SENATE BILL NO. 407

INTRODUCED BY Swysgood Burt

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE VALUE OF INDUSTRIAL GARNETS AND ASSOCIATED BYPRODUCTS FOR NET PROCEEDS PROPERTY TAX PURPOSES AND FOR RESOURCE INDEMNITY TRUST TAX PURPOSES; ESTABLISHING A SPECIFIC RESOURCE INDEMNITY TRUST TAX RATE FOR INDUSTRIAL GARNETS AND ASSOCIATED BYPRODUCTS; AMENDING SECTIONS 15-6-131, 15-8-111, 15-23-103, 15-23-106, 15-23-115, 15-23-502, 15-23-503, 15-23-521, 15-38-103, AND 15-38-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Net proceeds for industrial garnets and byproducts -- statement -- value.** (1) A statement of gross yield and value, required in 15-23-502, that is filed by a producer of industrial garnets and associated byproducts must contain the following:

(a) the name and address of the owner, lessee, or operator of the mine, together with the name and address of any person owning or claiming a royalty interest in the mineral product of the mine or the proceeds derived from the sale of the mineral product, and the amount or amounts paid or yielded as royalty to each person during the period covered by the statement;

(b) the description and location of the mine;

(c)(i) the number of tons of rougher garnet concentrate produced by initial concentration and sold from the mine during the period covered by the statement; and

(ii) the gross revenue received from any byproduct produced and sold as a result of the garnet mining operation.

(d) the amount and character of the industrial garnet and byproducts from the mine and the amount of the industrial garnets measured in tons and associated byproducts measured in dollars yielded to the person engaged in mining and to each royalty holder, if any, during the period covered by the statement; and

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

(2) (a) For the purposes of this section, the gross yield or value of industrial garnets is determined by multiplying the number of tons of rougher garnet concentrate reported under subsection (1)(c)(i) by:

(i) for the tax year beginning January 1, 1995, $20; and

(ii) for the tax years beginning January 1, 1996, and thereafter, the product obtained by multiplying $20 by the quotient of the PCE for the first quarter of the year previous to the tax year for which the net proceed value is being calculated, divided by the PCE for the first quarter of the 1991 tax year.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

(c) The gross yield or value of the byproducts produced and sold as a result of industrial garnet production is determined by multiplying the gross revenue reported under subsection (1)(c)(ii) by 30%.

NEW SECTION. **Section 2. Gross value of product for industrial garnets and byproducts.** As used in this part, when referring to industrial garnets and associated byproducts, "gross value of product" is the gross yield or value as determined in [section 1(2)].

Section 3. Section 15-6-131, MCA, is amended to read:

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

(2) Class one property is taxed at 100% of its annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, for talc, as provided in 15-23-515 or, for vermiculite, as provided in 15-23-516 or, for limestone, as provided in 15-23-517 or, for industrial garnets and associated byproducts, as provided in [section 1]."

Section 4. Section 15-8-111, MCA, is amended to read:

"**15-8-111. Assessment -- market value standard -- exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

(c) Except as provided in subsection (3), the market value of all motor trucks; agricultural tools, implements, and machinery; and vehicles of all kinds is the average wholesale value shown in national appraisal guides and manuals or the value of the vehicle before reconditioning and profit margin. The department shall prepare valuation schedules showing the average wholesale value when a national appraisal guide does not exist.

(3) The department may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property, except:

(a) the wholesale value for agricultural implements and machinery is the loan value as shown in the Official Guide, Tractor and Farm Equipment, published by the national farm and power equipment dealers association, St. Louis, Missouri;

(b) for agricultural implements and machinery not listed in the official guide, the department shall prepare a supplemental manual in which the values reflect the same depreciation as those found in the official guide; and

(c) as otherwise authorized in Title 15 and Title 61.

(4) For purposes of taxation, assessed value is the same as appraised value.

(5) The taxable value for all property is the percentage of market or assessed value established for each class of property.

(6) The assessed value of properties in 15-6-131 through 15-6-133 is as follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515, 15-23-516, ~~or~~ 15-23-517, or [section 1].

(b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(d) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the land when valued as forest land.

(7) Land and the improvements on the land are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town."

Section 5. Section 15-23-103, MCA, is amended to read:

"**15-23-103. Due date of reports and returns -- extensions.** (1) Except as provided in subsection (2) and 15-23-602, each report or return described in 15-23-301, 15-23-402, 15-23-502, 15-23-701, or 15-23-517 must be delivered to the department on or before March 31 each year.

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

(3) Each report described in 15-23-201, 15-23-212, 15-23-515, ~~or~~ 15-23-516, or [section 1] must be delivered to the department before April 15 each year.

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

Section 6. Section 15-23-106, MCA, is amended to read:

"**15-23-106. Report to the counties.** (1) On or before July 1, the department shall prepare for each county a statement listing:

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

(b) the assessed value of utility property, as determined under 15-23-303, apportioned to the county, including the length or other description of the property;

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

(d) the assessed value of the net proceeds and royalties from mines and oil and gas wells in the county, as determined under 15-23-503, 15-23-505, 15-23-515~~, 15-23-516,~~ through 15-23-517, [section

1], 15-23-603, and 15-23-605; and

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

(2) The department shall enter the reported assessed values in the property tax record for the county."

