

CHAPTER.....

AN ACT relating to state financial administration; temporarily accelerating the collection of the tax upon the net proceeds of minerals; temporarily requiring persons who extract minerals to pay the tax on the net proceeds of the estimated royalties that will be paid for that year; temporarily reducing various allowances for the collection of sales and use taxes and taxes on intoxicating liquor, cigarettes and other tobacco products; temporarily requiring the distribution to the State of an additional portion of the recovery surcharge fee collected from short-term lessees of passenger cars; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the taxation of the net proceeds of minerals based upon the actual net proceeds from the preceding calendar year. (NRS 362.100-362.240) Existing law requires the person extracting any mineral in this State to file a statement which shows the estimated gross yield and estimated net proceeds from each operation for the current calendar year and an estimate of all royalties that will be paid during the current calendar year. (NRS 362.115) **Sections 1-5** of this bill require advance payment of the tax based upon the estimated net proceeds and royalties for the current calendar year. **Section 16** of this bill provides that the collection of the tax on net proceeds of minerals reverts back to the former method of collection on actual proceeds beginning on July 1, 2011.

Sections 6-11 of this bill reduce the collection allowances applicable to taxes on intoxicating liquor, cigarettes and other products made from tobacco, and sales and use taxes, from 0.5 percent to 0.25 percent of the taxes otherwise due. **Section 16** of this bill limits these reductions to the period beginning on January 1, 2009, and ending on June 30, 2009.

Existing law requires a short-term lessor of a passenger car to collect a recovery surcharge fee of 4 percent from the short-term lessee, and requires the deposit of one-quarter of that fee into the State Highway Fund. (NRS 482.313) **Section 12** of this bill requires the deposit of an additional one-quarter of that fee into the State General Fund. **Section 15** of this bill limits the applicability of this additional deposit to fees collected during the period beginning on January 1, 2009, and ending on June 30, 2009.

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

Section 1. NRS 362.110 is hereby amended to read as follows:
362.110 1. Every person extracting any mineral in this State :
~~for receiving any royalty;~~

(a) Shall, on or before February 16 of each year, file with the Department a statement showing the gross yield and claimed net proceeds from each geographically separate operation where a



mineral is extracted by that person during the calendar year immediately preceding the year in which the statement is filed.

(b) May have up to 30 days after filing the statement required by paragraph (a) to file an amended statement.

2. The statement must:

(a) Show the claimed deductions from the gross yield in the detail set forth in NRS 362.120. The deductions are limited to the costs incurred during the calendar year immediately preceding the year in which the statement is filed.

(b) Be in the form prescribed by the Department.

(c) Be verified by the manager, superintendent, secretary or treasurer of the corporation, or by the owner of the operation, or, if the owner is a natural person, by someone authorized in his behalf.

~~[3. Each recipient of a royalty as described in subsection 1 shall annually file with the Department a list showing each of the lessees responsible for taxes due in connection with the operation or operations included in the statement filed pursuant to subsections 1 and 2.]~~

Sec. 2. NRS 362.115 is hereby amended to read as follows:

362.115 1. In addition to the statement required by subsection 1 of NRS 362.110, each person extracting any mineral in this State ~~[shall,]~~ :

(a) Shall, on or before March 1 of each year, file with the Department a statement showing the estimated gross yield and estimated net proceeds from each such operation for the entire current calendar year and an estimate of all royalties that will be paid during the current calendar year ~~[.]~~ and shall pay the tax upon the net proceeds and upon the royalties so estimated. The estimated payment may be reduced by the amount of any credit to which the taxpayer is entitled pursuant to NRS 362.130. The amount of the tax paid upon royalties must be deducted from the payment of the royalties.

(b) May file with the Department a quarterly report stating an estimate for the year and the actual quarterly amounts of production, gross yield and net proceeds as of March 31, June 30, September 30 and December 31, and pay any additional amount due. The additional estimated tax liability must be calculated by determining the difference between the revised estimates of net proceeds based on the recent production figures as indicated by the quarterly reports and the original estimate supplied pursuant to paragraph (a). If the person chooses to submit such reports, the reports must be submitted on a form prescribed by the Department not later than the last day of the month following the end of the calendar quarter and payment must be made within 30 days after



filing any quarterly report that indicates an additional estimated tax liability.

2. The Department shall:

(a) Use the statement filed pursuant to subsection 1 ~~[only]~~ to prepare estimates for use by local governments in the preparation of their budgets; and

(b) Submit those estimates to the *affected* local governments on or before March 15 of each year.

