

SENATE BILL NO. 410

INTRODUCED BY BECK, WILLIAMS, MCLANE, STORY,
CAMPBELL, HOFFMAN, VAN VALKENBURG, THOMAS,
ELLISON, MAZUREK, GIACOMETTO, HAMMOND,
KELLER, D. BROWN

IN THE SENATE

FEBRUARY 13, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

MARCH 10, 1989

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 11, 1989

PRINTING REPORT.

MARCH 13, 1989

SECOND READING, DO PASS.

MARCH 14, 1989

ENGROSSING REPORT.

MARCH 15, 1989

THIRD READING, PASSED.
AYES, 44; NOES, 3.

TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 16, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

APRIL 10, 1989

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 11, 1989

SECOND READING, CONCURRED IN AS
AMENDED.

APRIL 13, 1989

THIRD READING, CONCURRED IN.
AYES, 100; NOES, 0.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 15, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 18, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *410*
 2 INTRODUCED BY *Beck Miller-Nelson Story*
 3 *Caplan Hoffman Wilkby Thomas Thasunt*
 4 *Alvarado Hammond Kelly*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
 6 TAXATION OF METAL MINES; CLARIFYING THE VALUE AT WHICH GROSS
 7 PROCEEDS AND METAL MINES LICENSE TAXES ARE LEVIED; REVISING
 8 THE ALLOCATION FORMULA OF THE METAL MINES LICENSE TAX;
 9 INCLUDING THE RESOURCE INDEMNITY TRUST FUND AND CERTAIN
 10 UNITS OF LOCAL GOVERNMENT IN WHICH A MINE IS LOCATED IN THE
 11 ALLOCATION OF THE METAL MINES LICENSE TAX; CHANGING THE TAX
 12 REPORT FILING REQUIREMENT FOR THE LICENSE TAX ON METAL MINES
 13 AND THE RESOURCE INDEMNITY TRUST TAX FROM QUARTERLY TO
 14 ANNUALLY; INCREASING THE PENALTY PROVISIONS; EXEMPTING METAL
 15 MINES FROM THE RESOURCE INDEMNITY TRUST TAX; AMENDING
 16 SECTIONS 15-23-801, 15-37-102 THROUGH 15-37-106, 15-37-108,
 17 15-37-117, 15-38-105 THROUGH 15-38-107, AND 15-38-202, MCA;
 18 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
 19 APPLICABILITY DATE."

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

21 **Section 1.** Section 15-23-801, MCA, is amended to read:

22 "15-23-801. Definitions. As used in this part, the
 23 following definitions apply:

24 (1) "Agreement not at arm's length" means an agreement
 25 between parties where the sales price does not represent

1 market value.

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

3 (3) "Gross proceeds" or "gross metal yield" or "gross
 4 value of product" means the revenue receipts realized from
 5 the extraction and sale of metals, determined by multiplying
 6 the quantity produced by the merchantable value or
 7 concentrate containing metals.

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

10 (5) (4) "Merchantable value" means the average market
 11 value receipts of all salable metals produced or extracted
 12 in a county over a 12-month period. If the extracted ores
 13 are milled, smelted, or reduced by the taxpayer, the
 14 merchantable value in the county in which they are extracted
 15 shall be is the average market value of receipts received
 16 for these metals after this processing."

17 **Section 2.** Section 15-37-102, MCA, is amended to read:

18 "15-37-102. Gross value of metal mine yield --
 19 computation. The "quarterly annual reporting date", as used
 20 in this part, means the last day of the calendar quarter
 21 year. The "quarterly annual gross value of product", as used
 22 in this part, means the market value of receipts received
 23 from all merchantable metals or concentrate containing
 24 metals or precious and semiprecious gems and stones
 25 extracted or produced each calendar quarter year from any

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

22 **Section 3.** Section 15-37-103, MCA, is amended to read:
 23 "15-37-103. **Rate of tax.** The annual license tax to be
 24 paid by such a person engaged in or carrying on the business
 25 of working or operating any mine or mining property in this

1 state from which gold, silver, copper, lead, or any other
 2 metal or metals or precious or semiprecious gems or stones
 3 are produced shall be an amount computed on the gross value
 4 of product which may have been derived by such the person
 5 from such mining business, work, or operation within this
 6 state during the calendar year immediately preceding, at the
 7 following rates:

8 Gross Value	Rate of Tax
9 of Product	(percentage of gross value)
10 first \$250,000	0%
11 more than \$250,000 and	<u>1.65% of the increment</u>
12 not more than \$500,000-----	5% of the increment
13 more than \$500,000 and	
14 --not more than \$1,000,000-----	1% of the increment
15 more than \$1,000,000-----	1.5% of the increment"

16 **Section 4.** Section 15-37-104, MCA, is amended to read:
 17 "15-37-104. **Mine operator's statement of gross value --**
 18 **reports and sampling.** (1) Every person engaged in or
 19 carrying on the business of working or operating any mine or
 20 mining property in this state from which gold, silver,
 21 copper, lead, or any other metal or metals, precious or
 22 semiprecious gems or stones are produced must, not later
 23 than 60 days following the quarterly reporting date March 31
 24 of each quarter year when engaged in or carrying on any such
 25 mining business, work, or operation, make out a statement of

1 the gross value of product from all mines and mining
 2 properties worked or operated by such the person during the
 3 calendar quarter year immediately preceding. If good cause
 4 is shown, the department may grant a reasonable extension of
 5 the time for filing statements. The statement shall be in
 6 the form prescribed by the department of revenue and shall
 7 show the following:

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

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

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

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

20 (e) the gross yield of such the ores, concentrates,
 21 mineral products, or deposits in constituents of commercial
 22 value, ~~that-is-to-say,~~ such as the number of ounces of gold
 23 or silver, pounds of copper, lead, or zinc, or other
 24 commercially valuable constituents of said the ores,
 25 concentrates, or mineral products or deposits, measured by

1 standard units of measurement, during the period covered by
 2 the statement;

3 (f) the quarterly annual gross value of product in
 4 dollars and cents.

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

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

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

20 **Section 5.** Section 15-37-105, MCA, is amended to read:

21 **"15-37-105. Computation and payment of tax.** (1) The tax
 22 due under this part is computed according to 15-37-103 and
 23 is due and payable on or before March ± 31 of each year for
 24 the products produced in the preceding calendar year. The
 25 tax due under this part becomes delinquent as of midnight on

1 March ~~±~~ 31 of the year immediately following the production
 2 year. If good cause is shown, the department may grant a
 3 reasonable extension of time for payment of the tax. During
 4 the period of any extension granted, the tax due bears
 5 interest at a rate of 1% a month or any part thereof.

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

1 to be equitable."

2 **Section 6.** Section 15-37-106, MCA, is amended to read:
 3 "15-37-106. Procedure in case of failure to file
 4 statements. If any person shall fail, refuse, or neglect to
 5 make and file ~~at the~~ the required ~~quarterly-statements~~ annual
 6 statement of gross yield for a production year on or before
 7 March ~~±~~ 31 of the year immediately following the production
 8 year, the department of revenue shall, immediately after
 9 ~~such the~~ the time has expired, ascertain and determine as nearly
 10 as may be possible from any returns or reports filed with
 11 any state or county officer or board under any law of this
 12 state and from any other information which the department
 13 may be able to obtain the total gross value of product of
 14 ~~such the~~ the person from ~~such the~~ the business during the calendar
 15 year immediately preceding the year in which the license tax
 16 is to be paid, and The department shall make and file a
 17 statement showing the amount of such the gross value of
 18 product and shall ascertain, determine, compute, and assess
 19 the amount of the license taxes due from and to be paid by
 20 such the person and shall immediately give notice to such
 21 the person in the same manner as though such the statement
 22 had been filed within time, and The department shall proceed
 23 to collect such the license tax, ~~adding--thereto---and~~
 24 ~~collecting--therewith--if--the--same--is--delinquent~~ along with
 25 the same penalty and interest as provided for--herein for

1 other delinquencies."

2 **Section 7.** 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 8.** Section 15-37-117, MCA, is amended to read:

17 "15-37-117. Disposition of metalliferous mines license
18 taxes. (1) Metalliferous mines license taxes collected under
19 the provisions of this part are allocated as follows:

20 ~~11)(a)~~ to the credit of the general fund of the state,
21 ~~67%~~ 75% of total collections each year;

22 ~~12)(b)~~ to the state special revenue fund to the credit
23 of a hard-rock mining impact trust account, ~~33%~~ 8% of total
24 collections each year;

25 (c) to the state resource indemnity trust fund, 7% of

1 total collections each year;

2 (d) to the units of local government in which the mine
3 is located, 10% of total collections each year, of which:

4 (i) 33 1/3% is allocated to the county;

5 (ii) 33 1/3% is allocated to the elementary school
6 district in which the mine is located; and

7 (iii) 33 1/3% is allocated to the high school district
8 in which the mine is located.

9 (2) The department shall return to the local units of
10 government in which metals are produced the tax collections
11 allocated under subsection (1)(d)."

12 **Section 9.** Section 15-38-105, MCA, is amended to read:

13 "15-38-105. Report of gross yield from mines. A person
14 who engages in or carries on the business of mining,
15 extracting, or producing a mineral from any quartz vein or
16 lode, placer claim, dump or tailings, or other place or
17 source shall make-out-a-quarterly file an annual statement
18 of gross yield of the mineral from each mine owned or worked
19 by that person during the quarter calendar year. This ~~form~~
20 ~~shall~~ statement must be in the form prescribed by the
21 department and ~~shall~~ must be signed by the person or the
22 manager, superintendent, agent, president, or vice-president
23 of the corporation, association, or partnership, if any, and
24 who shall be--delivered deliver the statement to the
25 department on or before the-60th-day March 31 following the

1 end of the calendar quarter year. The statement shall show
2 the following:

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

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

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

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

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

19 **Section 10.** Section 15-38-106, MCA, is amended to read:

20 "15-38-106. Payment of tax -- records -- collection of
21 taxes -- refunds. (1) The tax imposed by this chapter shall
22 be paid by each person to which the tax applies, on or
23 before March ± 31, on the value of product in the year
24 preceding January 1 of the year in which the tax is paid.
25 The tax shall be paid to the department at the time the

1 statement of yield for the ~~last-calendar-quarter~~ preceding
2 calendar year is filed with the department.

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

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

21 **Section 11.** Section 15-38-107, MCA, is amended to read:

22 "15-38-107. Procedure in case of failure to file
23 statement. (1) If any person fails, refuses, or neglects to
24 make and file a statement and return it within the time
25 prescribed, the department shall immediately after such the

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

13 (2) If any person fails, refuses, or neglects to pay
 14 the tax when due, the department shall immediately
 15 determine, as nearly as may be possible from any information
 16 which the department may be able to obtain, the total gross
 17 value of product of the person from the business during the
 18 year for which the tax is due, and The department shall fix
 19 the amount of tax due to the state and shall add to the
 20 amount a penalty of ~~0%~~ 10% plus interest at the rate of 1% a
 21 month or fraction thereof computed on the total amount of
 22 tax and penalty. Interest shall be computed from the date
 23 the tax was due to the date of payment.

24 (3) The department shall mail to the person failing to
 25 file a quarterly an annual statement or pay any tax a letter

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

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

8 **NEW SECTION. Section 12. Exemption from resource**
 9 **indemnity trust tax.** (1) A person who has paid the license
 10 tax on a metal mine under the provisions of Title 15,
 11 chapter 37, part 1, is exempt from the resource indemnity
 12 trust tax.

13 (2) Notwithstanding the provisions of subsection (1),
 14 all reporting requirements under the resource indemnity
 15 trust tax remain in effect.

16 **Section 13.** Section 15-38-202, MCA, is amended to read:

17 **"15-38-202. Investment of resource indemnity trust fund**
 18 **-- expenditure -- minimum balance.** (1) All ~~moneys~~ money paid
 19 into the resource indemnity trust fund, including money
 20 payable into the fund under the provisions of 15-37-117,
 21 shall be invested at the discretion of the board of
 22 investments. All the net earnings accruing to the resource
 23 indemnity trust fund shall annually be added ~~thereto~~ to the
 24 trust fund until it has reached the sum of \$10 million.
 25 Thereafter, only the net earnings may be appropriated and

1 expended until the fund reaches \$100 million. Thereafter,
2 all net earnings and all receipts shall be appropriated by
3 the legislature and expended, provided that the balance in
4 the fund may never be less than \$100 million.

5 (2) At the beginning of each biennium, an amount not to
6 exceed \$175,000 is allocated from the interest income of the
7 resource indemnity trust fund to the environmental
8 contingency account pursuant to the conditions of 75-1-1101.
9 The remainder of the interest income is allocated as
10 follows:

11 (a) Beginning in fiscal year 1982, provided the amount
12 in the resource indemnity trust fund is greater than \$10
13 million, 30% of the interest income of the resource
14 indemnity trust fund must be allocated to the water
15 development state special revenue account created by
16 85-1-604.