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

"**15-23-115. Interest.** If the department determines that a taxpayer has incorrectly reported a value under 15-23-502, 15-23-515, 15-23-516, 15-23-517, [section 1], 15-23-602, 15-23-701, or 15-23-802 and if an additional tax is due, there must be added to the tax until paid in full interest at the rate of 1% a month or fraction of a month from the date the original tax was due and payable. A taxpayer subject to imposition of interest pursuant to this section is not subject to the penalty and interest provisions contained in 15-16-102."

Section 8. Section 15-23-502, MCA, is amended to read:

"**15-23-502. Net proceeds tax -- statement of yield.** Every person engaged in mining, extracting, or producing from any quartz vein or lode, placer claim, dump or tailings, or other place or source whatever precious stones or gems, vermiculite, bentonite, or other valuable mineral, except coal and metals, must on or before March 31 each year make out a statement of the gross yield and value of the above-named metals or minerals from each mine owned or worked by the person during the year preceding January 1 of the year in which the statement is made. The statement must be in the form prescribed by the department of revenue and must be verified by the oath of the person completing the statement or the manager, superintendent, agent, president, or vice-president, if a corporation, association, or partnership, and must be delivered to the department on or before March 31. Except as provided in 15-23-515~~,~~ ~~15-23-516, and~~ through 15-23-517~~,~~ and [section 1], the statement must show the following:

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

(2) the description and location of the mine;

(3) the number of tons of ore or other mineral products or deposits extracted, produced, and

treated or sold from the mine during the period covered by the statement;

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

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

(6) cost of extracting from the mine;

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

(8) cost of reduction or sale;

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

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

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

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

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

(14) cost of testing extracted minerals for the purpose of satisfying federal or state health and safety laws or regulations, the cost of plant security in Montana, the cost of assaying and sampling the extracted minerals, and the costs incurred in Montana for engineering and geological services for existing mining operations but not including any services beyond the stage of reduction and beneficiation of the minerals; and

(15) cost of mine reclamation."

Section 9. Section 15-23-503, MCA, is amended to read:

"**15-23-503. Net proceeds -- how computed.** (1) The department of revenue shall calculate from the returns the gross product yielded from a mine and its gross value for the year covered by the statement and shall calculate and compute the net proceeds of the mine yielded to the person engaged in mining. Except as provided in 15-23-515~~, 15-23-516, and~~ through 15-23-517~~,~~ and [section 1], net proceeds must be determined by subtracting from the value of the gross product of the mine the following:

(a) all royalty paid or apportioned in cash or in kind by the person engaged in mining;

(b) all money expended for necessary labor, machinery, and supplies needed and used in the mining operations and developments;

(c) all money expended for improvements, repairs, and betterments necessary in and about the working of the mine, except as provided in this section;

(d) all money expended for costs of repairs and replacements of the milling and reduction works used in connection with the mine;

(e) depreciation in the sum of 6% of the assessed valuation of the milling and reduction works for the calendar year for which the return is made;

(f) all money actually expended for transporting the ores and mineral products or deposits from the mines to the mill or reduction works or to the place of sale and for extracting the metals and minerals and for marketing the product and the conversion of the product into money;

(g) all money expended for insurance and welfare and retirement costs reported in the statement required in 15-23-502;

(h) all money expended for necessary labor, equipment, and supplies for testing minerals extracted to satisfy federal or state health and safety laws or regulations, for plant security in Montana, for assaying and sampling the extracted minerals, for the cost of reclamation at the site of the mine, and for engineering and geological services conducted in Montana for existing mining operations but not including services beyond the stage of reduction and beneficiation of the minerals.

(2) In computing the deductions allowable for repairs, improvements, and betterments to the mine, the department shall allow 10% of the cost each year for a period of 10 years.

(3) Money invested in mines or improvements may not be allowed as a deduction unless all machinery, equipment, and buildings represented by the money are returned to the county in which the mine is located for assessment purposes at the level of assessment of all other property in the county.

(4) Money invested in the mines and improvements during any year except the year for which the statement is made and except as provided in this section may not be included in the expenditures, and the expenditures may not include the salary or any portion of the salary of any person or officer not actually engaged in the working of the mine or superintending the management of the mine."

Section 10. Section 15-23-521, MCA, is amended to read:

"15-23-521. **Examination of records by department.** The department of revenue may at any time examine the records of any person specified in this part as the records may pertain to the yield of ore or mineral products or deposit in order to verify the statements made by the person. If from the examination or from other information, the department finds any statement or any material part of a statement willfully false or fraudulent, the department must assess in the same manner as provided for in 15-23-503, 15-23-515, 15-23-516, ~~or~~ 15-23-517, or [section 1]."

Section 11. Section 15-38-103, MCA, is amended to read:

"15-38-103. **Definitions.** As used in this chapter, the following definitions apply:

(1) "Department" means department of revenue.

(2) "Gross value of product" means, except as provided in 15-38-125 through 15-38-128 and [section 2], the market value of any merchantable mineral extracted or produced during the taxable year.

(3) "Mineral" means any precious stones or gems, gold, silver, copper, coal, lead, petroleum, natural gas, oil, uranium, or other nonrenewable merchantable products extracted from the surface or subsurface of the state of Montana.