Sec. 3. NRS 362.130 is hereby amended to read as follows:

362.130 1. When the Department determines from the annual statement filed pursuant to NRS 362.110 the net proceeds of any minerals extracted, it shall prepare its certificate of the amount of the net proceeds , *the amount of the estimated tax paid in the prior calendar year pursuant to paragraph (a) of subsection 1 of NRS 362.115 and any additional payments made pursuant to paragraph (b) of subsection 1 of that section*, and the *balance of the* tax due , *if any*, and shall send a copy to the owner ~~[of the mine,] or~~ operator of the mine . ~~[for recipient of the royalty, as the case may be.]~~

2. The certificate must be prepared and mailed not later than:

(a) April 20 immediately following the month of February during which the statement was filed; or

(b) April 30 immediately thereafter if an amended statement is filed in a timely manner.

3. The tax due as indicated in the certificate prepared pursuant to this section *and any penalty* must be paid on or before May 10 of the year in which the certificate is received.

4. *If the amount paid pursuant to paragraph (a) of subsection 1 of NRS 362.115 in the prior calendar year is less than 90 percent of the amount certified pursuant to this section, the amount due must include a penalty of 10 percent of the amount by which the tax was underpaid unless:*

(a) The amount paid pursuant to paragraph (a) of subsection 1 of NRS 362.115 in the prior calendar year is equal to or greater than the total liability of the operation for the preceding calendar year; or

(b) The person files quarterly reports pursuant to paragraph (b) of subsection 1 of NRS 362.115 in a timely manner for that year and the total of all payments exceeds 90 percent of the amount certified.

5. If an overpayment was made, the overpayment may be credited toward the payment due on ~~[May 10]~~ *March 1* of the next calendar year. If the certificate prepared pursuant to this section shows a net loss for the year covered by the certificate or an amount of tax due for that year which is less than an overpayment made for



the preceding year, the amount or remaining amount of the overpayment must be refunded to the taxpayer within 30 days after the certification was sent to the taxpayer.

Sec. 4. NRS 362.170 is hereby amended to read as follows:

362.170 1. There is hereby appropriated to each county the total of the amounts obtained by multiplying, for each extractive operation situated within the county, the net proceeds of that operation and any royalties paid by that operation, *as estimated and paid pursuant to NRS 362.115, plus any amounts paid pursuant to NRS 362.130* by the combined rate of tax ad valorem ~~§~~ *for the fiscal year to which the payments apply*, excluding any rate levied by the State of Nevada, for property at that site, plus a pro rata share of any penalties and interest collected by the Department for the late payment of taxes distributed to the county. The Department shall report to the State Controller on or before May 25 of each year the amount appropriated to each county, as calculated for each operation from the final statement made in February of that year for the preceding calendar year ~~§~~ *and the estimate provided pursuant to NRS 362.115 for the current calendar year*. The State Controller shall distribute all money due to a county on or before May 30 of each year. *The Department shall report to the State Controller any additional payments made pursuant to paragraph (b) of subsection 1 of NRS 362.115 within 15 days after receipt of the payment, and the State Controller shall distribute the money to the appropriate county within 5 days after receipt of the report from the Department. For the purposes of this subsection, payments made pursuant to paragraph (b) of subsection 1 of NRS 362.115 apply to the fiscal year in which the statement of the estimated net proceeds is filed pursuant to paragraph (a) of subsection 1 of NRS 362.115.*

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

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

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

(c) Subtracting from the amount determined pursuant to paragraph (b) a commission of 5 percent of that amount, of which 3 percent must be deposited in the county general fund and 2 percent must be accounted for separately in the account for the acquisition



and improvement of technology in the office of the county assessor created pursuant to NRS 250.085.

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

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

Sec. 5. NRS 362.170 is hereby amended to read as follows:

362.170 1. There is hereby appropriated to each county the total of the amounts obtained by multiplying, for each extractive operation situated within the county, the net proceeds of that operation and any royalties paid by that operation, *as estimated and paid pursuant to NRS 362.115, plus any amounts paid pursuant to NRS 362.130* by the combined rate of tax ad valorem ~~for~~ *for the fiscal year to which the payments apply*, excluding any rate levied by the State of Nevada, for property at that site, plus a pro rata share of any penalties and interest collected by the Department for the late payment of taxes distributed to the county. The Department shall report to the State Controller on or before May 25 of each year the amount appropriated to each county, as calculated for each operation from the ~~final statement made in February of that year~~ *estimate provided pursuant to NRS 362.115 for the current calendar year and any adjustments made pursuant to NRS 362.130* for the preceding calendar year. The State Controller shall distribute all money due to a county on or before May 30 of each year. *The Department shall report to the State Controller any additional payments made pursuant to paragraph (b) of subsection 1 of NRS 362.115 within 15 days after receipt of the payment, and the State Controller shall distribute the money to the appropriate county within 5 days after receipt of the report from the Department. For the purposes of this subsection, payments made pursuant to paragraph (b) of subsection 1 of NRS 362.115 apply to the fiscal year in which the statement of the estimated net proceeds is filed pursuant to paragraph (a) of subsection 1 of NRS 362.115.*