17 (b) Beginning in fiscal year 1988, 12% of the interest
18 income of the resource indemnity trust fund must be
19 allocated to the hazardous waste/CERCLA special revenue
20 account provided for in 75-10-621.

21 (c) Beginning in fiscal year 1990, 8% of the interest
22 income from the resource indemnity trust fund must be
23 allocated to the renewable resource development account
24 provided for in Title 90, chapter 2.

25 (d) Beginning in fiscal year 1990, 46% of the interest

1 income from the resource indemnity trust fund must be
2 allocated to the reclamation and development grants account
3 provided for in 90-2-1104.

4 (e) Beginning in fiscal year 1990, 4% of the interest
5 income of the resource indemnity trust fund must be
6 allocated to the environmental quality protection fund
7 provided for in 75-10-704.

8 (3) Any formal budget document prepared by the
9 legislature or the executive branch that proposes to
10 appropriate funds from the resource indemnity trust interest
11 account other than as provided for by the allocations in
12 subsection (2) must specify the amount of money from each
13 allocation that is proposed to be diverted and the proposed
14 use of the diverted funds. A formal budget document includes
15 a printed and publicly distributed budget proposal or
16 recommendation, an introduced bill, or a bill developed
17 during the legislative appropriation process or otherwise
18 during a legislative session."

19 **NEW SECTION. Section 14. Extension of authority.** Any
20 existing authority to make rules on the subject of the
21 provisions of [this act] is extended to the provisions of
22 [this act].

23 **NEW SECTION. Section 15. Codification instruction.**
24 [Section 12] is intended to be codified as an integral part
25 of Title 15, chapter 38, part 1, and the provisions of Title

1 15, chapter 38, part 1, apply to [section 12].

2 NEW SECTION. **Section 16.** Saving clause. [This act]
3 does not affect rights and duties that matured, penalties
4 that were incurred, or proceedings that were begun before
5 [the effective date of this act].

6 NEW SECTION. **Section 17.** Effective date -- retroactive
7 applicability. [This act] is effective on passage and
8 approval and applies retroactively, within the meaning of
9 1-2-109, to taxable years beginning after December 31, 1988.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15


In compliance with a written request, there is hereby submitted a Fiscal Note for SB410, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the taxation of metal mines; clarifying the value at which gross proceeds and metal mines license taxes are levied; revising the allocation formula of the metal mines license tax; including the resource indemnity trust fund and certain units of local government in which a mine is located in the allocation of the metal mines license tax; changing the tax report filing requirement for the license tax on metal mines and the resource indemnity trust tax from quarterly to annually; increasing the penalty provisions; exempting metal mines from the resource indemnity trust tax; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. The metalliferous mines tax is estimated to be \$6,023,000 in FY90 and \$5,365,000 in FY91. The FY90 figure includes an estimated \$333,000 to be collected due to an audit of prior year production. The current effective rate of taxation is estimated to be 1.48%.(REAC)
2. The resource indemnity trust tax (RITT) is estimated to be \$4,584,000 in FY90 and \$4,324,000 in FY91.(REAC) The FY90 figure includes an estimated \$117,000 to be collected due to an audit of prior year production. The RITT for metal mines is estimated to be \$1,362,000 in FY90 and \$1,285,000 in FY91.
3. The metalliferous mines tax and the RITT for metal mines are currently due annually prior to March 1. The proposal changes the due date to March 31 of each year.
4. The proposal continues the exemption of the first \$250,000 of gross value from metalliferous mines taxation.
5. There are approximately 7 major metal producers, and approximately \$1,750,000 of value is exempted from taxation.
6. The estimate of gross value for metal mines is \$383,991,000 in FY90 and \$362,341,000 in FY91.(REAC) This fiscal note assumes no change in the gross value. The gross value does not include an estimated \$600,000 in potential receipts involved in contested audits.
7. The proposal changes the rate of taxation for the metalliferous mines tax to 1.65%. This rate would be applied to gross receipts exceeding \$250,000. Metal producers paying this new metalliferous tax would not be subject to resource indemnity trust tax.
8. This fiscal note assumes no change in the gross value of metal mines gross proceeds. The gross value does not include approximately \$4.0 million in value associated with contested audits.
9. The proposal changes the distribution of the metalliferous tax receipts; 75% to the general fund, 8% to hard-rock mining impact trust account, 7% to the resource indemnity trust fund, and 10% to units of local government.
10. There is no impact on Department of Revenue expenditures.

 2/20/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 3/6/89
TOM BECK, PRIMARY SPONSOR DATE

Fiscal Note for SB410, as introduced

SB 410

Fiscal Note Request SB410, as introduced

Form BD-15

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FISCAL IMPACT:

	<u>FY '90</u>			<u>FY '91</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Revenue Impact:</u>						
Metalliferous Mines						
License Tax	\$6,023,000	\$6,307,000	\$ 284,000	\$5,365,000	\$5,950,000	\$ 585,000
Resource Indemnity						
Trust Tax	4,584,000	3,222,000	(1,362,000)	4,324,000	3,039,000	(1,285,000)
TOTAL	<u>\$10,607,000</u>	<u>\$9,529,000</u>	<u>\$(1,078,000)</u>	<u>\$9,689,000</u>	<u>\$8,989,000</u>	<u>\$ (700,000)</u>
 <u>Fund Information:</u>						
General Fund	\$ 4,145,000	\$4,730,250	\$ 585,250	\$3,595,000	\$4,462,500	\$ 867,500
Hard Rock Mining						
Impact Trust	1,878,000	504,560	(1,373,440)	1,770,000	476,000	(1,294,000)
Resource Indemnity						
Trust Fund	4,584,000	3,663,490	(920,510)	4,324,000	3,455,500	(868,500)
Counties	0	210,234	210,234	0	198,334	198,334
Elementary School Districts	0	210,233	210,233	0	198,333	198,333
High School Districts	0	210,233	210,233	0	198,333	198,333
TOTAL	<u>\$10,607,000</u>	<u>\$9,529,000</u>	<u>\$(1,078,000)</u>	<u>\$9,689,000</u>	<u>\$8,989,000</u>	<u>\$ (700,000)</u>

SB 410

STATE OF MONTANA - FISCAL NOTE

Form BD-15

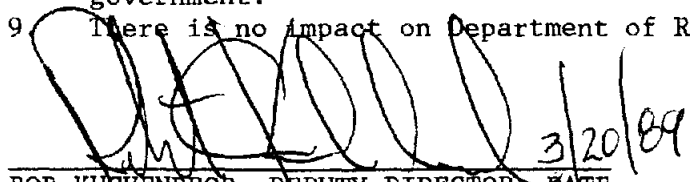
In compliance with a written request, there is hereby submitted a Fiscal Note for SB410, on second reading

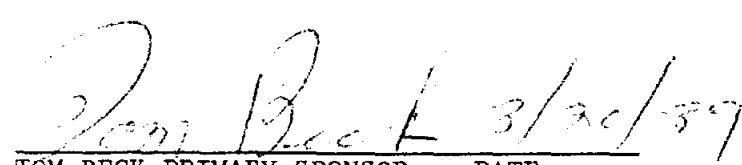
DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the taxation of metal mines; clarifying the value at which gross proceeds and metal mines license taxes are levied; revising the allocation formula of the metal mines license tax; including the resource indemnity trust fund and certain units of local government in which a mine is located in the allocation of the metal mines license tax; changing the tax report filing requirement for the license tax on metal mines and the resource indemnity trust tax from quarterly to annually; increasing the penalty provisions; exempting metal mines from the resource indemnity trust tax; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. The metalliferous mines tax is estimated to be \$6,023,000 in FY90 and \$5,365,000 in FY91. The FY90 figure includes an estimated \$333,000 to be collected due to an audit of prior year production. The current effective rate of taxation is estimated to be 1.48%.(REAC)
2. The resource indemnity trust tax (RITT) is estimated to be \$4,584,000 in FY90 and \$4,324,000 in FY91.(REAC) The FY90 figure includes an estimated \$117,000 to be collected due to an audit of prior year production. The RITT for metal mines is estimated to be \$1,052,000 in FY90 and \$987,000 in FY91.
3. The metalliferous mines tax is currently due annually prior to March 1. The proposal changes the due date to March 31 of each year.
4. The proposal continues the exemption of the first \$250,000 of gross value from metalliferous mines taxation.
5. There are approximately 10 major metal producers, and approximately \$2,500,000 of value is exempted from taxation.
6. The estimate of gross value for metal mines is \$383,991,000 in FY90 and \$362,341,000 in FY91.(REAC) Under the proposal the reported gross value is estimated to be reduced by \$4,657,000 in FY90 and \$4,405,000 in FY91. Based on FY88 the average mills for county and schools is 213.8.
7. The proposal changes the rate of taxation for the metalliferous mines tax to 1.8%. This rate would be applied to gross receipts exceeding \$250,000. Metal producers paying this new metalliferous tax would not be subject to resource indemnity trust tax.
8. The proposal changes the distribution of the metalliferous tax receipts; 63% to the general fund, 8% to hard-rock mining impact trust account, 14% to the resource indemnity trust fund, and 15% to units of local government.
9. There is no impact on Department of Revenue expenditures.

 3/20/89
BOB KUCHENBROD, DEPUTY DIRECTOR DATE
Office of Budget and Program Planning

 3/20/89
TOM BECK, PRIMARY SPONSOR DATE

Fiscal Note for SB410, on second readingSB 410 - 2nd Reading

FISCAL IMPACT:

Revenue Impact:	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Metalliferous Mines						
License Tax	\$6,023,000	\$ 7,116,016	\$ 1,093,016	\$5,365,000	\$6,397,849	\$ 1,032,849
Resource Indemnity						
Trust Tax	<u>4,584,000</u>	<u>3,532,000</u>	<u>(1,052,000)</u>	<u>4,324,000</u>	<u>3,337,000</u>	<u>(987,000)</u>
TOTAL	\$10,607,000	\$10,648,016	\$ 41,061	\$9,689,000	\$9,734,849	\$ 45,849
University Levy	\$11,400,000	\$11,399,162	\$ (838)	\$11,219,000	\$11,218,207	\$ (793)
Foundation Program						
Levy	\$85,499,000	\$85,492,713	\$ (6,287)	\$84,142,000	\$84,136,053	\$ (5,947)
Fund Information:						
General Fund	\$4,145,300	\$4,606,300	\$461,000	\$3,594,550	\$4,030,645	\$436,095
Hard Rock Mining						
Impact Trust	1,877,700	542,641	(1,335,059)	1,770,450	511,828	(1,258,622)
Resource Indemnity						
Trust Fund	4,584,000	4,481,622	(102,378)	4,324,000	4,232,699	(91,301)
Counties	0	339,151	339,151	0	319,892	319,892
Elementary School Dists.	0	339,151	339,151	0	319,892	319,892
High School Dists.	0	339,151	339,151	0	319,892	319,892
TOTAL	\$10,607,000	\$10,648,016	\$41,016	\$9,689,000	\$9,734,849	\$45,849

EFFECT ON COUNTY OR LOCAL REVENUE OR EXPENDITURES:

The gross value of metal mines will be reduced by \$4,657,000 in FY90 and \$4,405,000 in FY91. This reduction in gross value will reduce the taxable valuation of the state by \$139,710 in FY90 and \$132,150 in FY91. This reduction in taxable value is estimated to reduce revenues to counties by \$29,870 in FY90 and \$28,254 in FY91.

SB 410-Second Reading

APPROVED BY COMMITTEE
ON TAXATION

SENATE BILL NO. 410

INTRODUCED BY BECK, WILLIAMS, MCLANE, STORY,
CAMPBELL, HOFFMAN, VAN VALKENBURG, THOMAS,
ELLISON, MAZUREK, GIACOMETTO, HAMMOND,
KELLER, D. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
TAXATION OF METAL MINES; CLARIFYING THE VALUE AT WHICH GROSS
PROCEEDS AND METAL MINES LICENSE TAXES ARE LEVIED; REVISING
THE ALLOCATION FORMULA OF THE METAL MINES LICENSE TAX;
INCLUDING THE RESOURCE INDEMNITY TRUST FUND AND CERTAIN
UNITS OF LOCAL GOVERNMENT IN WHICH A MINE IS LOCATED IN THE
ALLOCATION OF THE METAL MINES LICENSE TAX; CHANGING THE TAX
REPORT FILING REQUIREMENT FOR THE LICENSE TAX ON METAL MINES
AND THE RESOURCE INDEMNITY TRUST TAX FROM QUARTERLY TO
ANNUALLY; INCREASING THE PENALTY PROVISIONS; EXEMPTING METAL
MINES FROM THE RESOURCE INDEMNITY TRUST TAX; ESTABLISHING A
MINE DEVELOPMENT RESERVE ACCOUNT FOR COUNTY GOVERNMENTS AND
LOCAL SCHOOL DISTRICTS; AMENDING SECTIONS 15-23-801,
15-37-102 THROUGH 15-37-106, 15-37-108, 15-37-117, 15-38-105
THROUGH 15-38-107, AND 15-38-202, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
DATE."

