

ASSEMBLY BILL NO. 4—COMMITTEE OF THE WHOLE

JULY 16, 2020

Referred to Committee of the Whole

SUMMARY—Revises provisions relating to the tax on the net proceeds of minerals extracted and the use thereof. (BDR 32-25)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to governmental financial administration; revising the formula for determining the measure of the tax on the net proceeds of minerals; creating the Supplemental Support for Classroom Instruction Account; requiring the transfer of a portion of the tax on the net proceeds of minerals to the Account; providing for the use of money in the Account; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law imposes a tax on the net proceeds of minerals extracted. (NRS
2 362.100-362.240) Under existing law, certain deductions are allowed from the
3 gross yield of a mining operation for the purpose of determining the taxable net
4 proceeds. (NRS 362.120) **Section 1** of this bill reduces the amount of those
5 deductions by 40 percent for each extractive operation where the gross proceeds
6 from minerals extracted exceeds \$10,000,000, except for the portion of the
7 proceeds that are paid as royalties that are taxable to the recipient of the royalty.
8 **Section 4** of this bill provides that this reduction in the amount of these deductions
9 applies to the taxes due for the calendar year 2020 and each calendar year
10 thereafter. Thus, the reduction in the amount of these deductions would apply to the
11 tax paid in fiscal year 2021 based on the net proceeds of the minerals extracted for
12 calendar year 2020.

13 Existing law creates several accounts to be used for certain purposes relating to
14 education. (NRS 387.1247, 387.1253, 387.129) **Section 2.5** of this bill creates the
15 Supplemental Support for Classroom Instruction Account. **Section 2.7** of this bill
16 provides that the money in the Supplemental Support for Classroom Instruction
17 Account: (1) must be distributed on an equal, per pupil basis to the school districts,
18 the governing body of the university school for profoundly gifted pupils and the
19 State Public Charter School Authority for block grants in an equal, per pupil



20 amount to the public schools of this State; and (2) may be used only for the purpose
21 of providing classroom instruction to the pupils enrolled in the public schools of
22 this State. **Section 1.5** of this bill requires an annual transfer of the first
23 \$50,000,000 of the State General Fund portion of the tax on the net proceed of
24 minerals to the Supplemental Support for Classroom Instruction Account.

25 **Section 2.9** of this bill appropriates \$50,000,000 to the Account for the New
26 Nevada Education Funding Plan.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 362.120 is hereby amended to read as follows:

2 362.120 1. The Department shall, from the statement filed
3 pursuant to NRS 362.110 and from all obtainable data, evidence and
4 reports, compute in dollars and cents the gross yield and net
5 proceeds of the calendar year immediately preceding the year in
6 which the statement is filed.

7 2. The gross yield must include the value of any mineral
8 extracted which was:

- 9 (a) Sold;
10 (b) Exchanged for any thing or service;
11 (c) Removed from the State in a form ready for use or sale; or
12 (d) Used in a manufacturing process or in providing a service,
13 ↪ during that period.

14 3. The net proceeds are ascertained and determined by
15 subtracting from the gross yield the following deductions for costs
16 incurred during that period, and none other:

17 (a) *Except as otherwise provided in subsection 4:*

18 (I) The actual cost of extracting the mineral, which is limited
19 to direct costs for activities performed in the State of Nevada.

20 ~~[(b)]~~ (2) The actual cost of transporting the mineral to the place
21 or places of reduction, refining and sale.

22 ~~[(e)]~~ (3) The actual cost of reduction, refining and sale.

23 ~~[(d)]~~ (4) The actual cost of delivering the mineral.

24 ~~[(e)]~~ (5) The actual cost of maintenance and repairs of:

25 ~~[(1)]~~ (I) All machinery, equipment, apparatus and facilities
26 used in the mine.

27 ~~[(2)]~~ (II) All milling, refining, smelting and reduction
28 works, plants and facilities.

29 ~~[(3)]~~ (III) All facilities and equipment for transportation
30 except those that are under the jurisdiction of the Public Utilities
31 Commission of Nevada or the Nevada Transportation Authority.

32 ~~[(f)]~~ (6) Depreciation of the original capitalized cost of the
33 machinery, equipment, apparatus, works, plants and facilities
34 mentioned in ~~[(paragraph (e).)]~~ *subparagraph (5)*. The annual



1 depreciation charge consists of amortization of the original cost in a
2 manner prescribed by regulation of the Nevada Tax Commission.
3 The probable life of the property represented by the original cost
4 must be considered in computing the depreciation charge.

5 ~~[(g)]~~ (7) All money expended for premiums for industrial
6 insurance, and the actual cost of hospital and medical attention and
7 accident benefits and group insurance for employees actually
8 engaged in mining operations within the State of Nevada.