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

(a) Determining the total of the amounts obtained by multiplying, for each extractive operation situated within its jurisdiction, the net proceeds of that operation and any royalty



payments paid by that operation, by the rate levied on behalf of that local government or other local entity;

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

(c) Subtracting from the amount determined pursuant to paragraph (b) a commission of 3 percent of that amount which must be deposited in the county general fund.

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

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

Sec. 6. NRS 369.370 is hereby amended to read as follows:

369.370 1. For the privilege of importing, possessing, storing or selling liquors, all licensed importers and manufacturers of liquor in this State shall pay the excise tax imposed and established by this chapter.

2. If, after the tax is paid on any such liquor, satisfactory evidence is presented to the Department that the imports have been actually exported and sold outside this State in a manner not in conflict with the law of the place of sale, the Department shall direct that a refund or credit of the tax so paid be made to the taxpayer. The taxpayer shall report all such exports and imports, and pay the tax on the imports monthly, on forms and subject to regulations prescribed by the Department.

3. The excise tax imposed by this chapter is due on or before the 20th day of the following month. If all such taxes are paid on or before the 15th day of the following month, a discount in the amount of ~~[0.5]~~ 0.25 percent of the tax must be allowed to the taxpayer. The Department may, for good cause, extend for not more than 15 days after the date the tax is due the time for paying the tax if a request for such an extension of time is received by the Department on or before the date the tax was due. If such an extension is granted, interest accrues from the original date the tax was due.

4. The Department shall allow refunds or credits on any shipments lost, stolen or damaged in transit, or damaged or spoiled



on the premises, may require all claims in connection therewith to be sworn to and may make ratable tax adjustments, credits or refunds to effectuate the purposes of this chapter.

Sec. 7. NRS 370.220 is hereby amended to read as follows:

370.220 In the sale of any cigarette revenue stamps or any metered machine settings to a licensed cigarette dealer, the Department and its agents shall allow the purchaser a discount of ~~{0.5}~~ 0.25 percent against the amount of excise tax otherwise due for the services rendered in affixing cigarette revenue stamps or metered machine impressions to the cigarette packages.

Sec. 8. NRS 370.450 is hereby amended to read as follows:

370.450 1. Except as otherwise provided in subsection 2, there is hereby imposed upon the purchase or possession of products made from tobacco, other than cigarettes, by a customer in this State a tax of 30 percent of the wholesale price of those products.

2. The provisions of subsection 1 do not apply to those products which are:

(a) Shipped out of the State for sale and use outside the State;

(b) Displayed or exhibited at a trade show, convention or other exhibition in this State by a manufacturer or wholesale dealer who is not licensed in this State; or

(c) Acquired free of charge at a trade show, convention or other exhibition or public event in this State, and which do not have significant value as determined by the Department by regulation.

3. This tax must be collected and paid by the wholesale dealer to the Department, in accordance with the provisions of NRS 370.465, after the sale or distribution of those products by the wholesale dealer. The wholesale dealer is entitled to retain ~~{0.5}~~ 0.25 percent of the taxes collected to cover the costs of collecting and administering the taxes if the taxes are paid in accordance with the provisions of NRS 370.465.

4. Any wholesale dealer who sells or distributes any of those products without paying the tax provided for by this section is guilty of a misdemeanor.

Sec. 9. NRS 370.490 is hereby amended to read as follows:

370.490 1. The Department shall allow a credit of 30 percent of the wholesale price, less a discount of ~~{0.5}~~ 0.25 percent for the services rendered in collecting the tax, for products made from tobacco, other than cigarettes, upon which the tax has been paid pursuant to NRS 370.450 and that may no longer be sold. If the products have been purchased and delivered, a credit memo of the manufacturer is required for proof of returned merchandise.

2. A credit must also be granted for any products made from tobacco, other than cigarettes, shipped from this State and destined



for retail sale and consumption outside the State on which the tax has previously been paid. A duplicate or copy of the invoice is required for proof of the sale outside the State.

3. A wholesale dealer may claim a credit by filing with the Department the proof required by this section. The claim must be made on a form prescribed by the Department.