(4) "Total environment" means air, water, soil, flora, and fauna and the social, economic, and cultural conditions that influence communities and individual citizens."

Section 12. Section 15-38-104, MCA, is amended to read:

"15-38-104. **Tax on mineral production.** (1) Except as provided in subsections (2) through (4), the annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing a mineral is $25, plus an additional amount computed on the gross value of product that was derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 1/2 of 1% of the amount of gross value of product at the time of extraction from the ground, if in excess of $5,000. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners may be deducted from any settlements under the lease or leases or division of proceeds orders or other contracts.

(2) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing:

(a) talc is $25 plus an additional amount computed on the gross value of product for talc derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 4%; and

(b) coal is $25 plus an additional amount computed on the gross value of product for coal produced in Montana during the calendar year immediately preceding at the rate of 0.4%.

(3) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing vermiculite is $25 plus an additional amount computed on the gross value of product for vermiculite derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 2%.

(4) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing limestone for the production of quicklime is $25 plus an additional amount computed on the gross value of product for limestone derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 10%.

<u>(5) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing industrial garnets and associated byproducts is $25 plus an additional amount computed on the gross value of product for industrial garnets and associated byproducts derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 1% on the gross value of product in excess of $2,500.</u>"

<u>NEW SECTION.</u> **Section 13. Codification instructions.** (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 23, part 5, and the provisions of Title 15, chapter 23, part 5, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 38, part 1, and the provisions of Title 15, chapter 38, part 1, apply to [section 2].

<u>NEW SECTION.</u> **Section 14. Effective date -- retroactive applicability.** [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1994.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0407, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act establishing the value of industrial garnets and associated byproducts for net proceeds property tax purposes and for resource indemnity trust tax purposes; establishing a specific resource indemnity trust tax rate for industrial garnets and associated byproducts; and providing an immediate effective date and a retroactive applicability date.

FISCAL IMPACT:

Expenditures:
There is no impact to department expenditures under the proposed legislation.

Revenues:
There are currently no mines producing industrial garnets in Montana. The information is not available to accurately determine any revenue impacts to the Resource Indemnity and Groundwater Assessment Tax or the Mines Net Proceeds taxes.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
The proposed legislation would affect local revenues under the Mines Net Proceeds Tax should future production including industrial garnets occur; however, the extent of any impacts cannot be estimated with the available data.

TECHNICAL NOTES:
The proposed legislation does not clearly define byproducts from industrial garnet mining. As the legislation reads, other minerals or metals which are currently taxed separately could be considered as byproducts of industrial garnet mining. A specific definition of "byproducts" in the proposed legislation would reduce administrative and taxpayer confusion as well as avoid potential legal complications.

"Tax year" and "production year" are not the same with regard to natural resource taxes. The bill has a retroactive applicability date for tax years after December 31, 1994. Production from calendar year 1994 would be taxable under the proposed legislation, because it is taxable in *tax year* 1995. If the intent of the bill is to apply to production occurring after December 31, 1994, the retroactive applicability date should be changed to read "to production years beginning after December 31, 1994".

The proposed legislation arbitrarily sets the gross value of industrial garnets at $20 per ton of "rougher garnet concentrate". The department has no basis on which to judge whether $20 per ton is a realistic gross value for industrial garnets in relation to valuations used for other minerals subject to the Mines Net Proceeds Tax.

Dave Lewis 2-18-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

CHARLES SWYSGOOD, PRIMARY SPONSOR DATE
Fiscal Note for SB0407, as introduced.

SB 407

SENATE BILL NO. 407

INTRODUCED BY SWYSGOOD, BECK

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE VALUE OF INDUSTRIAL GARNETS AND ASSOCIATED BYPRODUCTS FOR NET PROCEEDS PROPERTY TAX PURPOSES AND FOR RESOURCE INDEMNITY TRUST TAX PURPOSES; EXEMPTING 1,000 TONS OF ROUGHER GARNET CONCENTRATE, UNDER CERTAIN CONDITIONS, FROM THE NET PROCEEDS TAX; ESTABLISHING A SPECIFIC RESOURCE INDEMNITY TRUST TAX RATE FOR INDUSTRIAL GARNETS AND ASSOCIATED BYPRODUCTS; AMENDING SECTIONS 15-6-131, 15-8-111, 15-23-103, 15-23-106, 15-23-115, 15-23-502, 15-23-503, 15-23-521, 15-38-103, AND 15-38-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Net proceeds for industrial garnets and byproducts -- statement -- value -- EXEMPTION.** (1) A statement of gross yield and value, required in 15-23-502, that is filed by a producer of industrial garnets and associated byproducts must contain the following:

(a) the name and address of the owner, lessee, or operator of the mine, together with the name and address of any person owning or claiming a royalty interest in the mineral product of the mine or the proceeds derived from the sale of the mineral product, and the amount or amounts paid or yielded as royalty to each person during the period covered by the statement;

(b) the description and location of the mine;

(c) (i) the number of tons of rougher garnet concentrate produced by initial concentration and sold from the mine during the period covered by the statement; and

(ii) the gross revenue received from any byproduct produced and sold as a result of the garnet mining operation.

