA, is amended to read:

17 "15-38-105. Report of gross yield from mines. A person  
18 who engages in or carries on the business of mining,  
19 extracting, or producing a mineral from any quartz vein or  
20 lode, placer claim, dump or tailings, or other place or  
21 source shall make-out-a-quarterly file an annual statement  
22 of gross yield of the mineral from each mine owned or worked  
23 by that person during the quarter calendar year. This form  
24 shall STATEMENT MUST be in the form prescribed by the  
25 department and shall be signed by the person or the manager,

1 superintendent, agent, president, or vice-president of the  
2 corporation, association, or partnership, if any, 7, and METAL  
3 PRODUCERS shall ~~be-delivered~~ DELIVER THE STATEMENT to the  
4 department on or before ~~the-60th-day~~ March 31 following the  
5 end of the calendar quarter year. MINERAL PRODUCERS,  
6 INCLUDING OIL AND GAS PRODUCERS, SHALL DELIVER THE STATEMENT  
7 TO THE DEPARTMENT ON OR BEFORE THE 60TH DAY FOLLOWING THE  
8 END OF THE CALENDAR YEAR. The statement shall show the  
9 following:

- 10 (1) the name and address of the owner or lessee or  
11 operator of the mine;
- 12 (2) the description and location of the mine;
- 13 (3) the quantity of minerals extracted, produced, and  
14 treated or sold from the mine during the period covered by  
15 the statement;
- 16 (4) the amount and character of the mineral and the  
17 total yield of the mineral from the mine in constituents of  
18 commercial value; that is to say, the number of ounces of  
19 gold or silver, pounds of copper or lead, tons of coal,  
20 barrels of petroleum or other crude or mineral oil, cubic  
21 feet of natural gas, or other commercially valuable  
22 constituents of the ores or mineral products or deposits  
23 yielded to the person engaged in mining measured by standard  
24 units of measurement;
- 25 (5) the gross yield or value in dollars and cents."

**Section 7.** Section 15-38-106, MCA, is amended to read:

"15-38-106. **Payment of tax -- records -- collection of taxes -- refunds.** (1) The tax imposed by this chapter shall be paid by each person to which the tax applies, on or before March ~~1~~ 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax shall be paid to the department at the time the statement of yield for the ~~last-calendar--quarter~~ preceding calendar year is filed with the department.

(2) The department shall deposit the proceeds of the tax in the resource indemnity trust fund of the nonexpendable trust fund type. Every person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(3) The department shall examine ~~each--of~~ the four ~~quarterly--statements~~ statement and compute the taxes thereon, and the amount computed by the department shall be the taxes imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess shall be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax

liability for subsequent years or refunded if requested by the taxpayer."

**Section 8.** Section 15-38-107, MCA, is amended to read:

"15-38-107. **Procedure in case of failure to file statement.** (1) If any person fails, refuses, or neglects to make and file a statement and return it within the time prescribed, the department shall immediately after such time has expired determine, as nearly as may be possible from any returns or reports filed with the state or from any other information which the department may be able to obtain, the gross yield of the mineral of such person from such business during the calendar quarter year immediately preceding the quarter year in which the statement is to be filed and shall fix the amount of the tax ~~that-would-be~~ due to the state if ~~the-tax-were-paid-on-a-quarterly-basis~~ from such person for such calendar quarter year and shall add to the amount of such tax a penalty of \$25 or ~~2%~~ 10%, whichever is greater.

(2) If any person fails, refuses, or neglects to pay the tax when due, the department shall immediately determine, as nearly as may be possible from any information which the department may be able to obtain, the total gross value of product of the person from the business during the year for which the tax is due and shall fix the amount of tax due to the state and shall add to the amount a penalty of ~~8%~~ 10% plus interest at the rate of 1% a month or

SB 0003/02

1 fraction thereof computed on the total amount of tax and  
2 penalty. Interest shall be computed from the date the tax  
3 was due to the date of payment.

4 (3) The department shall mail to the person failing to  
5 file ~~a-quarterly~~ an annual statement or pay any tax a letter  
6 setting forth the amount of tax, penalty, and interest due.  
7 The letter shall advise that if payment is not received, a  
8 warrant for distraint may be filed.

9 (4) Penalties may be waived by the department if  
10 reasonable cause for the failure and neglect to file the  
11 statement required by 15-38-105 or the failure to pay the  
12 tax required by 15-38-106 is provided to the department."

13 NEW SECTION. Section 9. Extension of authority. Any  
14 existing authority to make rules on the subject of the  
15 provisions of [this act] is extended to the provisions of  
16 [this act].

17 NEW SECTION. Section 10. Retroactive applicability.  
18 [Sections 1 through 3] apply retroactively, within the  
19 meaning of 1-2-109, to all taxable periods beginning after  
20 December 31, 1988.

-End-