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

Section 1. Section 15-23-801, MCA, is amended to read:

"15-23-801. Definitions. As used in this part, the
following definitions apply:

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

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

(3) "Gross proceeds" or "gross metal yield" or "gross
value of product" means the revenue receipts realized from
the extraction and sale of metals, ~~determined by multiplying~~
~~the quantity produced by the merchantable value or~~
concentrate containing metals.

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

~~(5) (4) "Merchantable value" means the average market~~
value receipts of all salable metals produced or extracted
in a county over a 12-month period. If the extracted ores
are milled, smelted, or reduced by the taxpayer, the
merchantable value in the county in which they are extracted
~~shall be~~ is the average market value of receipts received
for these metals after this processing.

(5) "RECEIPTS RECEIVED" MEANS THE MONETARY PAYMENT OR
REFINED METAL RECEIVED BY THE MINING COMPANY FROM THE METAL
TRADER, SMELTER, ROASTER, OR REFINERY, DETERMINED BY
MULTIPLYING THE QUANTITY OF METAL RECEIVED BY THE METAL

1 TRADER, SMELTER, ROASTER, OR REFINERY BY THE QUOTED PRICE
 2 FOR THE METAL AND THEN SUBTRACTING BASIC TREATMENT AND
 3 REFINERY CHARGES, QUANTITY DEDUCTIONS, PRICE DEDUCTIONS,
 4 INTEREST, AND PENALTY METAL, IMPURITY, AND MOISTURE
 5 DEDUCTIONS AS SPECIFIED BY CONTRACT BETWEEN THE MINING
 6 COMPANY AND THE RECEIVING METAL TRADER, SMELTER, ROASTER, OR
 7 REFINERY. DEDUCTIONS ARE NOT ALLOWED, EITHER DIRECTLY OR
 8 INDIRECTLY AS AN OFFSET TO PAYMENTS, FOR THE COST OF
 9 TRANSPORTATION FROM THE MINE OR MILL TO THE SMELTER,
 10 ROASTER, OR REFINERY. DEMURRAGE, STORAGE, INTEREST, OR ANY
 11 OTHER MISCELLANEOUS COSTS RELATED TO TRANSPORTING THE
 12 MINERAL PRODUCT ARE CONSIDERED TRANSPORTATION AND ARE NOT
 13 DEDUCTIBLE."

14 **Section 2.** Section 15-37-102, MCA, is amended to read:
 15 "15-37-102. Gross value of metal mine yield --
 16 computation. The "quarterly annual reporting date", as used
 17 in this part, means the last day of the calendar quarter
 18 year. The "quarterly annual gross value of product", as used
 19 in this part, means the market-value-of receipts received,
 20 AS DEFINED IN 15-23-801, from all merchantable metals or
 21 concentrate containing metals or precious and semiprecious
 22 gems and stones extracted or produced each calendar quarter
 23 year from any mine or mining property in the state or
 24 recovered from the smelting, milling, reduction, or
 25 treatment in any manner of ores extracted from any-such the

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

19 **Section 3.** Section 15-37-103, MCA, is amended to read:
 20 "15-37-103. Rate of tax. The annual license tax to be
 21 paid by such a person engaged in or carrying on the business
 22 of working or operating any mine or mining property in this
 23 state from which gold, silver, copper, lead, or any other
 24 metal or metals or precious or semiprecious gems or stones
 25 are produced shall be an amount computed on the gross value

1 of product which may have been derived by such the person
 2 from such mining business, work, or operation within this
 3 state during the calendar year immediately preceding, at the
 4 following rates:

5 Gross Value	Rate of Tax
6 of Product	(percentage of gross value)
7 first \$250,000	0%
8 more than \$250,000 and	<u>1.65% 1.8% of the increment</u>
9 not more than \$500,000	5% of the increment
10 more than \$500,000 and	
11 not more than \$1,000,000	1% of the increment
12 more than \$1,000,000	1.5% of the increment

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

14 "15-37-104. Mine operator's statement of gross value
 15 -- reports and sampling. (1) Every person engaged in or
 16 carrying on the business of working or operating any mine or
 17 mining property in this state from which gold, silver,
 18 copper, lead, or any other metal or metals, precious or
 19 semiprecious gems or stones are produced must, not later
 20 than 60 days following the quarterly reporting date March 31
 21 of each quarter year when engaged in or carrying on any such
 22 mining business, work, or operation, make out a statement of
 23 the gross value of product from all mines and mining
 24 properties worked or operated by such the person during the
 25 calendar quarter year immediately preceding. If good cause

1 is shown, the department may grant a reasonable extension of
 2 the time for filing statements. The statement shall be in
 3 the form prescribed by the department of revenue and shall
 4 show the following:

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

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

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

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

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

25 (f) the quarterly annual gross value of product in

1 dollars and cents.

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

5 (3) Any sampling, testing, or assaying made necessary
6 to comply with this section must be completed within this
7 state and prior to any mixture of the ore or concentrate to
8 be assayed with ore or concentrate from any other mine or
9 mining property.

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

17 **Section 5.** Section 15-37-105, MCA, is amended to read:

18 "15-37-105. Computation and payment of tax. (1) The
19 tax due under this part is computed according to 15-37-103
20 and is due and payable on or before March 31 of each year
21 for the products produced in the preceding calendar year.
22 The tax due under this part becomes delinquent as of
23 midnight on March 31 of the year immediately following the
24 production year. If good cause is shown, the department may
25 grant a reasonable extension of time for payment of the tax.

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

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

24 **Section 6.** Section 15-37-106, MCA, is amended to read:

25 "15-37-106. Procedure in case of failure to file

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

24 **Section 7.** Section 15-37-108, MCA, is amended to read:
 25 "15-37-108. Delinquent taxes -- penalty. All license

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

13 **Section 8.** Section 15-37-117, MCA, is amended to read:
 14 "15-37-117. Disposition of metalliferous mines license
 15 taxes. (1) Metalliferous mines license taxes collected under
 16 the provisions of this part are allocated as follows:
 17 (1)(a) to the credit of the general fund of the state,
 18 ~~67% 75% 63%~~ of total collections each year;
 19 (2)(b) to the state special revenue fund to the credit
 20 of a hard-rock mining impact trust account, ~~33%~~ 8% of total
 21 collections each year;
 22 (c) to the state resource indemnity trust fund, ~~7%~~ 14%
 23 of total collections each year;
 24 (d) to the units of local government in which the mine
 25 is located, ~~10%~~ 15% of total collections each year, of

1 which:

2 (i) 33 1/3% is allocated to the county;

3 (ii) 33 1/3% is allocated to the elementary school
4 district in which the mine is located; and

5 (iii) 33 1/3% is allocated to the high school district
6 in which the mine is located.

7 (2) The department shall return to the local units of
8 government in which metals are produced the tax collections
9 allocated under subsection (1)(d)."

10 **Section 9.** ~~Section 15-38-105, MCA, is amended to read:~~

11 ~~"15-38-105. Report of gross yield from mines. A~~
12 ~~person who engages in or carries on the business of mining,~~
13 ~~extracting, or producing a mineral from any quartz vein or~~
14 ~~lode, placer claim, dump or tailings, or other place or~~
15 ~~source shall make out a quarterly file an annual statement~~
16 ~~of gross yield of the mineral from each mine owned or worked~~
17 ~~by that person during the quarter calendar year. This form~~
18 ~~shall statement must be in the form prescribed by the~~
19 ~~department and shall must be signed by the person or the~~
20 ~~manager, superintendent, agent, president, or vice president~~
21 ~~of the corporation, association, or partnership, if any, and~~
22 ~~who shall be delivered deliver the statement to the~~
23 ~~department on or before the 60th day March 31 following the~~
24 ~~end of the calendar quarter year. The statement shall show~~
25 ~~the following:~~

1 ~~{1} the name and address of the owner or lessee or~~
2 ~~operator of the mine;~~

3 ~~{2} the description and location of the mine;~~

4 ~~{3} the quantity of minerals extracted, produced, and~~
5 ~~treated or sold from the mine during the period covered by~~
6 ~~the statement;~~

7 ~~{4} the amount and character of the mineral and the~~
8 ~~total yield of the mineral from the mine in constituents of~~
9 ~~commercial value; that is to say, such as the number of~~
10 ~~ounces of gold or silver, pounds of copper or lead, tons of~~
11 ~~coal, barrels of petroleum or other crude or mineral oil,~~
12 ~~cubic feet of natural gas, or other commercially valuable~~
13 ~~constituents of the ores or mineral products or deposits~~
14 ~~yielded to the person engaged in mining measured by standard~~
15 ~~units of measurement;~~

16 ~~{5} the gross yield or value in dollars and cents."~~

17 **Section 10.** ~~Section 15-38-106, MCA, is amended to~~
18 ~~read:~~

19 ~~"15-38-106. Payment of tax records collection of~~
20 ~~taxes refunds. {1} The tax imposed by this chapter shall~~
21 ~~be paid by each person to which the tax applies, on or~~
22 ~~before March 1 31, on the value of product in the year~~
23 ~~preceding January 1 of the year in which the tax is paid.~~
24 ~~The tax shall be paid to the department at the time the~~
25 ~~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 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 11. 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 the

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 the person from such the business during the calendar quarter year immediately preceding the quarter year in which the statement is to be filed, and The department 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 the person for such the calendar quarter year and shall add to the amount of such the 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 The department 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 fraction thereof computed on the total amount of tax and penalty. Interest shall be computed from the date the tax was due to the date of payment.

(3) The department shall mail to the person failing to file a quarterly an annual statement or pay any tax a letter

1 setting-forth-the-amount-of-tax,-penalty,-and-interest--due-
 2 The--letter--shall-advise-that-if-payment-is-not-received,-a
 3 warrant-for-distrain-may-be-filed-

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

8 NEW SECTION. Section 9. Exemption from resource
 9 indemnity trust tax. {1} A person who has paid the license
 10 tax on a metal mine under the provisions of Title 15,
 11 chapter 37, part 1, is exempt from the resource indemnity
 12 trust tax.

13 {2}--Notwithstanding--the-provisions-of-subsection-{1},
 14 all-reporting--requirements--under--the--resource--indemnity
 15 trust-tax-remain-in-effect-

16 **Section 10.** Section 15-38-202, MCA, is amended to
 17 read:

18 "15-38-202. Investment of resource indemnity trust
 19 fund -- expenditure -- minimum balance. (1) All moneys money
 20 paid into the resource indemnity trust fund, including money
 21 payable into the fund under the provisions of 15-37-117,
 22 shall be invested at the discretion of the board of
 23 investments. All the net earnings accruing to the resource
 24 indemnity trust fund shall annually be added thereto to the
 25 trust fund until it has reached the sum of \$10 million.

1 Thereafter, only the net earnings may be appropriated and
 2 expended until the fund reaches \$100 million. Thereafter,
 3 all net earnings and all receipts shall be appropriated by
 4 the legislature and expended, provided that the balance in
 5 the fund may never be less than \$100 million.

6 (2) At the beginning of each biennium, an amount not
 7 to exceed \$175,000 is allocated from the interest income of
 8 the resource indemnity trust fund to the environmental
 9 contingency account pursuant to the conditions of 75-1-1101.
 10 The remainder of the interest income is allocated as
 11 follows:

12 (a) Beginning in fiscal year 1982, provided the amount
 13 in the resource indemnity trust fund is greater than \$10
 14 million, 30% of the interest income of the resource
 15 indemnity trust fund must be allocated to the water
 16 development state special revenue account created by
 17 85-1-604.

18 (b) Beginning in fiscal year 1988, 12% of the interest
 19 income of the resource indemnity trust fund must be
 20 allocated to the hazardous waste/CERCLA special revenue
 21 account provided for in 75-10-621.

22 (c) Beginning in fiscal year 1990, 8% of the interest
 23 income from the resource indemnity trust fund must be
 24 allocated to the renewable resource development account
 25 provided for in Title 90, chapter 2.

1 (d) Beginning in fiscal year 1990, 46% of the interest
2 income from the resource indemnity trust fund must be
3 allocated to the reclamation and development grants account
4 provided for in 90-2-1104.

5 (e) Beginning in fiscal year 1990, 4% of the interest
6 income of the resource indemnity trust fund must be
7 allocated to the environmental quality protection fund
8 provided for in 75-10-704.

9 (3) Any formal budget document prepared by the
10 legislature or the executive branch that proposes to
11 appropriate funds from the resource indemnity trust interest
12 account other than as provided for by the allocations in
13 subsection (2) must specify the amount of money from each
14 allocation that is proposed to be diverted and the proposed
15 use of the diverted funds. A formal budget document includes
16 a printed and publicly distributed budget proposal or
17 recommendation, an introduced bill, or a bill developed
18 during the legislative appropriation process or otherwise
19 during a legislative session."