(d) the amount and character of the industrial garnet and byproducts from the mine and the amount of the industrial garnets measured in tons and associated byproducts measured in dollars yielded to the person engaged in mining and to each royalty holder, if any, during the period covered by the statement; and

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

(2) (a) For the purposes of this section, the gross yield or value of industrial garnets is determined by multiplying the number of tons of rougher garnet concentrate reported under subsection (1)(c)(i) by:

(i) for the tax year beginning January 1, ~~1995~~ 1996, $20; and

(ii) for the tax years beginning January 1, ~~1996~~ 1997, and thereafter, the product obtained by multiplying $20 by the quotient of the PCE for the first quarter of the year previous to the tax year for which the net proceed value is being calculated, divided by the PCE for the first quarter of the ~~1991~~ 1995 tax year.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

(c) The gross yield or value of the byproducts produced and sold as a result of industrial garnet production is determined by multiplying the gross revenue reported under subsection (1)(c)(ii) by 30%.

(3) FOR THE PURPOSES OF THIS SECTION, "ASSOCIATED BYPRODUCTS" MEANS GOLD, SILVER, COPPER, LEAD, OR ANY OTHER MINERAL OR PRECIOUS OR SEMIPRECIOUS GEMS OR STONES THAT ARE PRODUCED, PROCESSED, AND SOLD IN CONJUNCTION WITH THE MINING AND PROCESSING OF INDUSTRIAL GARNETS.

(4) A PERSON WHO PRODUCES AND SELLS ASSOCIATED BYPRODUCTS SUBJECT TO TAXATION UNDER THIS SECTION IS NOT REQUIRED TO FILE A STATEMENT OR PAY THE TAX ON THE ASSOCIATED BYPRODUCTS UNDER TITLE 15, CHAPTER 23, PART 8, OR UNDER TITLE 15, CHAPTER 37, PART 1.

(5) (A) EXCEPT AS PROVIDED IN SUBSECTION (5)(B), A PERSON IS NOT LIABLE FOR THE NET PROCEEDS TAX ON 1,000 TONS OR LESS OF ROUGHER GARNET CONCENTRATE, INCLUDING THE VALUE OF ASSOCIATED BYPRODUCTS, PRODUCED AND SOLD IN A CALENDAR YEAR.

(B) A PERSON WHO PRODUCES AND SELLS MORE THAN 1,000 TONS OF ROUGHER GARNET CONCENTRATE IN A CALENDAR YEAR IS LIABLE FOR THE NET PROCEEDS TAX ON ALL ROUGHER GARNET CONCENTRATE, INCLUDING THE VALUE OF ASSOCIATED BYPRODUCTS, PRODUCED AND SOLD IN THE CALENDAR YEAR.

NEW SECTION. **Section 2. Gross value of product for industrial garnets and byproducts.** As used in this part, when referring to industrial garnets and associated byproducts, "gross value of product" is the gross yield or value as determined in [section 1(2)].

Section 3. Section 15-6-131, MCA, is amended to read:

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

(2) Class one property is taxed at 100% of its annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, for talc, as provided in 15-23-515 or, for vermiculite, as provided in 15-23-516 or, for limestone, as provided in 15-23-517 <u>or, for industrial garnets and associated byproducts, as provided in [section 1]</u>."

Section 4. Section 15-8-111, MCA, is amended to read:

"**15-8-111. Assessment -- market value standard -- exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

(c) Except as provided in subsection (3), the market value of all motor trucks; agricultural tools, implements, and machinery; and vehicles of all kinds is the average wholesale value shown in national appraisal guides and manuals or the value of the vehicle before reconditioning and profit margin. The department shall prepare valuation schedules showing the average wholesale value when a national appraisal guide does not exist.

(3) The department may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property, except:

(a) the wholesale value for agricultural implements and machinery is the loan value as shown in the Official Guide, Tractor and Farm Equipment, published by the national farm and power equipment dealers association, St. Louis, Missouri;

(b) for agricultural implements and machinery not listed in the official guide, the department shall prepare a supplemental manual in which the values reflect the same depreciation as those found in the official guide; and

(c) as otherwise authorized in Title 15 and Title 61.

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(b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(d) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the land when valued as forest land.

(7) Land and the improvements on the land are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town."

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

(3) Each report described in 15-23-201, 15-23-212, 15-23-515, ~~or~~ 15-23-516<u>, or [section 1]</u> must

be delivered to the department before April 15 each year.

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(b) the assessed value of utility property, as determined under 15-23-303, apportioned to the county, including the length or other description of the property;

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

(d) the assessed value of the net proceeds and royalties from mines and oil and gas wells in the county, as determined under 15-23-503, 15-23-505, 15-23-515~~, 15-23-516,~~ through 15-23-517, [section 1], 15-23-603, and 15-23-605; and

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

(2) The department shall enter the reported assessed values in the property tax record for the county."

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

"**15-23-115. Interest.** If the department determines that a taxpayer has incorrectly reported a value under 15-23-502, 15-23-515, 15-23-516, 15-23-517, [section 1], 15-23-602, 15-23-701, or 15-23-802 and if an additional tax is due, there must be added to the tax until paid in full interest at the rate of 1% a month or fraction of a month from the date the original tax was due and payable. A taxpayer subject to imposition of interest pursuant to this section is not subject to the penalty and interest provisions contained in 15-16-102."