9 ~~[(h)]~~ (8) All money paid as contributions or payments under the
10 unemployment compensation law of the State of Nevada, as
11 contained in chapter 612 of NRS, all money paid as contributions
12 under the Social Security Act of the Federal Government, and all
13 money paid to either the State of Nevada or the Federal Government
14 under any amendment to either or both of the statutes mentioned in
15 this ~~[paragraph-~~

16 ~~—(i)] subparagraph.~~

17 (9) The costs of employee travel which occurs within the
18 State of Nevada and which is directly related to mining operations
19 within the State of Nevada.

20 ~~[(j)]~~ (10) The costs of Nevada-based corporate services relating
21 to ~~[paragraphs (e)]~~ ~~subparagraphs~~ (5) to ~~[(i)]~~ (9), inclusive.

22 ~~[(k)]~~ (11) The actual cost of developmental work in or about the
23 mine or upon a group of mines when operated as a unit, which is
24 limited to work that is necessary to the operation of the mine or
25 group of mines.

26 ~~[(l)]~~ (12) The costs of reclamation work in the years the
27 reclamation work occurred, including, without limitation, costs
28 associated with the remediation of a site.

29 ~~[(m)]~~ (b) All money paid as royalties by a lessee or sublessee of
30 a mine or well, or by both, in determining the net proceeds of the
31 lessee or sublessee, or both.

32 4. *If the gross proceeds of a geographically separate*
33 *extractive operation in a calendar year exceed \$10,000,000, the*
34 *amount of any deduction set forth in paragraph (a) of subsection 3*
35 *for that operation may not exceed 60 percent of the amount of that*
36 *deduction as determined pursuant to the applicable subparagraph*
37 *of that paragraph.*

38 5. Royalties deducted by a lessee or sublessee constitute part of
39 the net proceeds of the minerals extracted, upon which a tax must be
40 levied against the person to whom the royalty has been paid.

41 ~~[(s)]~~ 6. Every person acquiring property in the State of Nevada
42 to engage in the extraction of minerals and who incurs any of the
43 expenses mentioned in subsection 3 shall report those expenses and
44 the recipient of any royalty to the Department on forms provided by
45 the Department. The Department shall report annually to the Mining



1 Oversight and Accountability Commission the expenses and
2 deductions of each mining operation in the State of Nevada.

3 ~~{6}~~ 7. The several deductions mentioned in subsection 3 do
4 not include any expenditures for salaries, or any portion of salaries,
5 of any person not actually engaged in:

- 6 (a) The working of the mine;
- 7 (b) The operating of the mill, smelter or reduction works;
- 8 (c) The operating of the facilities or equipment for
9 transportation;
- 10 (d) Superintending the management of any of those operations;
- 11 (e) The State of Nevada, in office, clerical or engineering work
12 necessary or proper in connection with any of those operations; or
- 13 (f) Nevada-based corporate services.

14 ~~{7}~~ 8. The following expenses are specifically excluded from
15 any deductions from the gross yield:

- 16 (a) The costs of employee housing.
- 17 (b) Except as otherwise provided in *subparagraph (9) of*
18 *paragraph ~~{(i)}~~ (a)* of subsection 3, the costs of employee travel.
- 19 (c) The costs of severing the employment of any employees.
- 20 (d) Any dues paid to a third-party organization or trade
21 association to promote or advertise a product.
- 22 (e) Expenses relating to governmental relations or to
23 compensate a natural person or entity to influence legislative
24 decisions.
- 25 (f) The costs of mineral exploration.
- 26 (g) Any federal, state or local taxes.

27 ~~{8}~~ 9. As used in this section, "Nevada-based corporate
28 services" means corporate services which are performed in the State
29 of Nevada from an office located in this State and which directly
30 support mining operations in this State, including, without
31 limitation, accounting functions relating to mining operations at a
32 mine site in this State such as payroll, accounts payable, production
33 reporting, cost reporting, state and local tax reporting and
34 recordkeeping concerning property.

35 **Sec. 1.5.** NRS 362.170 is hereby amended to read as follows:

36 362.170 1. There is hereby appropriated to each county the
37 total of the amounts obtained by multiplying, for each extractive
38 operation situated within the county, the net proceeds of that
39 operation and any royalties paid by that operation, by the combined
40 rate of tax ad valorem, excluding any rate levied by the State of
41 Nevada, for property at that site, plus a pro rata share of any
42 penalties and interest collected by the Department for the late
43 payment of taxes distributed to the county. The Department shall
44 report to the State Controller on or before May 25 of each year ~~{the}~~

45 :



1 (a) *The* amount appropriated to each county, as calculated for
2 each operation from the final statement made in February of that
3 year for the preceding calendar year. The State Controller shall
4 distribute all money due to a county on or before May 30 of each
5 year.