20 NEW SECTION. SECTION 11. MINE DEVELOPMENT RESERVE
21 ACCOUNT. (1) THE GOVERNING BODY OF A COUNTY RECEIVING TAX
22 COLLECTIONS UNDER 15-37-117(1)(D) MAY ESTABLISH A MINE
23 DEVELOPMENT RESERVE ACCOUNT TO BE USED TO HOLD THE
24 COLLECTIONS. THE GOVERNING BODY MAY HOLD MONEY IN THE
25 ACCOUNT FOR ANY TIME PERIOD DEEMED APPROPRIATE BY THE

1 GOVERNING BODY. MONEY HELD IN THE ACCOUNT MAY NOT BE
2 CONSIDERED AS CASH BALANCE FOR THE PURPOSE OF REDUCING MILL
3 LEVIES.

4 (2) MONEY MAY BE EXPENDED FROM THE ACCOUNT FOR ANY
5 PURPOSE PROVIDED BY LAW.

6 (3) MONEY IN THE ACCOUNT MUST BE INVESTED AS PROVIDED
7 BY LAW. INTEREST AND INCOME FROM THE INVESTMENT OF THE MINE
8 DEVELOPMENT RESERVE ACCOUNT MUST BE CREDITED TO THE ACCOUNT.

9 NEW SECTION. SECTION 12. MINE DEVELOPMENT RESERVE
10 ACCOUNT. (1) THE GOVERNING BODY OF A LOCAL SCHOOL DISTRICT
11 RECEIVING TAX COLLECTIONS UNDER 15-37-117(1)(D) MAY
12 ESTABLISH A MINE DEVELOPMENT RESERVE ACCOUNT TO BE USED TO
13 HOLD THE COLLECTIONS. THE GOVERNING BODY MAY HOLD MONEY IN
14 THE ACCOUNT FOR ANY TIME PERIOD DEEMED APPROPRIATE BY THE
15 GOVERNING BODY. MONEY HELD IN THE ACCOUNT MAY NOT BE
16 CONSIDERED AS CASH BALANCE FOR THE PURPOSE OF REDUCING MILL
17 LEVIES.

18 (2) MONEY MAY BE EXPENDED FROM THE ACCOUNT FOR ANY
19 PURPOSE PROVIDED BY LAW.

20 (3) MONEY IN THE ACCOUNT MUST BE INVESTED AS PROVIDED
21 BY LAW. INTEREST AND INCOME FROM THE INVESTMENT OF THE MINE
22 DEVELOPMENT RESERVE ACCOUNT MUST BE CREDITED TO THE ACCOUNT.

23 NEW SECTION. Section 13. Extension of authority. Any
24 existing authority to make rules on the subject of the
25 provisions of [this act] is extended to the provisions of

1 [this act].

2 NEW SECTION. Section 14. Codification instruction.

3 (1) [Section 12 9] is intended to be codified as an integral
4 part of Title 15, chapter 38, part 1, and the provisions of
5 Title 15, chapter 38, part 1, apply to [section 12 9].

6 (2) [SECTION 11] IS INTENDED TO BE CODIFIED AS AN
7 INTEGRAL PART OF TITLE 7, CHAPTER 6, AND THE PROVISIONS OF
8 TITLE 7, CHAPTER 6, APPLY TO [SECTION 11].

9 (3) [SECTION 12] IS INTENDED TO BE CODIFIED AS AN
10 INTEGRAL PART OF TITLE 20, CHAPTER 9, AND THE PROVISIONS OF
11 TITLE 20, CHAPTER 9, APPLY TO [SECTION 12].

12 NEW SECTION. Section 15. Saving clause. [This act]
13 does not affect rights and duties that matured, penalties
14 that were incurred, or proceedings that were begun before
15 [the effective date of this act].

16 NEW SECTION. Section 16. Effective date --
17 retroactive applicability. [This act] is effective on
18 passage and approval and applies retroactively, within the
19 meaning of 1-2-109, to taxable years beginning after
20 December 31, 1988.

-End-

SENATE BILL NO. 410

INTRODUCED BY BECK, WILLIAMS, MCLANE, STORY,
 CAMPBELL, HOFFMAN, VAN VALKENBURG, THOMAS,
 ELLISON, MAZUREK, GIACOMETTO, HAMMOND,
 KELLER, D. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
 TAXATION OF METAL MINES; CLARIFYING THE VALUE AT WHICH GROSS
 PROCEEDS AND METAL MINES LICENSE TAXES ARE LEVIED; REVISING
 THE ALLOCATION FORMULA OF THE METAL MINES LICENSE TAX;
 INCLUDING THE RESOURCE INDEMNITY TRUST FUND AND CERTAIN
 UNITS OF LOCAL GOVERNMENT IN WHICH A MINE IS LOCATED IN THE
 ALLOCATION OF THE METAL MINES LICENSE TAX; CHANGING THE TAX
 REPORT FILING REQUIREMENT FOR THE LICENSE TAX ON METAL MINES
 AND THE RESOURCE INDEMNITY TRUST TAX FROM QUARTERLY TO
 ANNUALLY; INCREASING THE PENALTY PROVISIONS; EXEMPTING METAL
 MINES FROM THE RESOURCE INDEMNITY TRUST TAX; ESTABLISHING A
MINE DEVELOPMENT RESERVE ACCOUNT FOR COUNTY GOVERNMENTS AND
LOCAL SCHOOL DISTRICTS; AMENDING SECTIONS 15-23-801,
 15-37-102 THROUGH 15-37-106, 15-37-108, 15-37-117, ~~15-38-105~~
~~THROUGH 15-38-107~~, AND 15-38-202, MCA; AND PROVIDING AN
 IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
 DATE."

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

Section 1. Section 15-23-801, MCA, is amended to read:

"15-23-801. Definitions. As used in this part, the
 following definitions apply:

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

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

(3) "Gross proceeds" or "gross metal yield" or "gross
 value of product" means the revenue receipts realized from
 the extraction and sale of metals, ~~determined by multiplying~~
~~the quantity produced by the merchantable value or~~
concentrate containing metals.

~~{4} "Market value" means the exchange value of a
 property in a competitive market.~~

~~{5}~~{4} "Merchantable value" means the average ~~market~~
value receipts of all salable metals produced or extracted
 in a county over a 12-month period. If the extracted ores
 are milled, smelted, or reduced by the taxpayer, the
 merchantable value in the county in which they are extracted
~~shall be is the average market value of receipts received~~
for these metals after this processing.

(5) "RECEIPTS RECEIVED" MEANS THE MONETARY PAYMENT OR
REFINED METAL RECEIVED BY THE MINING COMPANY FROM THE METAL
TRADER, SMELTER, ROASTER, OR REFINERY, DETERMINED BY
MULTIPLYING THE QUANTITY OF METAL RECEIVED BY THE METAL

1 TRADER, SMELTER, ROASTER, OR REFINERY BY THE QUOTED PRICE
 2 FOR THE METAL AND THEN SUBTRACTING BASIC TREATMENT AND
 3 REFINERY CHARGES, QUANTITY DEDUCTIONS, PRICE DEDUCTIONS,
 4 INTEREST, AND PENALTY METAL, IMPURITY, AND MOISTURE
 5 DEDUCTIONS AS SPECIFIED BY CONTRACT BETWEEN THE MINING
 6 COMPANY AND THE RECEIVING METAL TRADER, SMELTER, ROASTER, OR
 7 REFINERY. DEDUCTIONS ARE NOT ALLOWED, EITHER DIRECTLY OR
 8 INDIRECTLY AS AN OFFSET TO PAYMENTS, FOR THE COST OF
 9 TRANSPORTATION FROM THE MINE OR MILL TO THE SMELTER,
 10 ROASTER, OR REFINERY. DEMURRAGE, STORAGE, INTEREST, OR ANY
 11 OTHER MISCELLANEOUS COSTS RELATED TO TRANSPORTING THE
 12 MINERAL PRODUCT ARE CONSIDERED TRANSPORTATION AND ARE NOT
 13 DEDUCTIBLE."

14 **Section 2.** Section 15-37-102, MCA, is amended to read:
 15 "15-37-102. Gross value of metal mine yield --
 16 computation. The "quarterly annual reporting date", as used
 17 in this part, means the last day of the calendar quarter
 18 year. The "quarterly annual gross value of product", as used
 19 in this part, means the market-value-of receipts received,
 20 AS DEFINED IN 15-23-801, from all merchantable metals or
 21 concentrate containing metals or precious and semiprecious
 22 gems and stones extracted or produced each calendar quarter
 23 year from any mine or mining property in the state or
 24 recovered from the smelting, milling, reduction, or
 25 treatment in any manner of ores extracted from any-such the

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

19 **Section 3.** Section 15-37-103, MCA, is amended to read:
 20 "15-37-103. Rate of tax. The annual license tax to be
 21 paid by such a person engaged in or carrying on the business
 22 of working or operating any mine or mining property in this
 23 state from which gold, silver, copper, lead, or any other
 24 metal or metals or precious or semiprecious gems or stones
 25 are produced shall be an amount computed on the gross value

1 of product which may have been derived by such the person
 2 from such mining business, work, or operation within this
 3 state during the calendar year immediately preceding, at the
 4 following rates:

5 Gross Value	Rate of Tax
6 of Product	(percentage of gross value)
7 first \$250,000	0%
8 more than \$250,000 and	1.65% 1.8% of the increment
9 not more than \$500,000	5% of the increment
10 more than \$500,000 and	
11 not more than \$1,000,000	1% of the increment
12 more than \$1,000,000	1.5% of the increment

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

14 "15-37-104. Mine operator's statement of gross value
 15 -- reports and sampling. (1) Every person engaged in or
 16 carrying on the business of working or operating any mine or
 17 mining property in this state from which gold, silver,
 18 copper, lead, or any other metal or metals, precious or
 19 semiprecious gems or stones are produced must, not later
 20 than ~~60 days following the quarterly reporting date~~ March 31
 21 of each quarter year when engaged in or carrying on any such
 22 mining business, work, or operation, make out a statement of
 23 the gross value of product from all mines and mining
 24 properties worked or operated by such the person during the
 25 calendar quarter year immediately preceding. If good cause

1 is shown, the department may grant a reasonable extension of
 2 the time for filing statements. The statement shall be in
 3 the form prescribed by the department of revenue and shall
 4 show the following:

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

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

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

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

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

25 (f) the quarterly annual gross value of product in

dollars and cents.

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

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

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

Section 5. Section 15-37-105, MCA, is amended to read:

"15-37-105. Computation and payment of tax. (1) The tax due under this part is computed according to 15-37-103 and is due and payable on or before March 1 31 of each year for the products produced in the preceding calendar year. The tax due under this part becomes delinquent as of midnight on March 1 31 of the year immediately following the production year. If good cause is shown, the department may grant a reasonable extension of time for payment of the tax.

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

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

Section 6. Section 15-37-106, MCA, is amended to read:

"15-37-106. Procedure in case of failure to file

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

24 **Section 7.** Section 15-37-108, MCA, is amended to read:

25 "15-37-108. Delinquent taxes -- penalty. All license

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

13 **Section 8.** Section 15-37-117, MCA, is amended to read:

14 "15-37-117. Disposition of metalliferous mines license
 15 taxes. (1) Metalliferous mines license taxes collected under
 16 the provisions of this part are allocated as follows:

17 ~~(1)(a)~~ (a) to the credit of the general fund of the state,
 18 ~~67% 75% 63%~~ of total collections each year;

19 ~~(2)(b)~~ (b) to the state special revenue fund to the credit
 20 of a hard-rock mining impact trust account, ~~33% 8%~~ of total
 21 collections each year;

22 (c) to the state resource indemnity trust fund, ~~7% 14%~~
 23 of total collections each year;

24 (d) to the units of local government in which the mine
 25 is located, ~~18% 15%~~ of total collections each year, of

1 which:

2 (i) 33 1/3% is allocated to the county;

3 (ii) 33 1/3% is allocated to the elementary school
4 district in which the mine is located; and

5 (iii) 33 1/3% is allocated to the high school district
6 in which the mine is located.

7 (2) The department shall return to the local units of
8 government in which metals are produced the tax collections
9 allocated under subsection (1)(d)."