Section 8. Section 15-23-502, MCA, is amended to read:

"**15-23-502. Net proceeds tax -- statement of yield.** Every person engaged in mining, extracting, or producing from any quartz vein or lode, placer claim, dump or tailings, or other place or source whatever precious stones or gems, vermiculite, bentonite, or other valuable mineral, except coal and metals, must on or before March 31 each year make out a statement of the gross yield and value of the above-named metals or minerals from each mine owned or worked by the person during the year preceding January 1 of the year in which the statement is made. The statement must be in the form prescribed by the department of revenue and must be verified by the oath of the person completing the statement or the manager, superintendent, agent, president, or vice-president, if a corporation, association, or partnership, and must be delivered to the department on or before March 31. Except as provided in 15-23-515~~,~~ ~~15-23-516, and~~ <u>through</u> 15-23-517~~,~~ <u>and [section 1],</u> the statement must show the following:

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

(2) the description and location of the mine;

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

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

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

(6) cost of extracting from the mine;

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

(8) cost of reduction or sale;

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

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

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

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

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

(14) cost of testing extracted minerals for the purpose of satisfying federal or state health and safety laws or regulations, the cost of plant security in Montana, the cost of assaying and sampling the extracted minerals, and the costs incurred in Montana for engineering and geological services for existing mining operations but not including any services beyond the stage of reduction and beneficiation of the minerals; and

(15) cost of mine reclamation."

Section 9. Section 15-23-503, MCA, is amended to read:

"**15-23-503. Net proceeds -- how computed.** (1) The department of revenue shall calculate from the returns the gross product yielded from a mine and its gross value for the year covered by the statement and shall calculate and compute the net proceeds of the mine yielded to the person engaged in mining. Except as provided in 15-23-515~~, 15-23-516, and~~ through 15-23-517~~,~~ and [section 1], net proceeds must be determined by subtracting from the value of the gross product of the mine the following:

(a) all royalty paid or apportioned in cash or in kind by the person engaged in mining;

(b) all money expended for necessary labor, machinery, and supplies needed and used in the mining operations and developments;

(c) all money expended for improvements, repairs, and betterments necessary in and about the working of the mine, except as provided in this section;

(d) all money expended for costs of repairs and replacements of the milling and reduction works used in connection with the mine;

(e) depreciation in the sum of 6% of the assessed valuation of the milling and reduction works for the calendar year for which the return is made;

(f) all money actually expended for transporting the ores and mineral products or deposits from the mines to the mill or reduction works or to the place of sale and for extracting the metals and minerals and for marketing the product and the conversion of the product into money;

(g) all money expended for insurance and welfare and retirement costs reported in the statement required in 15-23-502;

(h) all money expended for necessary labor, equipment, and supplies for testing minerals extracted to satisfy federal or state health and safety laws or regulations, for plant security in Montana, for assaying and sampling the extracted minerals, for the cost of reclamation at the site of the mine, and for engineering and geological services conducted in Montana for existing mining operations but not including services beyond the stage of reduction and beneficiation of the minerals.

(2) In computing the deductions allowable for repairs, improvements, and betterments to the mine, the department shall allow 10% of the cost each year for a period of 10 years.

(3) Money invested in mines or improvements may not be allowed as a deduction unless all machinery, equipment, and buildings represented by the money are returned to the county in which the mine is located for assessment purposes at the level of assessment of all other property in the county.

(4) Money invested in the mines and improvements during any year except the year for which the statement is made and except as provided in this section may not be included in the expenditures, and the expenditures may not include the salary or any portion of the salary of any person or officer not actually engaged in the working of the mine or superintending the management of the mine."

Section 10. Section 15-23-521, MCA, is amended to read:

"**15-23-521. Examination of records by department.** The department of revenue may at any time examine the records of any person specified in this part as the records may pertain to the yield of ore or mineral products or deposit in order to verify the statements made by the person. If from the examination or from other information, the department finds any statement or any material part of a statement willfully false or fraudulent, the department must assess in the same manner as provided for in 15-23-503, 15-23-515, 15-23-516, ~~or~~ 15-23-517, or [section 1]."

Section 11. Section 15-38-103, MCA, is amended to read:

"**15-38-103. Definitions.** As used in this chapter, the following definitions apply:

(1) "Department" means department of revenue.

(2) "Gross value of product" means, except as provided in 15-38-125 through 15-38-128 and [section 2], the market value of any merchantable mineral extracted or produced during the taxable year.

(3) "Mineral" means any precious stones or gems, gold, silver, copper, coal, lead, petroleum,

natural gas, oil, uranium, or other nonrenewable merchantable products extracted from the surface or subsurface of the state of Montana.

(4) "Total environment" means air, water, soil, flora, and fauna and the social, economic, and cultural conditions that influence communities and individual citizens."

Section 12. Section 15-38-104, MCA, is amended to read:

"**15-38-104. Tax on mineral production.** (1) Except as provided in subsections (2) through (4), the annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing a mineral is $25, plus an additional amount computed on the gross value of product that was derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 1/2 of 1% of the amount of gross value of product at the time of extraction from the ground, if in excess of $5,000. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners may be deducted from any settlements under the lease or leases or division of proceeds orders or other contracts.

