

Amendment No. 5

Assembly Amendment to Assembly Bill No. 4	(BDR 32-25)
Proposed by: Assembly Committee of the Whole	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 4 (§ 1).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

BJF



Date: 7/16/2020

A.B. No. 4—Revises the formula for determining the tax on the net proceeds of minerals extracted. (BDR 32-25)



ASSEMBLY BILL NO. 4—COMMITTEE OF THE WHOLE

JULY 16, 2020

Referred to Committee of the Whole

SUMMARY—Revises the formula for determining the tax on the net proceeds of minerals extracted. (BDR 32-25)

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

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

AN ACT relating to taxation; revising the formula for determining the measure of the tax on the net proceeds of minerals; ~~eliminating the temporary requirement for the payment in advance of a portion of the tax upon the net proceeds of minerals; eliminating the temporary requirement for persons who extract minerals to pay a portion of the tax on the net proceeds of the estimated royalties that will be paid for certain years;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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

~~[Sections 2 and 5 of this bill remove the requirement of Senate Bill No. 3 of this session relating to the payment in advance of a portion of the tax on the net proceeds of minerals extracted for calendar years 2021, 2022 and 2023.]~~

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

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

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

2. The gross yield must include the value of any mineral extracted which was:
(a) Sold;

- (b) Exchanged for any thing or service;
(c) Removed from the State in a form ready for use or sale; or
(d) Used in a manufacturing process or in providing a service,

→ during that period.

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

- (a) *Sixty percent of the amount of:*

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

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

~~((c))~~ (3) The actual cost of reduction, refining and sale.

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

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

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

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

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

~~((4))~~ (6) Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants and facilities mentioned in ~~paragraph (e).~~ *subparagraph (5)*. The annual depreciation charge consists of amortization of the original cost in a manner prescribed by regulation of the Nevada Tax Commission. The probable life of the property represented by the original cost must be considered in computing the depreciation charge.

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

~~((6))~~ (8) All money paid as contributions or payments under the unemployment compensation law of the State of Nevada, as contained in chapter 612 of NRS, all money paid as contributions under the Social Security Act of the Federal Government, and all money paid to either the State of Nevada or the Federal Government under any amendment to either or both of the statutes mentioned in this ~~paragraph.~~

~~((7))~~ *subparagraph.*

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

~~((8))~~ (10) The costs of Nevada-based corporate services relating to ~~paragraphs~~ ~~((9))~~ *subparagraphs (5) to ((9)) (9)*, inclusive.

~~((9))~~ (11) The actual cost of developmental work in or about the mine or upon a group of mines when operated as a unit, which is limited to work that is necessary to the operation of the mine or group of mines.

~~((10))~~ (12) The costs of reclamation work in the years the reclamation work occurred, including, without limitation, costs associated with the remediation of a site.

~~((11))~~ (b) All money paid as royalties by a lessee or sublessee of a mine or well, or by both, in determining the net proceeds of the lessee or sublessee, or both.

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

5. Every person acquiring property in the State of Nevada to engage in the extraction of minerals and who incurs any of the expenses mentioned in subsection 3 shall report those expenses and the recipient of any royalty to the Department on forms provided by the Department. The Department shall report annually to the Mining Oversight and Accountability Commission the expenses and deductions of each mining operation in the State of Nevada.

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

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

7. The following expenses are specifically excluded from any deductions from the gross yield:

- (a) The costs of employee housing.
- (b) Except as otherwise provided in *subparagraph (9) of paragraph ((4)) (a)* of subsection 3, the costs of employee travel.
- (c) The costs of severing the employment of any employees.
- (d) Any dues paid to a third-party organization or trade association to promote or advertise a product.
- (e) Expenses relating to governmental relations or to compensate a natural person or entity to influence legislative decisions.
- (f) The costs of mineral exploration.
- (g) Any federal, state or local taxes.

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

Sec. 2. ~~Section 12 of Senate Bill No. 3 of this session is hereby amended to read as follows:~~

~~Sec. 12. 1. This section and sections [2 and] 5.5 [to], 6, 9, 10 and 11 [, inclusive,] of this act become effective upon passage and approval.~~

~~2. Sections 5.5 and 6 of this act expire by limitation on June 30, 2021.~~

~~3. Section 3 of this act becomes effective on July 1, 2021.~~

~~4. Sections 2 and 3 of this act expire by limitation on June 30, 2023.]]~~

(Deleted by amendment.)

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

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

Sec. 5. ~~1. The amendatory provisions of sections 2 and 3 of Senate Bill No. 3 of this session are hereby repealed.~~

~~2. Sections 7 and 8 of Senate Bill No. 3 of this session are hereby repealed.~~
~~3. If sections 2, 3, 7 and 8 of Senate Bill No. 3 of this session become effective before the effective date of this act, this section applies retroactively from and after the date on which sections 2, 3, 7 and 8 of Senate Bill No. 3 of this session become effective.]~~ **(Deleted by amendment.)**

Sec. 6. This act becomes effective upon passage and approval.