10 Section 9. Section 15-38-105, MCA, is amended to read:

11 "15-38-105. Report of gross yield from mines. A
12 person who engages in or carries on the business of mining,
13 extracting, or producing a mineral from any quartz vein or
14 lode, placer claim, dump or tailings, or other place or
15 source shall make out a quarterly file an annual statement
16 of gross yield of the mineral from each mine owned or worked
17 by that person during the quarter calendar year. This form
18 shall statement must be in the form prescribed by the
19 department and shall must be signed by the person or the
20 manager, superintendent, agent, president, or vice president
21 of the corporation, association, or partnership, if any, and
22 who shall be delivered deliver the statement to the
23 department on or before the 60th day March 31 following the
24 end of the calendar quarter year. The statement shall show
25 the following:

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

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

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

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

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

17 Section 10. Section 15-38-106, MCA, is amended to
18 read:

19 "15-38-106. Payment of tax records collection of
20 taxes refunds. (1) The tax imposed by this chapter shall
21 be paid by each person to which the tax applies, on or
22 before March 31, on the value of product in the year
23 preceding January 1 of the year in which the tax is paid.
24 The tax shall be paid to the department at the time the
25 statement of yield for the last calendar quarter preceding

1 calendar year is filed with the department;

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

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

20 **Section 11.** Section 15-38-107, MCA, is amended to
21 read:

22 "15-38-107. Procedure in case of failure to file
23 statement: (1) If any person fails, refuses, or neglects to
24 make and file a statement and return it within the time
25 prescribed, the department shall immediately after such the

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

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

24 (3) The department shall mail to the person failing to
25 file a quarterly an annual statement or pay any tax a letter

~~setting forth the amount of tax, penalty, and interest due.
The letter shall advise that if payment is not received, a
warrant for distraint may be filed.~~

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

**NEW SECTION. Section 9. Exemption from resource
indemnity trust tax.** (1) A person who has paid the license
tax on a metal mine under the provisions of Title 15,
chapter 37, part 1, is exempt from the resource indemnity
trust tax.

~~(2) Notwithstanding the provisions of subsection (1),
all reporting requirements under the resource indemnity
trust tax remain in effect.~~

Section 10. Section 15-38-202, MCA, is amended to
read:

"15-38-202. Investment of resource indemnity trust
fund -- expenditure -- minimum balance. (1) All moneys money
paid into the resource indemnity trust fund, including money
payable into the fund under the provisions of 15-37-117,
shall be invested at the discretion of the board of
investments. All the net earnings accruing to the resource
indemnity trust fund shall annually be added thereto to the
trust fund until it has reached the sum of \$10 million.

Thereafter, only the net earnings may be appropriated and
expended until the fund reaches \$100 million. Thereafter,
all net earnings and all receipts shall be appropriated by
the legislature and expended, provided that the balance in
the fund may never be less than \$100 million.

(2) At the beginning of each biennium, an amount not
to exceed \$175,000 is allocated from the interest income of
the resource indemnity trust fund to the environmental
contingency account pursuant to the conditions of 75-1-1101.
The remainder of the interest income is allocated as
follows:

(a) Beginning in fiscal year 1982, provided the amount
in the resource indemnity trust fund is greater than \$10
million, 30% of the interest income of the resource
indemnity trust fund must be allocated to the water
development state special revenue account created by
85-1-604.

(b) Beginning in fiscal year 1988, 12% of the interest
income of the resource indemnity trust fund must be
allocated to the hazardous waste/CERCLA special revenue
account provided for in 75-10-621.

(c) Beginning in fiscal year 1990, 8% of the interest
income from the resource indemnity trust fund must be
allocated to the renewable resource development account
provided for in Title 90, chapter 2.

(d) Beginning in fiscal year 1990, 46% of the interest income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.

(e) Beginning in fiscal year 1990, 4% of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the legislature or the executive branch that proposes to appropriate funds from the resource indemnity trust interest account other than as provided for by the allocations in subsection (2) must specify the amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session."

NEW SECTION. SECTION 11. MINE DEVELOPMENT RESERVE ACCOUNT. (1) THE GOVERNING BODY OF A COUNTY RECEIVING TAX COLLECTIONS UNDER 15-37-117(1)(D) MAY ESTABLISH A MINE DEVELOPMENT RESERVE ACCOUNT TO BE USED TO HOLD THE COLLECTIONS. THE GOVERNING BODY MAY HOLD MONEY IN THE ACCOUNT FOR ANY TIME PERIOD DEEMED APPROPRIATE BY THE

GOVERNING BODY. MONEY HELD IN THE ACCOUNT MAY NOT BE CONSIDERED AS CASH BALANCE FOR THE PURPOSE OF REDUCING MILL LEVIES.

(2) MONEY MAY BE EXPENDED FROM THE ACCOUNT FOR ANY PURPOSE PROVIDED BY LAW.

(3) MONEY IN THE ACCOUNT MUST BE INVESTED AS PROVIDED BY LAW. INTEREST AND INCOME FROM THE INVESTMENT OF THE MINE DEVELOPMENT RESERVE ACCOUNT MUST BE CREDITED TO THE ACCOUNT.

NEW SECTION. SECTION 12. MINE DEVELOPMENT RESERVE ACCOUNT. (1) THE GOVERNING BODY OF A LOCAL SCHOOL DISTRICT RECEIVING TAX COLLECTIONS UNDER 15-37-117(1)(D) MAY ESTABLISH A MINE DEVELOPMENT RESERVE ACCOUNT TO BE USED TO HOLD THE COLLECTIONS. THE GOVERNING BODY MAY HOLD MONEY IN THE ACCOUNT FOR ANY TIME PERIOD DEEMED APPROPRIATE BY THE GOVERNING BODY. MONEY HELD IN THE ACCOUNT MAY NOT BE CONSIDERED AS CASH BALANCE FOR THE PURPOSE OF REDUCING MILL LEVIES.

(2) MONEY MAY BE EXPENDED FROM THE ACCOUNT FOR ANY PURPOSE PROVIDED BY LAW.

(3) MONEY IN THE ACCOUNT MUST BE INVESTED AS PROVIDED BY LAW. INTEREST AND INCOME FROM THE INVESTMENT OF THE MINE DEVELOPMENT RESERVE ACCOUNT MUST BE CREDITED TO THE ACCOUNT.

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

1 [this act].

2 NEW SECTION. **Section 14.** Codification instruction.

3 (1) [Section 12 9] is intended to be codified as an integral
4 part of Title 15, chapter 38, part 1, and the provisions of
5 Title 15, chapter 38, part 1, apply to [section 12 9].

6 (2) [SECTION 11] IS INTENDED TO BE CODIFIED AS AN
7 INTEGRAL PART OF TITLE 7, CHAPTER 6, AND THE PROVISIONS OF
8 TITLE 7, CHAPTER 6, APPLY TO [SECTION 11].

9 (3) [SECTION 12] IS INTENDED TO BE CODIFIED AS AN
10 INTEGRAL PART OF TITLE 20, CHAPTER 9, AND THE PROVISIONS OF
11 TITLE 20, CHAPTER 9, APPLY TO [SECTION 12].

12 NEW SECTION. **Section 15.** Saving clause. [This act]
13 does not affect rights and duties that matured, penalties
14 that were incurred, or proceedings that were begun before
15 [the effective date of this act].

16 NEW SECTION. **Section 16.** Effective date --
17 retroactive applicability. [This act] is effective on
18 passage and approval and applies retroactively, within the
19 meaning of 1-2-109, to taxable years beginning after
20 December 31, 1988.

-End-

STANDING COMMITTEE REPORT

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Mr. Speaker: We, the committee on Taxation report that SENATE BILL 410 (third reading copy -- blue) be concurred in as amended.

Signed: 
Dan Harrington, Chairman

[REP. DAVE BROWN WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, lines 13 and 14.
Strike: "CHANGING" on line 13 through "MINES" on line 14
2. Title, lines 15 and 16.
Strike: "FROM" on line 15 through "PROVISIONS;" on line 16
3. Title, line 18.
Strike: "MINE DEVELOPMENT"
Insert: "COUNTY HARD-ROCK MINE TRUST RESERVE ACCOUNT AND METAL MINES TAX"
Following: "RESERVE"
Strike: "ACCOUNT"
Insert: "ACCOUNTS"
4. Title, line 19.
Following: "DISTRICTS;"
Insert: "TRANSFERRING, AFTER FISCAL YEAR 1990 AND AT THE END OF EACH SUBSEQUENT FISCAL YEAR, FUNDS REMAINING IN THE HARD-ROCK MINING IMPACT TRUST ACCOUNT TO THE COUNTY HARD-ROCK MINE TRUST RESERVE ACCOUNT; STATUTORILY APPROPRIATING FUNDS;"
5. Title, line 21.
Following: "~~15-38-107,~~"
Strike: "AND"
Following: "15-38-202,"
Insert: "17-7-502, 90-6-305, AND 90-6-306,"
Following: "MCA;"
Insert: "REPEALING SECTIONS 90-6-321 AND 90-6-322, MCA;"

6. Page 4, line 20.

Following: "tax."

Insert: "(1)"

7. Page 5, line 3.

Following: "preceding"

Strike: ","

Insert: "."

(2) Concentrate shipped to a smelter, mill, or reduction work is taxed"

8. Page 5, line 8.

Strike: "1.8%"

Insert: "1.81%"

9. Page 5.

Following: line 12

Insert: "(3) Gold, silver, or any platinum-group metal that is dore, bullion, or matte and that is shipped to a refinery is taxed at the following rates:

Gross Value of Product	Rate of Tax (percentage of gross value)
first \$250,000	0%
more than \$250,000	1.6% of the increment"

10. Page 10, line 18.

Strike: "63%"

Insert: "58%"

11. Page 10, line 20.

Strike: "8%"

Insert: "1.5%"

12. Page 10, line 22.

Strike: "14%"

Insert: "15.5%"

13. Page 10, line 24.

Strike: "units of local government"

Insert: "county"

14. Page 10, line 25.

Strike: "15%"

Insert: "25%"

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Following: "year,"
Strike: "of"

15. Page 11, line 1.

Strike: "which:"

Insert: "to be allocated by the county commissioners as follows:

(i) not less than 40% to the county hard-rock mine trust reserve account established in [section 9]; and

(ii) all money not allocated to the account pursuant to subsection (1)(d)(i) to be further allocated as follows:"

16. Page 11, line 2.

Strike: "(i)"

Insert: "(A)"

Following: "county"

Insert: "for planning or economic development activities"

Renumber: subsequent subsections

17. Page 11, line 4.

Strike: "district in which the mine is located"

Insert: "districts within the county that have been affected by the development or operation of the metal mine"

18. Page 11, lines 5 and 6.

Following: "school" on line 5

Strike: "district in which the mine is located"

Insert: "districts within the county that have been affected by the development or operation of the metal mine"

19. Page 11, lines 7 and 8.

Following: "the" on line 7

Strike: "local units of government"

Insert: "county"

20. Page 11, line 9.

Following: "(1)(d)."

Insert: "The allocation to the county described by subsection (1)(d) is a statutory appropriation pursuant to 17-7-502."

21. Page 11.

Following: line 9

Insert: "NEW SECTION. Section 9. County hard-rock mine trust reserve account -- expenditure restrictions. (1) The governing body of a county receiving an allocation under 15-37-117(1)(d) shall establish a county hard-rock mine trust reserve account.

(2) Money received by a county pursuant to 15-37-117 or [section 10] must remain in the account and may not be appropriated by the governing body until:

(a) a mining operation has permanently ceased all mining related activity; or

(b) the number of persons employed full-time in mining activities by the mining operation is less than one-half of the average number of persons employed full-time in mining activities by the mining operation during the immediately preceding 5-year period.

(3) If the circumstances described in subsections (2)(a) or (2)(b) occur, the governing body of the county must allocate at least one-third of the funds proportionally to affected high school districts and elementary school districts in the county, and may use the remaining funds in the account to:

(a) pay for outstanding capital project bonds or other expenses incurred prior to the end of mining activity or the reduction in the mining work force described in subsection (2)(b);

(b) decrease property tax mill levies that are directly caused by the cessation or reduction of mining activity;

(c) promote diversification and development of the economic base within the jurisdiction of a local government unit;

(d) attract new industry to the impact area;

(e) provide cash incentives for expanding the employment base of the area impacted by the changes in mining activity described in subsection (2); or

(f) provide grants or loans to other local government jurisdictions within the county to assist with impacts caused by the changes in mining activity described in subsection (2).

(4) Except as provided in subsection (3)(b), money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(5) Money in the reserve account must be invested as provided by law. Interest and income from the investment of funds in the account must be credited to the account.

NEW SECTION. Section 10. Fund transfer. (1) On July 1, 1990, and on each July 1 thereafter, all funds remaining in the hard-rock mining impact trust account established in 90-6-304(2) after June 30 immediately preceding must be transferred to the county for which the funds have been held in deposit. The funds so transferred must be deposited in the county hard-rock mine trust reserve account established in [section 9].

(2) The transfer of funds required by this section is a statutory appropriation pursuant to 17-7-502."

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Renumber: subsequent sections

22. Page 17.

Following: line 19

Insert: "Section 13. Section 17-7-502, MCA, is amended to read:
"17-7-502. Statutory appropriations -- definition --
requisites for validity. (1) A statutory appropriation is an
appropriation made by permanent law that authorizes spending
by a state agency without the need for a biennial
legislative appropriation or budget amendment.
(2) Except as provided in subsection (4), to be
effective, a statutory appropriation must comply with both
of the following provisions:
(a) The law containing the statutory authority must be
listed in subsection (3).
(b) The law or portion of the law making a statutory
appropriation must specifically state that a statutory
appropriation is made as provided in this section.
(3) The following laws are the only laws containing
statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-
203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-
31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-
404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-
804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305;
19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-
13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; 23-5-1027;
33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-
24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103;
80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215;
[section 10]; 90-9-306; 90-15-103; section 13, House Bill
No. 861, Laws of 1985; and section 1, Chapter 454, Laws of
1987.