(2) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing:

(a) talc is $25 plus an additional amount computed on the gross value of product for talc derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 4%; and

(b) coal is $25 plus an additional amount computed on the gross value of product for coal produced in Montana during the calendar year immediately preceding at the rate of 0.4%.

(3) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing vermiculite is $25 plus an additional amount computed on the gross value of product for vermiculite derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 2%.

(4) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing limestone for the production of quicklime is $25 plus an additional amount computed on the gross value of product for limestone derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 10%.

(5) The annual tax to be paid by a person engaged in or carrying on the business of mining,

extracting, or producing industrial garnets and associated byproducts is $25 plus an additional amount computed on the gross value of product for industrial garnets and associated byproducts derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 1% on the gross value of product in excess of $2,500."

NEW SECTION. **Section 13. Codification instructions.** (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 23, part 5, and the provisions of Title 15, chapter 23, part 5, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 38, part 1, and the provisions of Title 15, chapter 38, part 1, apply to [section 2].

NEW SECTION. **Section 14. Effective date -- retroactive applicability.** [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to ~~tax~~ PRODUCTION years beginning after December 31, 1994.

-END-

SENATE BILL NO. 407

INTRODUCED BY SWYSGOOD, BECK

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE VALUE OF INDUSTRIAL GARNETS AND ASSOCIATED BYPRODUCTS FOR NET PROCEEDS PROPERTY TAX PURPOSES AND FOR RESOURCE INDEMNITY TRUST TAX PURPOSES; <u>EXEMPTING 1,000 TONS OF ROUGHER GARNET CONCENTRATE, UNDER CERTAIN CONDITIONS, FROM THE NET PROCEEDS TAX;</u> ESTABLISHING A SPECIFIC RESOURCE INDEMNITY TRUST TAX RATE FOR INDUSTRIAL GARNETS AND ASSOCIATED BYPRODUCTS; AMENDING SECTIONS 15-6-131, 15-8-111, 15-23-103, 15-23-106, 15-23-115, 15-23-502, 15-23-503, 15-23-521, 15-38-103, AND 15-38-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO SECOND READING COPY (YELLOW) FOR COMPLETE TEXT.

SENATE BILL NO. 407

INTRODUCED BY SWYGOOD, BECK

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE VALUE OF INDUSTRIAL GARNETS AND ASSOCIATED BYPRODUCTS FOR NET PROCEEDS PROPERTY TAX PURPOSES AND FOR RESOURCE INDEMNITY TRUST TAX PURPOSES; EXEMPTING 1,000 TONS OF ROUGHER GARNET CONCENTRATE, UNDER CERTAIN CONDITIONS, FROM THE NET PROCEEDS TAX; ESTABLISHING A SPECIFIC RESOURCE INDEMNITY TRUST TAX RATE FOR INDUSTRIAL GARNETS AND ASSOCIATED BYPRODUCTS; AMENDING SECTIONS 15-6-131, 15-8-111, 15-23-103, 15-23-106, 15-23-115, 15-23-502, 15-23-503, 15-23-521, 15-38-103, AND 15-38-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Net proceeds for industrial garnets and byproducts -- statement -- value -- EXEMPTION.** (1) A statement of gross yield and value, required in 15-23-502, that is filed by a producer of industrial garnets and associated byproducts must contain the following:

(a) the name and address of the owner, lessee, or operator of the mine, together with the name and address of any person owning or claiming a royalty interest in the mineral product of the mine or the proceeds derived from the sale of the mineral product, and the amount or amounts paid or yielded as royalty to each person during the period covered by the statement;

(b) the description and location of the mine;

(c) (i) the number of tons of rougher garnet concentrate produced by initial concentration and sold from the mine during the period covered by the statement; and

(ii) the gross revenue received from any byproduct produced and sold as a result of the garnet mining operation.

(d) the amount and character of the industrial garnet and byproducts from the mine and the amount of the industrial garnets measured in tons and associated byproducts measured in dollars yielded to the person engaged in mining and to each royalty holder, if any, during the period covered by the statement; and

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

(2) (a) For the purposes of this section, the gross yield or value of industrial garnets is determined by multiplying the number of tons of rougher garnet concentrate reported under subsection (1)(c)(i) by:

(i) for the tax year beginning January 1, ~~1995~~ <u>1996</u>, $20; and

(ii) for the tax years beginning January 1, ~~1996~~ <u>1997</u>, and thereafter, the product obtained by multiplying $20 by the quotient of the PCE for the first quarter of the year previous to the tax year for which the net proceed value is being calculated, divided by the PCE for the first quarter of the ~~1991~~ <u>1995</u> tax year.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

(c) The gross yield or value of the byproducts produced and sold as a result of industrial garnet production is determined by multiplying the gross revenue reported under subsection (1)(c)(ii) by 30%.

