SENATE TAXATION
EXHIBIT NO. 1
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BILL NO. SB11

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Revenue and Transportation Interim Committee

60th Montana Legislature

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April 18, 2008

TO: Revenue and Transportation Committee

FROM: Jeff Martin, Legislative Research Analyst

SUBJECT: Bill Draft to Clarify the Exemption From the Metalliferous Mines Tax and a Bill Draft to Clarify Statutes Related to Tax Increment Finance Districts

The purpose of this memo is to discuss certain inconsistencies in statutes that could be clarified by legislation. One area deals with the metalliferous mines tax and the other with tax increment finance districts. The Revenue and Transportation Interim Committee may want to request bill drafts to deal with these inconsistencies.

Metalliferous Mines Tax

The Legislature met in special session on August 5, 2002. The purpose of the session was to reduce general fund expenditures and enhance revenue collections in response to declining revenue to the state general fund. One revenue measure (Ch. 19, Sp. L. August 2002) required the semiannual payment of the metalliferous mines tax under Title 15, chapter 37. The purpose of the legislation was to "accelerate" part of the tax into the 2003 fiscal year. Previously, the tax was due on March 31 of each year for production occurring in the preceding calendar year. Beginning January 1, 2003, the new law required semiannual payments of the tax for production occurring in reporting periods January 1 to June 30 and July 1 through December 30. Taxes are due August 15 for the first reporting period and the following March 31 for the second reporting period. In addition to the accelerated payment, interest earnings to the general fund are enhanced because of the semiannual payment of the tax.

Mines producing metals or gems are subject to the tax based on the gross value of product received from a purchaser. The mining company is allowed to deduct basic treatment and refinery charges, transportation costs, and certain other costs in determining gross value. The

first $250,000 of gross value is exempt from the tax. The gross value in excess of $250,000 is subject to tax on the increment. Section 15-37-103, MCA, provides for the calculation of the tax:

> 15-37-103. **Rate of tax.** (1) The license tax to be paid by 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 is an amount computed on the gross value of product derived by the person from mining business, work, or operation within this state **during the preceding reporting period.** (emphasis added)
>
> (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	1.81% of the increment

> (3) Gold, silver, or any platinum-group metal that is dore, bullion, matte, or another form of processed concentrate that is processed in a treatment facility owned or operated by the taxpayer and that is sold or shipped to a refinery for final processing 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

It appears that the exemption amount would apply to each reporting period rather than annually, as was the case under prior law. The Department of Revenue has allowed mining companies to claim the exemption in one reporting period or the other or to allocate the exemption between reporting periods, but not more than $250,000 in a calendar year. However, because the law is unclear, the Committee may want to request a bill draft to clarify that the exemption amount may not exceed $250,000 in a calendar year.

Tax Increment Fiance Districts

The Legislature created tax increment finance districts in 1974. Since then the Legislature has

also created industrial districts (1989), aerospace and technology districts (1999), and technology districts (2005), all of which may use tax increment financing under the provisions of the original tax increment finance district law. The purpose of the legislation would be to clarify that the following apply to all tax increment districts:

- authorization for tax increment financing (7-15-4282, MCA);
- definitions related to tax increment financing (7-15-4283, MCA);
- filing of tax increment provisions (7-15-4284, MCA);
- the procedures to determine and disburse tax increment (7-15-4286, MCA);
- costs that may be paid by tax increment financing (7-15-4288, MCA);
- termination tax increment financing (7-15-4292, MCA);
- base taxable value adjustments (7-15-4293, MCA);
- assessment agreements (7-15-4294, MCA);
- bonding provisions (7-15-4301, 7-15-4304, and 7-15-4324, MCA);

The legislation would also clarify provisions of technology districts (7-15-4295, MCA), aerospace transportation and technology districts (7-15-4296, MCA), and industrial districts (7-15-4299, MCA) to comport with the other clarifying provisions. Finally, the legislation would clarify the issuance of bonds by the Board of Examiners for aerospace transportation and technology infrastructure development projects.