6 (b) *The total amount of the tax collected by the Department*
7 *pursuant to NRS 362.100 to 362.240, inclusive, that is not*
8 *appropriated to the counties pursuant to this subsection, plus the*
9 *amount of any penalties and interest collected by the Department*
10 *that is not appropriated to the counties pursuant to this subsection.*
11 *On or before May 30 of each year, the State Controller shall:*

12 (1) *Transfer the first \$50,000,000 of the amount determined*
13 *pursuant to this paragraph to the Supplemental Support for*
14 *Classroom Instruction Account created by section 2.5 of this act*
15 *for use in accordance with section 2.7 of this act; and*

16 (2) *Allocate the remaining amount determined pursuant to*
17 *this paragraph to the State General Fund.*

18 2. The county treasurer shall apportion to each local
19 government or other local entity an amount calculated by:

20 (a) Determining the total of the amounts obtained by
21 multiplying, for each extractive operation situated within its
22 jurisdiction, the net proceeds of that operation and any royalty
23 payments paid by that operation, by the rate levied on behalf of that
24 local government or other local entity;

25 (b) Adding to the amount determined pursuant to paragraph (a) a
26 pro rata share of any penalties and interest collected by the
27 Department for the late payment of taxes distributed to that local
28 government or local entity; and

29 (c) Subtracting from the amount determined pursuant to
30 paragraph (b) a commission of 5 percent, of which 3 percent must
31 be deposited in the county general fund and 2 percent must be
32 accounted for separately in the account for the acquisition and
33 improvement of technology in the office of the county assessor
34 created pursuant to NRS 250.085.

35 3. The amounts apportioned pursuant to subsection 2,
36 including, without limitation, the amount retained by the county and
37 excluding the percentage commission, must be applied to the uses
38 for which each levy was authorized in the same proportion as the
39 rate of each levy bears to the total rate.

40 4. The Department shall report to the State Controller on or
41 before May 25 of each year the amount received as tax upon the net
42 proceeds of geothermal resources which equals the product of those
43 net proceeds multiplied by the rate of tax levied ad valorem by the
44 State of Nevada.

45 **Sec. 2.** (Deleted by amendment.)



1 **Sec. 2.3.** Chapter 387 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2.5 and 2.7 of this act.

3 **Sec. 2.5.** *1. The Supplemental Support for Classroom*
4 *Instruction Account is hereby created in the State General Fund,*
5 *to be administered by the Superintendent of Public Instruction.*

6 *2. The money in the Account must be invested as other money*
7 *of the State is invested. All interest and income earned on the*
8 *money in the Account must be credited to the Account.*

9 *3. The money in the Account must be used only for the*
10 *purposes specified in section 2.7 of this act.*

11 *4. Any money remaining in the Account at the end of a fiscal*
12 *year does not revert to the State General Fund, and the balance in*
13 *the Account must be carried forward.*

14 **Sec. 2.7.** *1. Using the method described in subsection 2, the*
15 *Superintendent of Public Instruction shall transfer the balance of*
16 *the money in the Supplemental Support for Classroom Instruction*
17 *Account created by section 2.5 of this act to school districts, the*
18 *governing bodies of university schools for profoundly gifted pupils*
19 *and the State Public Charter School Authority for block grants to*
20 *each public school in this State for the purposes described in*
21 *subsection 3. The money must not be used for administrative*
22 *expenditures of the Department of Education, the State Public*
23 *Charter School Authority, the governing body of a university*
24 *school for profoundly gifted pupils or a school district.*

25 *2. On or before July 1 of each year, the Superintendent of*
26 *Public Instruction shall determine the amount of money per pupil*
27 *to be transferred pursuant to subsection 1 by dividing the total*
28 *amount of money available in the Supplemental Support for*
29 *Classroom Instruction Account by the most recently reported*
30 *number of pupils enrolled in the public schools of this State. The*
31 *Superintendent of Public Instruction shall then determine the*
32 *amount to be transferred to:*

33 *(a) Each school district by multiplying the amount of money*
34 *per pupil by the number of pupils enrolled in the public schools of*
35 *the school district;*

36 *(b) The governing body of each university school for*
37 *profoundly gifted pupils by multiplying the amount of money per*
38 *pupil by the number of pupils enrolled in the university school for*
39 *profoundly gifted pupils; and*

40 *(c) The State Public Charter School Authority by multiplying*
41 *the amount of money per pupil by the number of pupils enrolled in*
42 *charter schools sponsored by the State Public Charter School*
43 *Authority.*