<u>(3) FOR THE PURPOSES OF THIS SECTION, "ASSOCIATED BYPRODUCTS" MEANS GOLD, SILVER, COPPER, LEAD, OR ANY OTHER MINERAL OR PRECIOUS OR SEMIPRECIOUS GEMS OR STONES THAT ARE PRODUCED, PROCESSED, AND SOLD IN CONJUNCTION WITH THE MINING AND PROCESSING OF INDUSTRIAL GARNETS.</u>

<u>(4) A PERSON WHO PRODUCES AND SELLS ASSOCIATED BYPRODUCTS SUBJECT TO TAXATION UNDER THIS SECTION IS NOT REQUIRED TO FILE A STATEMENT OR PAY THE TAX ON THE ASSOCIATED BYPRODUCTS UNDER TITLE 15, CHAPTER 23, PART 8, OR UNDER TITLE 15, CHAPTER 37, PART 1.</u>

<u>(5) (A) EXCEPT AS PROVIDED IN SUBSECTION (5)(B), A PERSON IS NOT LIABLE FOR THE NET PROCEEDS TAX ON 1,000 TONS OR LESS OF ROUGHER GARNET CONCENTRATE, INCLUDING THE VALUE OF ASSOCIATED BYPRODUCTS, PRODUCED AND SOLD IN A CALENDAR YEAR.</u>

<u>(B) A PERSON WHO PRODUCES AND SELLS MORE THAN 1,000 TONS OF ROUGHER GARNET CONCENTRATE IN A CALENDAR YEAR IS LIABLE FOR THE NET PROCEEDS TAX ON ALL ROUGHER GARNET CONCENTRATE, INCLUDING THE VALUE OF ASSOCIATED BYPRODUCTS, PRODUCED AND SOLD IN THE CALENDAR YEAR.</u>

<u>NEW SECTION.</u> **Section 2. Gross value of product for industrial garnets and byproducts.** As used

in this part, when referring to industrial garnets and associated byproducts, "gross value of product" is the gross yield or value as determined in [section 1(2)].

Section 3. Section 15-6-131, MCA, is amended to read:

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

(2) Class one property is taxed at 100% of its annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, for talc, as provided in 15-23-515 or, for vermiculite, as provided in 15-23-516 or, for limestone, as provided in 15-23-517 <u>or, for industrial garnets and associated byproducts, as provided in [section 1]</u>."

Section 4. Section 15-8-111, MCA, is amended to read:

"**15-8-111. Assessment -- market value standard -- exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

(c) Except as provided in subsection (3), the market value of all motor trucks; agricultural tools, implements, and machinery; and vehicles of all kinds is the average wholesale value shown in national appraisal guides and manuals or the value of the vehicle before reconditioning and profit margin. The department shall prepare valuation schedules showing the average wholesale value when a national appraisal guide does not exist.

(3) The department may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property, except:

(a) the wholesale value for agricultural implements and machinery is the loan value as shown in the Official Guide, Tractor and Farm Equipment, published by the national farm and power equipment dealers association, St. Louis, Missouri;

(b) for agricultural implements and machinery not listed in the official guide, the department shall prepare a supplemental manual in which the values reflect the same depreciation as those found in the official guide; and

(c) as otherwise authorized in Title 15 and Title 61.

(4) For purposes of taxation, assessed value is the same as appraised value.

(5) The taxable value for all property is the percentage of market or assessed value established for each class of property.

(6) The assessed value of properties in 15-6-131 through 15-6-133 is as follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515, 15-23-516, ~~or~~ 15-23-517, or [section 1].

(b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(d) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the land when valued as forest land.

(7) Land and the improvements on the land are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town."

Section 5. Section 15-23-103, MCA, is amended to read:

"**15-23-103. Due date of reports and returns -- extensions.** (1) Except as provided in subsection (2) and 15-23-602, each report or return described in 15-23-301, 15-23-402, 15-23-502, 15-23-701, or 15-23-517 must be delivered to the department on or before March 31 each year.

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

(3) Each report described in 15-23-201, 15-23-212, 15-23-515, ~~or~~ 15-23-516, or [section 1] must

be delivered to the department before April 15 each year.

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

Section 6. Section 15-23-106, MCA, is amended to read:

"**15-23-106. Report to the counties.** (1) On or before July 1, the department shall prepare for each county a statement listing:

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

(b) the assessed value of utility property, as determined under 15-23-303, apportioned to the county, including the length or other description of the property;

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

(d) the assessed value of the net proceeds and royalties from mines and oil and gas wells in the county, as determined under 15-23-503, 15-23-505, 15-23-515~~, 15-23-516,~~ through 15-23-517, [section 1], 15-23-603, and 15-23-605; and

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

(2) The department shall enter the reported assessed values in the property tax record for the county."

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

"**15-23-115. Interest.** If the department determines that a taxpayer has incorrectly reported a value under 15-23-502, 15-23-515, 15-23-516, 15-23-517, [section 1], 15-23-602, 15-23-701, or 15-23-802 and if an additional tax is due, there must be added to the tax until paid in full interest at the rate of 1% a month or fraction of a month from the date the original tax was due and payable. A taxpayer subject to imposition of interest pursuant to this section is not subject to the penalty and interest provisions contained in 15-16-102."