(4) There is a statutory appropriation to pay the
principal, interest, premiums, and costs of issuing, paying,
and securing all bonds, notes, or other obligations, as due,
that have been authorized and issued pursuant to the laws of
Montana. Agencies that have entered into agreements
authorized by the laws of Montana to pay the state
treasurer, for deposit in accordance with 17-2-101 through
17-2-107, as determined by the state treasurer, an amount
sufficient to pay the principal and interest as due on the
bonds or notes have statutory appropriation authority for
such payments. (In subsection (3): pursuant to sec. 15, Ch.
607, L. 1987, the inclusion of 15-65-121 terminates June 30,
1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
1987, terminates July 1, 1988.)"

Section 14. Section 90-6-305, MCA, is amended to read:
"90-6-305. Hard-rock mining impact board -- general powers.

(1) The board may:

(a) retain professional staff, consultants, and
advisors notwithstanding the provisions of 2-15-121;
(b) adopt rules governing its proceedings,
determinations, and administration of this part;
(c) award grants to local government units subject to
90-6-306;

~~(d) award grants or loans to local government units
from money paid into the hard-rock mining impact trust
account subject to the provisions of 90-6-321 and 90-6-322;
(e) make payments to local government units from money
paid to the hard-rock mining impact account as provided in
90-6-307;~~

~~(f)~~ (d) make determinations as provided in 90-6-307;
90-6-321, and 90-6-322; and

~~(g)~~ (e) accept grants and other funds to be used in
carrying out this part.

(2) The provisions of the Montana Administrative
Procedure Act apply to the proceedings and determinations of
the board."

Section 15. Section 90-6-306, MCA, is amended to read:
"90-6-306. Basis for awarding grants. Grants, ~~including
those from the hard-rock mining impact trust account;~~ shall
be awarded to local government units on the basis of:

(1) need;

(2) severity of impact from mineral development;

(3) availability of funds; and

(4) extent of local effort in meeting its needs."

Renumber: subsequent sections

23. Page 17, line 20 and lines 22 and 23, and page 18, lines 7
and 8, 9, 12, and 21 and 22.

Strike: "MINE DEVELOPMENT"

Insert: "metal mines tax" or "Metal mines tax" as appropriate

24. Page 19, lines 3 and 5.

Strike: "9"

Insert: "11"

25. Page 19, line 6.

Strike: "[Section 11] IS"

Insert: "[Sections 9 and 16] are"

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26. Page 19, line 8.
Strike: "[SECTION 11]"
Insert: "[sections 9 and 16]"

27. Page 19, lines 9 and 11.
Strike: "12"
Insert: "17"

28. Page 19.
Following: line 11
Insert: "(4) [Section 10] is intended to be codified as an
integral part of Title 90, chapter 6, part 3, and the
provisions of Title 90, chapter 6, part 3, apply to [section
10].

NEW SECTION. Section 20. Repealer. Sections 90-6-321 and
90-6-322, MCA, are repealed."
Renumber: subsequent sections

COMMITTEE OF THE WHOLE AMENDMENT
SENATE BILL 410
Representative Dave Brown

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April 11, 1989 1:02 pm
Page 1 of 3

Mr. Chairman: I move to amend SENATE BILL 410 (third reading
copy -- blue).

Signed: Dave Brown
Representative Dave Brown

And, that such amendments to SENATE BILL 410 read as follows:

1. Amend House Committee on Taxation amendments dated April 10,
1989, as follows:

Amendment no. 5

In first Insert, strike: "90-6-305,"
Following: "17-7-502,"
Insert: "90-6-304 THROUGH"

2. Amend House Committee on Taxation amendments dated April 10,
1989, as follows:

Amendment no. 15

In Insert, in (ii), following: "follows"
Insert: ", except that more than one entity may share an
allocation if a jurisdictional revenue disparity is
identified pursuant to subsection (2)"

3. Amend House Committee on Taxation amendments dated April 10,
1989, as follows:

Amendment no. 21

In Insert, subsection (3)(f)
Strike: "within the county"

4. Amend House Committee on Taxation amendments dated April 10,
1989, as follows:

Amendment no. 22

In Insert, following: section 13
Strike: section 14 (amended 90-6-305) in its entirety
Insert: "Section 14. Section 90-6-304, MCA, is amended to read:
"90-6-304. Accounts established. (1) There is within the
state special revenue fund a hard-rock mining impact
account. Moneys are payable into this account from payments
made by a mining developer in compliance with the written

guarantee from the developer to meet the increased costs of
public services and facilities as specified in the impact
plan provided for in 90-6-307. The state treasurer shall
draw warrants from this account upon order of the hard-rock
mining impact board.

(2) There is within the state special revenue fund a
hard-rock mining impact trust account. Money is payable into
this account under the provisions of 15-37-117. After
deducting the administrative and operating expenses of the
board as provided in 90-6-303, money must be segregated
within the account by county of origin. The state treasurer
shall draw warrants from this account upon order of the
hard-rock mining impact board. If money available to pay
administrative and operating expenses is insufficient, the
board may apply for supplemental money from the general
fund.

"Section 15. Section 90-6-305, MCA, is amended to read:

(1) The board may:

(a) retain professional staff, consultants, and
advisors notwithstanding the provisions of 2-15-121;

(b) adopt rules governing its proceedings,
determinations, and administration of this part;

(c) award grants to local government units subject to
90-6-306;

~~(d) award grants or loans to local government units
from money paid into the hard-rock mining impact trust
account subject to the provisions of 90-6-321 and 90-6-322;~~

~~(e)~~ (d) make payments to local government units from
money paid to the hard-rock mining impact account as
provided in 90-6-307;

~~(f)~~ (e) make determinations as provided in 90-6-307,
90-6-307, and 90-6-322; and

~~(g)~~ (f) accept grants and other funds to be used in
carrying out this part.

(2) The provisions of the Montana Administrative
Procedure Act apply to the proceedings and determinations of
the board."

Renumber: subsequent sections

5. Amend House Committee on Taxation amendments dated April 10,
1989, as follows:

Amendment no. 25

In Insert, strike: "16"
Insert: "17"

6. Amend House Committee on Taxation amendments dated April 10,
1989, as follows:

ADOPT

REJECT

SB410.1

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Amendment no. 26

In Insert, strike: "16"

Insert: "17"

7. Amend House Committee on Taxation amendments dated April 10, 1989, as follows:

Amendment no. 27:

In Insert, strike: "17"

Insert: "18"

8. Page 11.

Following: line 6

Insert: "(2) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307 identifies a jurisdictional revenue disparity, the county shall distribute the proceeds allocated under subsection (1)(d) in a manner similar to that provided for property tax sharing under Title 90, chapter 6, part 4."

Renumber: subsequent subsection

SENATE BILL NO. 410

INTRODUCED BY BECK, WILLIAMS, MCLANE, STORY,
CAMPBELL, HOFFMAN, VAN VALKENBURG, THOMAS,
ELLISON, MAZUREK, GIACOMETTO, HAMMOND,
KELLER, D. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
TAXATION OF METAL MINES; CLARIFYING THE VALUE AT WHICH GROSS
PROCEEDS AND METAL MINES LICENSE TAXES ARE LEVIED; REVISING
THE ALLOCATION FORMULA OF THE METAL MINES LICENSE TAX;
INCLUDING THE RESOURCE INDEMNITY TRUST FUND AND CERTAIN
UNITS OF LOCAL GOVERNMENT IN WHICH A MINE IS LOCATED IN THE
ALLOCATION OF THE METAL MINES LICENSE TAX; ~~CHANGING THE TAX~~
~~REPORT-FILEING-REQUIREMENT-FOR-THE-LICENSE-TAX-ON-METAL-MINES~~
~~AND-THE-RESOURCE--INDEMNITY--TRUST--TAX--FROM--QUARTERLY--TO~~
~~ANNUALLY;--INCREASING-THE-PENALTY-PROVISIONS; EXEMPTING METAL~~
MINES FROM THE RESOURCE INDEMNITY TRUST TAX; ESTABLISHING A
MINE-DEVELOPMENT COUNTY HARD-ROCK MINE TRUST RESERVE ACCOUNT
AND METAL MINES TAX RESERVE ACCOUNT ACCOUNTS FOR COUNTY
GOVERNMENTS AND LOCAL SCHOOL DISTRICTS; TRANSFERRING, AFTER
FISCAL YEAR 1990 AND AT THE END OF EACH SUBSEQUENT FISCAL
YEAR, FUNDS REMAINING IN THE HARD-ROCK MINING IMPACT TRUST
ACCOUNT TO THE COUNTY HARD-ROCK MINE TRUST RESERVE ACCOUNT;
STATUTORILY APPROPRIATING FUNDS; AMENDING SECTIONS
15-23-801, 15-37-102 THROUGH 15-37-106, 15-37-108,

15-37-117, ~~15-38-105--THROUGH--15-38-107--AND~~ 15-38-202,
17-7-502, ~~90-6-305,~~ AND 90-6-304 THROUGH 90-6-306, MCA;
REPEALING SECTIONS 90-6-321 AND 90-6-322, MCA; AND PROVIDING
AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
DATE."

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

Section 1. Section 15-23-801, MCA, is amended to read:

"15-23-801. Definitions. As used in this part, the
following definitions apply:

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

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

(3) "Gross proceeds" or "gross metal yield" or "gross
value of product" means the revenue receipts realized from
the extraction and sale of metals, ~~determined by multiplying~~
~~the quantity produced by the merchantable value or~~
concentrate containing metals.

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

~~(5)~~ (4) "Merchantable value" means the average market
value receipts of all salable metals produced or extracted
in a county over a 12-month period. If the extracted ores
are milled, smelted, or reduced by the taxpayer, the

1 merchantable value in the county in which they are extracted
2 ~~shall be~~ is the average-market-value--of receipts received
3 for these metals after this processing.

4 (5) "RECEIPTS RECEIVED" MEANS THE MONETARY PAYMENT OR
5 REFINED METAL RECEIVED BY THE MINING COMPANY FROM THE METAL
6 TRADER, SMELTER, ROASTER, OR REFINERY, DETERMINED BY
7 MULTIPLYING THE QUANTITY OF METAL RECEIVED BY THE METAL
8 TRADER, SMELTER, ROASTER, OR REFINERY BY THE QUOTED PRICE
9 FOR THE METAL AND THEN SUBTRACTING BASIC TREATMENT AND
10 REFINERY CHARGES, QUANTITY DEDUCTIONS, PRICE DEDUCTIONS,
11 INTEREST, AND PENALTY METAL, IMPURITY, AND MOISTURE
12 DEDUCTIONS AS SPECIFIED BY CONTRACT BETWEEN THE MINING
13 COMPANY AND THE RECEIVING METAL TRADER, SMELTER, ROASTER, OR
14 REFINERY. DEDUCTIONS ARE NOT ALLOWED, EITHER DIRECTLY OR
15 INDIRECTLY AS AN OFFSET TO PAYMENTS, FOR THE COST OF
16 TRANSPORTATION FROM THE MINE OR MILL TO THE SMELTER,
17 ROASTER, OR REFINERY. DEMURRAGE, STORAGE, INTEREST, OR ANY
18 OTHER MISCELLANEOUS COSTS RELATED TO TRANSPORTING THE
19 MINERAL PRODUCT ARE CONSIDERED TRANSPORTATION AND ARE NOT
20 DEDUCTIBLE."

21 **Section 2.** Section 15-37-102, MCA, is amended to read:

22 "15-37-102. Gross value of metal mine yield --
23 computation. The "quarterly annual reporting date", as used
24 in this part, means the last day of the calendar quarter
25 year. The "quarterly annual gross value of product", as used

1 in this part, means the market-value-of receipts received,
2 AS DEFINED IN 15-23-801, from all merchantable metals or
3 concentrate containing metals or precious and semiprecious
4 gems and stones extracted or produced each calendar quarter
5 year from any mine or mining property in the state or
6 recovered from the smelting, milling, reduction, or
7 treatment in any manner of ores extracted from any-such the
8 mine or mining property or from tailings resulting from the
9 smelting, reduction, or treatment of any-such the ores.
10 Whenever the ores require smelting, reduction, or treatment
11 to ascertain the metal contents of such ores, the quarterly
12 gross value of the product thereof shall be determined by
13 taking the market value of all merchantable metals or
14 mineral products extracted or recovered thereby as shown by
15 the gross smelter returns of such metals or mineral product
16 in dollars and cents without any deductions for costs of
17 smelting, reduction, or treatment or otherwise, based upon
18 the average quotations for the price of such metals or
19 mineral products in the City of New York, as evidenced by
20 some established authority or market report, giving the
21 market reports during the calendar quarter for which a
22 report is being made. Should there be no quotation covering
23 any particular product, the department of revenue shall fix
24 the value of such gross product or such portion thereof in
25 such a manner as may seem equitable."