44 *3. The money received by each school district and the State*
45 *Public Charter School Authority pursuant to subsection 1:*



1 (a) *Must be distributed by:*

2 (1) *Each school district by dividing the amount of money*
3 *transferred by the Superintendent for Public Instruction to the*
4 *school district pursuant to subsection 1 by the number of pupils*
5 *enrolled in the school district to determine a per pupil amount,*
6 *then multiplying the per pupil amount by the number of pupils*
7 *enrolled in each public school in the school district to determine*
8 *the amount of the block grant to be transferred to each such*
9 *public school;*

10 (2) *The governing body of each university school for*
11 *profoundly gifted pupils by transferring the money received to the*
12 *university school for profoundly gifted pupils as a block grant;*
13 *and*

14 (3) *The State Public Charter School Authority by dividing*
15 *the amount of money transferred by the Superintendent for Public*
16 *Instruction to the State Public Charter School Authority pursuant*
17 *to subsection 1 by the number of pupils enrolled in charter schools*
18 *sponsored by the State Public Charter School Authority to*
19 *determine a per pupil amount, then multiplying the per pupil*
20 *amount by the number of pupils enrolled in each charter school*
21 *sponsored by the State Public Charter School Authority to*
22 *determine the amount of the block grant to be transferred to each*
23 *such charter school; and*

24 (b) *May be used only for the purpose of providing classroom*
25 *instruction to the pupils enrolled in the public school receiving the*
26 *block grant.*

27 4. *The money received by each school district, governing*
28 *body of a university school for profoundly gifted pupils and the*
29 *State Public Charter School Authority pursuant to subsection 1:*

30 (a) *May not be used to settle or arbitrate disputes between a*
31 *recognized organization representing employees of a school*
32 *district or public school and the school district or public school, or*
33 *to settle any negotiations;*

34 (b) *May not be used to adjust the district-wide schedule of*
35 *salaries and benefits of the employees of a school district or the*
36 *school-wide schedule of salaries and benefits of the employees of a*
37 *charter school;*

38 (c) *Must not be budgeted by a school district, university school*
39 *for profoundly gifted pupils or charter school in a manner that*
40 *creates any obligation or deficit for funding in any fiscal year*
41 *after the fiscal years for which the money was received; and*

42 (d) *Must not supplant money that the school district, governing*
43 *body of a university school for profoundly gifted pupils, State*
44 *Public Charter School Authority or public school would otherwise*
45 *spend on classroom instruction.*



1 **5. The money transferred pursuant to subsection 1 must be**
2 **accounted for separately by each school district, governing body of**
3 **a university school for profoundly gifted pupils and the State**
4 **Public Charter School Authority. On or before November 1 of**
5 **each year, each school district, governing body of a university**
6 **school for profoundly gifted pupils and the State Public Charter**
7 **School Authority shall prepare a report detailing how all money**
8 **received pursuant to subsection 1 was spent during the**
9 **immediately preceding fiscal year and submit the report to**
10 **the Director of the Legislative Counsel Bureau for transmission to**
11 **the next session of the Legislature, if the report is submitted in an**
12 **even-numbered year, or to the Legislative Commission, if the**
13 **report is submitted in an odd-numbered year.**

14 **6. Any remaining balance of the transfer made pursuant to**
15 **subsection 1 at the end of the fiscal year must be used for the**
16 **purposes identified in subsection 3, does not revert to the State**
17 **General Fund and the balance must be carried forward to the next**
18 **fiscal year.**

19 **Sec. 2.9.** There is hereby appropriated from the State General
20 Fund to the Account for the New Nevada Education Funding Plan
21 created by NRS 387.129 the sum of \$50,000,000.

22 **Sec. 3.** Notwithstanding the provisions of NRS 218D.430, a
23 committee may vote on this act before the expiration of the period
24 prescribed for the return of a fiscal note in NRS 218D.475. This
25 section applies retroactively from and after July 16, 2020.

26 **Sec. 3.5.** The provisions of subsection 1 of NRS 218D.380 do
27 not apply to any provision of this act which adds or revises a
28 requirement to submit a report to the Legislature.

29 **Sec. 4.** The amendatory provisions of section 1 of this act
30 apply to taxes due for each taxable period beginning on or after
31 January 1, 2020.

32 **Sec. 5.** (Deleted by amendment.)

33 **Sec. 6.** 1. This section and sections 1 and 2.9 to 4, inclusive,
34 of this act become effective upon passage and approval.

35 2. Sections 1.5 to 2.7, inclusive, of this act become effective on
36 January 1, 2021.