Sec. 10. NRS 372.370 is hereby amended to read as follows:

372.370 1. Except as otherwise provided in subsection 2, if the taxes imposed by this chapter are paid in accordance with NRS 372.355, a taxpayer may deduct and withhold from the taxes otherwise due from him ~~{0.5}~~ 0.25 percent of those taxes to reimburse himself for the cost of collecting the tax.

2. The regulations adopted by the Department pursuant to NRS 360B.110 may authorize the deduction and withholding from the taxes otherwise due from a taxpayer such other amounts as are required to carry out the Streamlined Sales and Use Tax Agreement.

Sec. 11. NRS 374.375 is hereby amended to read as follows:

374.375 1. Except as otherwise provided in subsection 2, if the taxes imposed by this chapter are paid in accordance with NRS 374.360, a taxpayer may deduct and withhold from the taxes otherwise due from him ~~{0.5}~~ 0.25 percent thereof to reimburse himself for the cost of collecting the tax.

2. The regulations adopted by the Department pursuant to NRS 360B.110 may authorize the deduction and withholding from the taxes otherwise due from a taxpayer such other amounts as are required to carry out the Streamlined Sales and Use Tax Agreement.

Sec. 12. NRS 482.313 is hereby amended to read as follows:

482.313 1. Upon the lease of a passenger car by a short-term lessor in this State, the short-term lessor shall charge and collect from the short-term lessee:

(a) A governmental services fee of 6 percent of the total amount for which the passenger car was leased, excluding the items described in subsection 7;

(b) Any fee required pursuant to NRS 244A.810 or 244A.860; and

(c) A recovery surcharge fee of 4 percent of the total amount for which the passenger car was leased, excluding the items described in subsection 8, as reimbursement for vehicle licensing fees and taxes paid by the short-term lessor.

➡ The amount of each fee charged pursuant to this subsection must be indicated in the lease agreement.

2. The fees due from a short-term lessor to the Department of Taxation pursuant to subsection 1 are due on the last day of each



calendar quarter. On or before the last day of the month following each calendar quarter, the short-term lessor shall:

(a) File with the Department of Taxation, on a form prescribed by the Department of Taxation, a report indicating the total amount of:

(1) Each of the fees collected by the short-term lessor pursuant to subsection 1 during the immediately preceding calendar quarter; and

(2) Vehicle licensing fees and taxes paid by the short-term lessor pursuant to this chapter during the immediately preceding calendar quarter.

(b) Remit to the Department of Taxation:

(1) The fees collected by the short-term lessor pursuant to paragraphs (a) and (b) of subsection 1 during the immediately preceding calendar quarter; and

(2) ~~One-quarter~~ *One-half* of the fees collected by the short-term lessor pursuant to paragraph (c) of subsection 1 during the immediately preceding calendar quarter.

3. Except as otherwise provided in a contract made pursuant to NRS 244A.820 or 244A.870, the Department of Taxation shall deposit ~~fall~~ :

(a) *All the* money received from short-term lessors pursuant to the provisions of ~~the~~:

~~(a) Subparagraph~~ *subparagraph* (1) of paragraph (b) of subsection 2 with the State Treasurer for credit to the State General Fund; ~~and~~

~~(b) Subparagraph~~

(b) One-half of the money received from short-term lessors pursuant to the provisions of subparagraph (2) of paragraph (b) of subsection 2 with the State Treasurer for credit to the State General Fund; and

(c) One-half of the money received from short-term lessors pursuant to the provisions of subparagraph (2) of paragraph (b) of subsection 2 with the State Treasurer for credit to the State Highway Fund for administration pursuant to subsection 8 of NRS 408.235.

4. To ensure compliance with this section, the Department of Taxation may audit the records of a short-term lessor.

5. The provisions of this section do not limit or affect the payment of any taxes or fees imposed pursuant to the provisions of this chapter.

6. The Department of Motor Vehicles shall, upon request, provide to the Department of Taxation any information in its records relating to a short-term lessor that the Department of Taxation considers necessary to collect the fees described in subsection 1.



7. For the purposes of charging and collecting the governmental services fee described in paragraph (a) of subsection 1, the following items must not be included in the total amount for which the passenger car was leased:

(a) The amount of the fees charged and collected pursuant to paragraphs (b) and (c) of subsection 1;

(b) The amount of any charge for fuel used to operate the passenger car;

(c) The amount of any fee or charge for the delivery, transportation or other handling of the passenger car;

(d) The amount of any fee or charge for insurance, including, without limitation, personal accident insurance, extended coverage or insurance coverage for personal property; and

(e) The amount of any charges assessed against a short-term lessee for damages for which the short-term lessee is held responsible.