Section 3. Section 15-37-103, MCA, is amended to read:

"15-37-103. Rate of tax. (1) The annual license tax to be paid by such a 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 or precious or semiprecious gems or stones are produced shall be an amount computed on the gross value of product which may have been derived by such the person from such mining business, work, or operation within this state during the calendar year immediately preceding;

(2) CONCENTRATE SHIPPED TO A SMELTER, MILL, OR REDUCTION WORK IS TAXED at the following rates:

Gross Value of Product	Rate of Tax (percentage of gross value)
first \$250,000	0%
more than \$250,000 and 1.65% 1.8% <u>1.81%</u> of the increment	
not more than \$500,000 -----	5% of the increment
more than \$500,000 and	
--not more than \$1,000,000 -----	1% of the increment
more than \$1,000,000 -----	1.5% of the increment

(3) GOLD, SILVER, OR ANY PLATINUM-GROUP METAL THAT IS DORE, BULLION, OR MATTE AND THAT IS SHIPPED TO A REFINERY IS TAXED AT THE FOLLOWING RATES:

GROSS VALUE OF PRODUCT	RATE OF TAX (PERCENTAGE OF GROSS VALUE)
---------------------------	--

FIRST \$250,000	0%
MORE THAN \$250,000	1.6% OF THE INCREMENT

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

- (a) the name, address, and telephone number of the owner, lessee, or operator of the mine or mining property;
- (b) the mine's location by county and legal description;
- (c) the number of tons of ore, concentrate, or other mineral products or deposits extracted from the mine or

1 mining property during the period covered by the statement;

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

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

15 (f) the quarterly annual gross value of product in
16 dollars and cents.

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

20 (3) Any sampling, testing, or assaying made necessary
21 to comply with this section must be completed within this
22 state and prior to any mixture of the ore or concentrate to
23 be assayed with ore or concentrate from any other mine or
24 mining property.

25 ~~(4)--If-the-quarterly annual statement-of-gross-value~~

1 ~~described--herein in--this--section is--not--filed--with--the~~
2 ~~department--within--60--days by--March--31 following--the--calendar~~
3 ~~quarter--ending yearend,--a--penalty--shall--be--assessed,--The~~
4 ~~penalty--shall--be--the--greater--of--\$25--or--2% 10% of--the--tax~~
5 ~~that--would--be--due--under--this--part--if--collected--quarterly,--if~~
6 ~~good--cause--is--shown,--the--department--may--waive--the--penalty,--"~~

7 **Section 5.** Section 15-37-105, MCA, is amended to read:

8 "15-37-105. Computation and payment of tax. (1) The
9 tax due under this part is computed according to 15-37-103
10 and is due and payable on or before March 1 31 of each year
11 for the products produced in the preceding calendar year.
12 The tax due under this part becomes delinquent as of
13 midnight on March 1 31 of the year immediately following the
14 production year. If good cause is shown, the department may
15 grant a reasonable extension of time for payment of the tax.
16 During the period of any extension granted, the tax due
17 bears interest at a rate of 11 a month or any part thereof.

18 (2) If any such person has sold or otherwise disposed
19 of any of ~~its the~~ mine's products at a price substantially
20 below the true market price of such the product at the time
21 and place of such sale or disposal, then the department
22 shall compute the gross value of such the portion of said
23 the mine's product ~~so~~ sold or disposed of substantially
24 below the market price, ~~as-aforesaid, which~~ The gross value
25 shall be based upon the quotations of the price of such the

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

14 **Section 6.** Section 15-37-106, MCA, is amended to read:
 15 "15-37-106. Procedure in case of failure to file
 16 statements. If any person shall fail, refuse, or neglect to
 17 make and file ~~all the~~ required ~~quarterly-statements~~ annual
 18 statement of gross yield for a production year on or before
 19 March ~~1~~ 31 of the year immediately following the production
 20 year, the department of revenue shall, immediately after
 21 such the time has expired, ascertain and determine as nearly
 22 as may be possible from any returns or reports filed with
 23 any state or county officer or board under any law of this
 24 state and from any other information which the department
 25 may be able to obtain the total gross value of product of

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

14 **Section 7.** Section 15-37-108, MCA, is amended to read:
 15 "15-37-108. Delinquent taxes -- penalty. All license
 16 taxes assessed under the provisions of this part shall
 17 become delinquent if not paid on or before midnight of March
 18 ~~1~~ 31 of the year immediately following the production year.
 19 The department shall add to the amount of delinquent
 20 metalliferous mines tax a penalty of ~~8%~~ 10%. The whole
 21 amount of license tax, together with penalty, shall bear
 22 interest at the rate of 1% per month or fraction thereof.
 23 Interest shall be computed from the date the tax becomes
 24 delinquent until it is paid. The department may waive the ~~8%~~
 25 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 8. Section 15-37-117, MCA, is amended to read:

"15-37-117. Disposition of metalliferous mines license taxes. (1) Metalliferous mines license taxes collected under the provisions of this part are allocated as follows:

~~11}{a}~~ to the credit of the general fund of the state, ~~67% 75% 63% 58%~~ of total collections each year;

~~12}{b}~~ to the state special revenue fund to the credit of a hard-rock mining impact trust account, ~~33% 8% 1.5%~~ of total collections each year;

~~13}{c}~~ to the state resource indemnity trust fund, ~~7% 14%~~ 15.5% of total collections each year;

~~14}{d}~~ to the ~~units-of-local-government~~ COUNTY in which the mine is located, ~~10% 15% 25%~~ of total collections each year, of which:

TO BE ALLOCATED BY THE COUNTY COMMISSIONERS AS FOLLOWS:

(I) NOT LESS THAN 40% TO THE COUNTY HARD-ROCK MINE TRUST RESERVE ACCOUNT ESTABLISHED IN [SECTION 9]; AND

(II) ALL MONEY NOT ALLOCATED TO THE ACCOUNT PURSUANT TO SUBSECTION (1)(D)(I) TO BE FURTHER ALLOCATED AS FOLLOWS, EXCEPT THAT MORE THAN ONE ENTITY MAY SHARE AN ALLOCATION IF A JURISDICTIONAL REVENUE DISPARITY IS IDENTIFIED PURSUANT TO SUBSECTION (2):

~~11}{A}~~ 33 1/3% is allocated to the county FOR PLANNING

OR ECONOMIC DEVELOPMENT ACTIVITIES;

~~11}{B}~~ 33 1/3% is allocated to the elementary school district-in-which-the-mine-is-located DISTRICTS WITHIN THE COUNTY THAT HAVE BEEN AFFECTED BY THE DEVELOPMENT OR OPERATION OF THE METAL MINE; and

~~11}{C}~~ 33 1/3% is allocated to the high school district--in-which-the-mine-is-located DISTRICTS WITHIN THE COUNTY THAT HAVE BEEN AFFECTED BY THE DEVELOPMENT OR OPERATION OF THE METAL MINE.

(2) WHEN AN IMPACT PLAN FOR A LARGE-SCALE MINERAL DEVELOPMENT APPROVED PURSUANT TO 90-6-307 IDENTIFIES A JURISDICTIONAL REVENUE DISPARITY, THE COUNTY SHALL DISTRIBUTE THE PROCEEDS ALLOCATED UNDER SUBSECTION (1)(D) IN A MANNER SIMILAR TO THAT PROVIDED FOR PROPERTY TAX SHARING UNDER TITLE 90, CHAPTER 6, PART 4.

~~12}{3}~~ The department shall return to the ~~local-units~~ of-government COUNTY in which metals are produced the tax collections allocated under subsection (1)(d). THE ALLOCATION TO THE COUNTY DESCRIBED BY SUBSECTION (1)(D) IS A STATUTORY APPROPRIATION PURSUANT TO 17-7-502."

NEW SECTION. **SECTION 9.** COUNTY HARD-ROCK MINE TRUST RESERVE ACCOUNT -- EXPENDITURE RESTRICTIONS. (1) THE GOVERNING BODY OF A COUNTY RECEIVING AN ALLOCATION UNDER 15-37-117(1)(D) SHALL ESTABLISH A COUNTY HARD-ROCK MINE TRUST RESERVE ACCOUNT.

1 (2) MONEY RECEIVED BY A COUNTY PURSUANT TO 15-37-117
 2 OR [SECTION 10] MUST REMAIN IN THE ACCOUNT AND MAY NOT BE
 3 APPROPRIATED BY THE GOVERNING BODY UNTIL:

4 (A) A MINING OPERATION HAS PERMANENTLY CEASED ALL
 5 MINING RELATED ACTIVITY; OR

6 (B) THE NUMBER OF PERSONS EMPLOYED FULL-TIME IN MINING
 7 ACTIVITIES BY THE MINING OPERATION IS LESS THAN ONE-HALF OF
 8 THE AVERAGE NUMBER OF PERSONS EMPLOYED FULL-TIME IN MINING
 9 ACTIVITIES BY THE MINING OPERATION DURING THE IMMEDIATELY
 10 PRECEDING 5-YEAR PERIOD.

11 (3) IF THE CIRCUMSTANCES DESCRIBED IN SUBSECTIONS
 12 (2)(A) OR (2)(B) OCCUR, THE GOVERNING BODY OF THE COUNTY
 13 MUST ALLOCATE AT LEAST ONE-THIRD OF THE FUNDS PROPORTIONALLY
 14 TO AFFECTED HIGH SCHOOL DISTRICTS AND ELEMENTARY SCHOOL
 15 DISTRICTS IN THE COUNTY, AND MAY USE THE REMAINING FUNDS IN
 16 THE ACCOUNT TO:

17 (A) PAY FOR OUTSTANDING CAPITAL PROJECT BONDS OR OTHER
 18 EXPENSES INCURRED PRIOR TO THE END OF MINING ACTIVITY OR THE
 19 REDUCTION IN THE MINING WORK FORCE DESCRIBED IN SUBSECTION
 20 (2)(B);

21 (B) DECREASE PROPERTY TAX MILL LEVIES THAT ARE
 22 DIRECTLY CAUSED BY THE CESSATION OR REDUCTION OF MINING
 23 ACTIVITY;

24 (C) PROMOTE DIVERSIFICATION AND DEVELOPMENT OF THE
 25 ECONOMIC BASE WITHIN THE JURISDICTION OF A LOCAL GOVERNMENT

1 UNIT;

2 (D) ATTRACT NEW INDUSTRY TO THE IMPACT AREA;

3 (E) PROVIDE CASH INCENTIVES FOR EXPANDING THE
 4 EMPLOYMENT BASE OF THE AREA IMPACTED BY THE CHANGES IN
 5 MINING ACTIVITY DESCRIBED IN SUBSECTION (2); OR

6 (F) PROVIDE GRANTS OR LOANS TO OTHER LOCAL GOVERNMENT
 7 JURISDICTIONS WITHIN--THE--COUNTY TO ASSIST WITH IMPACTS
 8 CAUSED BY THE CHANGES IN MINING ACTIVITY DESCRIBED IN
 9 SUBSECTION (2).

10 (4) EXCEPT AS PROVIDED IN SUBSECTION (3)(B), MONEY
 11 HELD IN THE ACCOUNT MAY NOT BE CONSIDERED AS CASH BALANCE
 12 FOR THE PURPOSE OF REDUCING MILL LEVIES.

13 (5) MONEY IN THE RESERVE ACCOUNT MUST BE INVESTED AS
 14 PROVIDED BY LAW. INTEREST AND INCOME FROM THE INVESTMENT OF
 15 FUNDS IN THE ACCOUNT MUST BE CREDITED TO THE ACCOUNT.

16 NEW SECTION. SECTION 10. FUND TRANSFER. (1) ON JULY
 17 1, 1990, AND ON EACH JULY 1 THEREAFTER, ALL FUNDS REMAINING
 18 IN THE HARD-ROCK MINING IMPACT TRUST ACCOUNT ESTABLISHED IN
 19 90-6-304(2) AFTER JUNE 30 IMMEDIATELY PRECEDING MUST BE
 20 TRANSFERRED TO THE COUNTY FOR WHICH THE FUNDS HAVE BEEN HELD
 21 IN DEPOSIT. THE FUNDS SO TRANSFERRED MUST BE DEPOSITED IN
 22 THE COUNTY HARD-ROCK MINE TRUST RESERVE ACCOUNT ESTABLISHED
 23 IN [SECTION 9].

24 (2) THE TRANSFER OF FUNDS REQUIRED BY THIS SECTION IS
 25 A STATUTORY APPROPRIATION PURSUANT TO 17-7-502.