Section 8. Section 15-23-502, MCA, is amended to read:

"**15-23-502. Net proceeds tax -- statement of yield.** Every person engaged in mining, extracting, or producing from any quartz vein or lode, placer claim, dump or tailings, or other place or source whatever precious stones or gems, vermiculite, bentonite, or other valuable mineral, except coal and metals, must on or before March 31 each year make out a statement of the gross yield and value of the above-named metals or minerals from each mine owned or worked by the person during the year preceding January 1 of the year in which the statement is made. The statement must be in the form prescribed by the department of revenue and must be verified by the oath of the person completing the statement or the manager, superintendent, agent, president, or vice-president, if a corporation, association, or partnership, and must be delivered to the department on or before March 31. Except as provided in 15-23-515~~,~~ ~~15-23-516, and~~ through 15-23-517~~,~~ and [section 1], the statement must show the following:

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

(2) the description and location of the mine;

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

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

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

(6) cost of extracting from the mine;

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

(8) cost of reduction or sale;

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

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

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

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

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

(14) cost of testing extracted minerals for the purpose of satisfying federal or state health and safety laws or regulations, the cost of plant security in Montana, the cost of assaying and sampling the extracted minerals, and the costs incurred in Montana for engineering and geological services for existing mining operations but not including any services beyond the stage of reduction and beneficiation of the minerals; and

(15) cost of mine reclamation."

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"**15-23-503. Net proceeds -- how computed.** (1) The department of revenue shall calculate from the returns the gross product yielded from a mine and its gross value for the year covered by the statement and shall calculate and compute the net proceeds of the mine yielded to the person engaged in mining. Except as provided in 15-23-515~~, 15-23-516, and~~ through 15-23-517~~,~~ and [section 1], net proceeds must be determined by subtracting from the value of the gross product of the mine the following:

(a) all royalty paid or apportioned in cash or in kind by the person engaged in mining;

(b) all money expended for necessary labor, machinery, and supplies needed and used in the mining operations and developments;

(c) all money expended for improvements, repairs, and betterments necessary in and about the working of the mine, except as provided in this section;

(d) all money expended for costs of repairs and replacements of the milling and reduction works used in connection with the mine;

(e) depreciation in the sum of 6% of the assessed valuation of the milling and reduction works for the calendar year for which the return is made;

(f) all money actually expended for transporting the ores and mineral products or deposits from the mines to the mill or reduction works or to the place of sale and for extracting the metals and minerals and for marketing the product and the conversion of the product into money;

(g) all money expended for insurance and welfare and retirement costs reported in the statement required in 15-23-502;

(h) all money expended for necessary labor, equipment, and supplies for testing minerals extracted to satisfy federal or state health and safety laws or regulations, for plant security in Montana, for assaying and sampling the extracted minerals, for the cost of reclamation at the site of the mine, and for engineering and geological services conducted in Montana for existing mining operations but not including services beyond the stage of reduction and beneficiation of the minerals.

(2) In computing the deductions allowable for repairs, improvements, and betterments to the mine, the department shall allow 10% of the cost each year for a period of 10 years.

(3) Money invested in mines or improvements may not be allowed as a deduction unless all machinery, equipment, and buildings represented by the money are returned to the county in which the mine is located for assessment purposes at the level of assessment of all other property in the county.

(4) Money invested in the mines and improvements during any year except the year for which the statement is made and except as provided in this section may not be included in the expenditures, and the expenditures may not include the salary or any portion of the salary of any person or officer not actually engaged in the working of the mine or superintending the management of the mine."

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"**15-23-521. Examination of records by department.** The department of revenue may at any time examine the records of any person specified in this part as the records may pertain to the yield of ore or mineral products or deposit in order to verify the statements made by the person. If from the examination or from other information, the department finds any statement or any material part of a statement willfully false or fraudulent, the department must assess in the same manner as provided for in 15-23-503, 15-23-515, 15-23-516, ~~or~~ 15-23-517, or [section 1]."

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"**15-38-103. Definitions.** As used in this chapter, the following definitions apply:

(1) "Department" means department of revenue.

(2) "Gross value of product" means, except as provided in 15-38-125 through 15-38-128 and [section 2], the market value of any merchantable mineral extracted or produced during the taxable year.

(3) "Mineral" means any precious stones or gems, gold, silver, copper, coal, lead, petroleum,

natural gas, oil, uranium, or other nonrenewable merchantable products extracted from the surface or subsurface of the state of Montana.

(4) "Total environment" means air, water, soil, flora, and fauna and the social, economic, and cultural conditions that influence communities and individual citizens."

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(2) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing:

(a) talc is $25 plus an additional amount computed on the gross value of product for talc derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 4%; and

(b) coal is $25 plus an additional amount computed on the gross value of product for coal produced in Montana during the calendar year immediately preceding at the rate of 0.4%.

(3) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing vermiculite is $25 plus an additional amount computed on the gross value of product for vermiculite derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 2%.

(4) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing limestone for the production of quicklime is $25 plus an additional amount computed on the gross value of product for limestone derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 10%.

<u>(5) The annual tax to be paid by a person engaged in or carrying on the business of mining,</u>

extracting, or producing industrial garnets and associated byproducts is $25 plus an additional amount computed on the gross value of product for industrial garnets and associated byproducts derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 1% on the gross value of product in excess of $2,500."

NEW SECTION. **Section 13. Codification instructions.** (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 23, part 5, and the provisions of Title 15, chapter 23, part 5, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 38, part 1, and the provisions of Title 15, chapter 38, part 1, apply to [section 2].

NEW SECTION. **Section 14. Effective date -- retroactive applicability.** [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to ~~tax~~ PRODUCTION years beginning after December 31, 1994.

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