8. For the purposes of charging and collecting the recovery surcharge fee described in paragraph (c) of subsection 1, the following items must not be included in the total amount for which the passenger car was leased:

(a) The amount of the fees charged and collected pursuant to paragraphs (a) and (b) of subsection 1;

(b) The amount of any charge for a collision damage waiver or a similar instrument that acts as a waiver of the short-term lessor's right to collect from the short-term lessee for any damage to the passenger car;

(c) The amount of any charge for fuel used to operate the passenger car;

(d) The amount of any fee or charge for the delivery, transportation or other handling of the passenger car;

(e) The amount of any fee or charge for insurance, including, without limitation, personal accident insurance, extended coverage or insurance coverage for personal property;

(f) The amount of any charges assessed against a short-term lessee for damages for which the short-term lessee is held responsible; and

(g) The amount of any concession fee or charge that the short-term lessor:

(1) Is required to pay to do business at an airport, if applicable; and

(2) Passes on to the short-term lessee of the passenger car.

9. The Executive Director of the Department of Taxation shall:

(a) Adopt such regulations as he determines are necessary to carry out the provisions of this section; and



(b) Upon the request of the Director of the Department of Motor Vehicles, provide to the Director of the Department of Motor Vehicles a copy of any record or report described in this section.

10. As used in this section, "vehicle licensing fees and taxes" means:

(a) The fees paid by a short-term lessor for the registration of, and the issuance of certificates of title for, the passenger cars leased by him; and

(b) The basic and supplemental governmental services taxes paid by the short-term lessor with regard to those passenger cars.

Sec. 13. NRS 519.130 is hereby amended to read as follows:

519.130 1. Except as otherwise provided in subsection 4, every person or firm engaged in the business of assaying within this state shall, in each report or other document containing the results of an assay conducted by the person or firm which is created or produced for a commercial purpose, provide in the report or document a statement, prominently displayed and in bold type, which reads substantially as follows:

The results of this assay were based solely upon the content of the sample submitted. Any decision to invest should be made only after the potential investment value of the claim or deposit has been determined based on the results of assays of multiple samples of geologic materials collected by the prospective investor or by a qualified person selected by him and based on an evaluation of all engineering data which is available concerning any proposed project.

2. Any person or firm who knowingly violates the provisions of subsection 1 is:

(a) For the first violation, guilty of a misdemeanor.

(b) For a second or subsequent violation, guilty of a gross misdemeanor.

3. The right to enforce the provisions of this section vests exclusively in the Attorney General.

4. The provisions of this section do not apply to a person who is required to file an annual statement ~~for list~~ pursuant to the provisions of NRS 362.110.

5. As used in this section, "business of assaying" means a business that determines the elemental composition of samples of geologic materials for a fee or other valuable consideration.

Sec. 14. 1. Each person required to pay the tax on the net proceeds of minerals shall pay:



(a) The tax determined pursuant to NRS 362.130, as that section reads prior to amendment by section 3 of this act, for the calendar year 2008; and

(b) The estimated tax for the calendar year 2009 pursuant to NRS 362.115, as amended by section 2 of this act.

2. For the calendar year 2009, the amount appropriated to each county pursuant to NRS 362.170 must be determined based upon the sum of:

(a) The amount paid pursuant to NRS 362.130, as that section reads before amendment by section 3 of this act, based upon the tax paid for the calendar year 2008; and

(b) The estimated tax for the calendar year 2009 paid pursuant to NRS 362.115, as amended by section 2 of this act.

Sec. 15. 1. The amendatory provisions of section 12 of this act do not apply to any recovery surcharge fees collected pursuant to subsection 1 of NRS 482.313 before January 1, 2009.

2. Except as otherwise provided in subsection 1 and notwithstanding the provisions of subsection 3 of section 16 of this act, the amendatory provisions of section 12 of this act shall be deemed to apply to any recovery surcharge fees collected pursuant to subsection 1 of NRS 482.313 before July 1, 2009.

Sec. 16. 1. This section and sections 2, 4, 14 and 15 of this act become effective upon passage and approval.

2. Sections 6 to 12, inclusive, of this act become effective on January 1, 2009.

3. Sections 4 and 6 to 12, inclusive, of this act expire by limitation on June 30, 2009.

4. Sections 1, 3, 5 and 13 of this act become effective on July 1, 2009.

5. Sections 1, 2, 3 and 5 of this act expire by limitation on June 30, 2011.