Section 9. ~~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 must be signed by the person or the manager, superintendent, agent, president, or vice president of the corporation, association, or partnership, if any, and who 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. 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, such as 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 10. ~~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 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 11. 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 the 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 the person from such the business during the calendar quarter year immediately preceding the quarter year in which the statement is to be filed; and The department 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 the person for such

the calendar quarter year and shall add to the amount of such the 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 The department 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 fraction thereof computed on the total amount of tax and penalty; interest shall be computed from the date the tax was due to the date of payment:

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

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

NEW SECTION. Section 11. Exemption from resource indemnity trust tax. (1) A person who has paid the license

1 tax on a metal mine under the provisions of Title 15,
2 chapter 37, part 1, is exempt from the resource indemnity
3 trust tax.

4 ~~{2}--Notwithstanding--the-provisions-of-subsection-{1},~~
5 ~~all-reporting--requirements--under--the--resource--indemnity~~
6 ~~trust-tax-remain-in-effect.~~

7 **Section 12.** Section 15-38-202, MCA, is amended to
8 read:

9 *15-38-202. Investment of resource indemnity trust
10 fund -- expenditure -- minimum balance. (1) All moneys money
11 paid into the resource indemnity trust fund, including money
12 payable into the fund under the provisions of 15-37-117,
13 shall be invested at the discretion of the board of
14 investments. All the net earnings accruing to the resource
15 indemnity trust fund shall annually be added thereto to the
16 trust fund until it has reached the sum of \$10 million.
17 Thereafter, only the net earnings may be appropriated and
18 expended until the fund reaches \$100 million. Thereafter,
19 all net earnings and all receipts shall be appropriated by
20 the legislature and expended, provided that the balance in
21 the fund may never be less than \$100 million.

22 (2) At the beginning of each biennium, an amount not
23 to exceed \$175,000 is allocated from the interest income of
24 the resource indemnity trust fund to the environmental
25 contingency account pursuant to the conditions of 75-1-1101.

1 The remainder of the interest income is allocated as
2 follows:

3 (a) Beginning in fiscal year 1982, provided the amount
4 in the resource indemnity trust fund is greater than \$10
5 million, 30% of the interest income of the resource
6 indemnity trust fund must be allocated to the water
7 development state special revenue account created by
8 85-1-604.

9 (b) Beginning in fiscal year 1988, 12% of the interest
10 income of the resource indemnity trust fund must be
11 allocated to the hazardous waste/CERCLA special revenue
12 account provided for in 75-10-621.

13 (c) Beginning in fiscal year 1990, 8% of the interest
14 income from the resource indemnity trust fund must be
15 allocated to the renewable resource development account
16 provided for in Title 90, chapter 2.

17 (d) Beginning in fiscal year 1990, 4% of the interest
18 income from the resource indemnity trust fund must be
19 allocated to the reclamation and development grants account
20 provided for in 90-2-1104.

21 (e) Beginning in fiscal year 1990, 4% of the interest
22 income of the resource indemnity trust fund must be
23 allocated to the environmental quality protection fund
24 provided for in 75-10-704.

25 (3) Any formal budget document prepared by the

1 legislature or the executive branch that proposes to
 2 appropriate funds from the resource indemnity trust interest
 3 account other than as provided for by the allocations in
 4 subsection (2) must specify the amount of money from each
 5 allocation that is proposed to be diverted and the proposed
 6 use of the diverted funds. A formal budget document includes
 7 a printed and publicly distributed budget proposal or
 8 recommendation, an introduced bill, or a bill developed
 9 during the legislative appropriation process or otherwise
 10 during a legislative session."

11 **SECTION 13. SECTION 17-7-502, MCA, IS AMENDED TO READ:**

12 **"17-7-502. Statutory appropriations -- definition --**
 13 **requisites for validity. (1) A statutory appropriation is an**
 14 **appropriation made by permanent law that authorizes spending**
 15 **by a state agency without the need for a biennial**
 16 **legislative appropriation or budget amendment.**

17 (2) Except as provided in subsection (4), to be
 18 effective, a statutory appropriation must comply with both
 19 of the following provisions:

20 (a) The law containing the statutory authority must be
 21 listed in subsection (3).

22 (b) The law or portion of the law making a statutory
 23 appropriation must specifically state that a statutory
 24 appropriation is made as provided in this section.

25 (3) The following laws are the only laws containing

1 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
 2 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;
 3 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;
 4 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;
 5 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;
 6 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;
 7 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406;
 8 20-8-111; 23-5-610; 23-5-1027; 33-31-212; 33-31-401;
 9 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205;
 10 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228;
 11 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; Section
 12 10; 90-9-306; 90-15-103; section 13, House Bill No. 861,
 13 Laws of 1985; and section 1, Chapter 454, Laws of 1987.

14 (4) There is a statutory appropriation to pay the
 15 principal, interest, premiums, and costs of issuing, paying,
 16 and securing all bonds, notes, or other obligations, as due,
 17 that have been authorized and issued pursuant to the laws of
 18 Montana. Agencies that have entered into agreements
 19 authorized by the laws of Montana to pay the state
 20 treasurer, for deposit in accordance with 17-2-101 through
 21 17-2-107, as determined by the state treasurer, an amount
 22 sufficient to pay the principal and interest as due on the
 23 bonds or notes have statutory appropriation authority for
 24 such payments. (In subsection (3): pursuant to sec. 15, Ch.
 25 607, L. 1987, the inclusion of 15-65-121 terminates June 30,

1 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
 2 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
 3 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
 4 1987, terminates July 1, 1988.)"

5 **SECTION 14. SECTION 90-6-305, MCA, IS AMENDED TO READ:**

6 "90-6-305. Hard-rock mining impact board -- general
 7 powers. -- (1) The board may:

8 (a) retain professional staff, consultants, and
 9 advisors notwithstanding the provisions of 2-15-121;

10 (b) adopt rules governing its proceedings;
 11 determinations and administration of this part;

12 (c) award grants to local government units subject to
 13 90-6-306;

14 (d) award grants or loans to local government units
 15 from money paid into the hard-rock mining impact trust
 16 account subject to the provisions of 90-6-321 and 90-6-322;

17 (e) make payments to local government units from money
 18 paid to the hard-rock mining impact account as provided in
 19 90-6-307;

20 (f) (d) make determinations as provided in 90-6-307,
 21 90-6-321, and 90-6-322; and

22 (g) (e) accept grants and other funds to be used in
 23 carrying out this part.

24 (2) The provisions of the Montana Administrative
 25 Procedure Act apply to the proceedings and determinations of

1 the board."

2 **SECTION 14. SECTION 90-6-304, MCA, IS AMENDED TO READ:**

3 "90-6-304. Accounts established. (1) There is within
 4 the state special revenue fund a hard-rock mining impact
 5 account. Moneys are payable into this account from payments
 6 made by a mining developer in compliance with the written
 7 guarantee from the developer to meet the increased costs of
 8 public services and facilities as specified in the impact
 9 plan provided for in 90-6-307. The state treasurer shall
 10 draw warrants from this account upon order of the hard-rock
 11 mining impact board.

12 (2) There is within the state special revenue fund a
 13 hard-rock mining impact trust account. Money is payable
 14 into this account under the provisions of 15-17-117. After
 15 deducting the administrative and operating expenses of the
 16 board as provided in 90-6-303, money must be segregated
 17 within the account by county of origin. The state treasurer
 18 shall draw warrants from this account upon order of the
 19 hard-rock mining impact board. If money available to pay
 20 administrative and operating expenses is insufficient, the
 21 board may apply for supplemental money from the general
 22 fund."

23 **SECTION 15. SECTION 90-6-305, MCA, IS AMENDED TO READ:**

24 "90-6-305. Hard-rock mining impact board -- general
 25 powers. (1) The board may:

(a) retain professional staff, consultants, and advisors notwithstanding the provisions of 2-15-121;

(b) adopt rules governing its proceedings, determinations, and administration of this part;

(c) award grants to local government units subject to 90-6-306;

~~{d}--award-grants-or-loans-to--local--government--units from--money--paid--into--the--hard-rock--mining-impact-trust account-subject-to-the-provisions-of-90-6-321-and--90-6-322;~~

~~{e}~~(d) make payments to local government units from money paid to the hard-rock mining impact account as provided in 90-6-307;

~~{f}~~(e) make determinations as provided in 90-6-307, 90-6-321, and 90-6-322; and

~~{g}~~(f) accept grants and other funds to be used in carrying out this part.

(2) The provisions of the Montana Administrative Procedure Act apply to the proceedings and determinations of the board."

SECTION 16. SECTION 90-6-306, MCA, IS AMENDED TO READ:

"90-6-306. Basis for awarding grants. Grants, including--those--from--the--hard-rock--mining--impact-trust account, shall be awarded to local government units on the basis of:

(1) need;

(2) severity of impact from mineral development;

(3) availability of funds; and

(4) extent of local effort in meeting its needs."

NEW SECTION. SECTION 17. -MINE-DEVELOPMENT METAL MINES

TAX RESERVE ACCOUNT. (1) THE GOVERNING BODY OF A COUNTY RECEIVING TAX COLLECTIONS UNDER 15-37-117(1)(D) MAY ESTABLISH A MINE-DEVELOPMENT METAL MINES TAX RESERVE ACCOUNT TO BE USED TO HOLD THE COLLECTIONS. THE GOVERNING BODY MAY HOLD MONEY IN THE ACCOUNT FOR ANY TIME PERIOD DEEMED APPROPRIATE BY THE GOVERNING BODY. MONEY HELD IN THE ACCOUNT MAY NOT BE CONSIDERED AS CASH BALANCE FOR THE PURPOSE OF REDUCING MILL LEVIES.

(2) MONEY MAY BE EXPENDED FROM THE ACCOUNT FOR ANY PURPOSE PROVIDED BY LAW.

(3) MONEY IN THE ACCOUNT MUST BE INVESTED AS PROVIDED BY LAW. INTEREST AND INCOME FROM THE INVESTMENT OF THE MINE DEVELOPMENT METAL MINES TAX RESERVE ACCOUNT MUST BE CREDITED TO THE ACCOUNT.

NEW SECTION. SECTION 18. -MINE-DEVELOPMENT METAL MINES

TAX RESERVE ACCOUNT. (1) THE GOVERNING BODY OF A LOCAL SCHOOL DISTRICT RECEIVING TAX COLLECTIONS UNDER 15-37-117(1)(D) MAY ESTABLISH A MINE-DEVELOPMENT METAL MINES TAX RESERVE ACCOUNT TO BE USED TO HOLD THE COLLECTIONS. THE GOVERNING BODY MAY HOLD MONEY IN THE ACCOUNT FOR ANY TIME PERIOD DEEMED APPROPRIATE BY THE GOVERNING BODY. MONEY HELD

1 IN THE ACCOUNT MAY NOT BE CONSIDERED AS CASH BALANCE FOR THE
2 PURPOSE OF REDUCING MILL LEVIES.

3 (2) MONEY MAY BE EXPENDED FROM THE ACCOUNT FOR ANY
4 PURPOSE PROVIDED BY LAW.

5 (3) MONEY IN THE ACCOUNT MUST BE INVESTED AS PROVIDED
6 BY LAW. INTEREST AND INCOME FROM THE INVESTMENT OF THE MINE
7 DEVELOPMENT METAL MINES TAX RESERVE ACCOUNT MUST BE CREDITED
8 TO THE ACCOUNT.

9 NEW SECTION. Section 19. Extension of authority. Any
10 existing authority to make rules on the subject of the
11 provisions of [this act] is extended to the provisions of
12 [this act].

13 NEW SECTION. Section 20. Codification instruction.
14 (1) [Section 12 9 11] is intended to be codified as an
15 integral part of Title 15, chapter 38, part 1, and the
16 provisions of Title 15, chapter 38, part 1, apply to
17 [section 12 9 11].

18 (2) [SECTION 12 9 11] IS [SECTIONS 9 AND 16 17] ARE
19 INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 7,
20 CHAPTER 6, AND THE PROVISIONS OF TITLE 7, CHAPTER 6, APPLY
21 TO [SECTION 12 9 11] [SECTIONS 9 AND 16 17].

22 (3) [SECTION 12 17 18] IS INTENDED TO BE CODIFIED AS
23 AN INTEGRAL PART OF TITLE 20, CHAPTER 9, AND THE PROVISIONS
24 OF TITLE 20, CHAPTER 9, APPLY TO [SECTION 12 17 18].

25 (4) [SECTION 10] IS INTENDED TO BE CODIFIED AS AN

1 INTEGRAL PART OF TITLE 90, CHAPTER 6, PART 3, AND THE
2 PROVISIONS OF TITLE 90, CHAPTER 6, PART 3, APPLY TO [SECTION
3 10].

4 NEW SECTION. SECTION 21. REPEALER. SECTIONS 90-6-321
5 AND 90-6-322, MCA, ARE REPEALED.

6 NEW SECTION. Section 22. Saving clause. [This act]
7 does not affect rights and duties that matured, penalties
8 that were incurred, or proceedings that were begun before
9 [the effective date of this act].

10 NEW SECTION. Section 23. Effective date --
11 retroactive applicability. [This act] is effective on
12 passage and approval and applies retroactively, within the
13 meaning of 1-2-109, to taxable years beginning after
14 December 31, 1988.

-End-