

Amendment No. 6

Senate Amendment to Assembly Bill No. 4 First Reprint (BDR 32-25)

Proposed by: Senate Committee of the Whole

Amends: Summary: Yes 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 R1 (§ 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.

AAK/BJF



Date: 7/18/2020

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~~ **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.

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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~~ **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:

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 ~~for each extractive operation where the gross proceeds from minerals extracted exceeds \$10,000,000~~, 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.

Existing law creates several accounts to be used for certain purposes relating to education. (NRS 387.1247, 387.1253, 387.129) Section 2.5 of this bill creates the Supplemental Support for Classroom Instruction Account. Section 2.7 of this bill provides that the money in the Supplemental Support for Classroom Instruction Account: (1) must be distributed on an equal, per pupil basis to the school districts, the governing body of the university school for profoundly gifted pupils and the State Public Charter School Authority for block grants in an equal, per pupil amount to the public schools of this State; and (2) may be used only for the purpose of providing classroom instruction to the pupils enrolled in the public schools of this State. Section 1.5 of this bill requires an annual transfer of the first \$50,000,000 of the State General Fund portion of the tax on the net proceed of minerals to the Supplemental Support for Classroom Instruction Account.

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

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:~~ Except as otherwise provided in subsection 4:

(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:

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

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

~~(h)~~ (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.

~~(i)~~ (6) Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants and facilities mentioned in ~~paragraph (e)~~ subsection 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.

~~(j)~~ (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.

~~(k)~~ (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.~~

~~(l)~~ 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.

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

~~[(i)]~~ (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.

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

~~[(m)]~~ (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. If the gross proceeds of a geographically separate extractive operation in
a calendar year exceed \$10,000,000, the amount of any deduction set forth in
paragraph (a) of subsection 3 for that operation may not exceed 60 percent of the
amount of that deduction as determined pursuant to the applicable subparagraph
of that paragraph.

5. 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.

~~[(s)]~~ 6. 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.

~~[(e)]~~ 7. 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)]~~ 8. 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 [(i)] (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)]~~ 9. 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. 1.5. 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, by the combined rate of tax ad valorem, 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 ~~that~~ :

(a) 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. The State Controller shall distribute all money due to a county on or before May 30 of each year.

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

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

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

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 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. 2. (Deleted by amendment.)

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

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

1 2. The money in the Account must be invested as other money of the State is
2 invested. All interest and income earned on the money in the Account must be
3 credited to the Account.

4 3. The money in the Account must be used only for the purposes specified
5 in section 2.7 of this act.

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

9 Sec. 2.7. 1. Using the method described in subsection 2, the
10 Superintendent of Public Instruction shall transfer the balance of the money in
11 the Supplemental Support for Classroom Instruction Account created by section
12 2.5 of this act to school districts, the governing bodies of university schools for
13 profoundly gifted pupils and the State Public Charter School Authority for block
14 grants to each public school in this State for the purposes described in subsection
15 3. The money must not be used for administrative expenditures of the Department
16 of Education, the State Public Charter School Authority, the governing body of a
17 university school for profoundly gifted pupils or a school district.

18 2. On or before July 1 of each year, the Superintendent of Public
19 Instruction shall determine the amount of money per pupil to be transferred
20 pursuant to subsection 1 by dividing the total amount of money available in the
21 Supplemental Support for Classroom Instruction Account by the most recently
22 reported number of pupils enrolled in the public schools of this State. The
23 Superintendent of Public Instruction shall then determine the amount to be
24 transferred to:

25 (a) Each school district by multiplying the amount of money per pupil by the
26 number of pupils enrolled in the public schools of the school district;

27 (b) The governing body of each university school for profoundly gifted pupils
28 by multiplying the amount of money per pupil by the number of pupils enrolled in
29 the university school for profoundly gifted pupils; and

30 (c) The State Public Charter School Authority by multiplying the amount of
31 money per pupil by the number of pupils enrolled in charter schools sponsored by
32 the State Public Charter School Authority.

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

35 (a) Must be distributed by:

36 (1) Each school district by dividing the amount of money transferred by
37 the Superintendent for Public Instruction to the school district pursuant to
38 subsection 1 by the number of pupils enrolled in the school district to determine a
39 per pupil amount, then multiplying the per pupil amount by the number of pupils
40 enrolled in each public school in the school district to determine the amount of
41 the block grant to be transferred to each such public school;

42 (2) The governing body of each university school for profoundly gifted
43 pupils by transferring the money received to the university school for profoundly
44 gifted pupils as a block grant; and

45 (3) The State Public Charter School Authority by dividing the amount of
46 money transferred by the Superintendent for Public Instruction to the State
47 Public Charter School Authority pursuant to subsection 1 by the number of
48 pupils enrolled in charter schools sponsored by the State Public Charter School
49 Authority to determine a per pupil amount, then multiplying the per pupil amount
50 by the number of pupils enrolled in each charter school sponsored by the State
51 Public Charter School Authority to determine the amount of the block grant to be
52 transferred to each such charter school; and

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

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

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

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

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

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

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

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

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

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

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. (Deleted by amendment.)

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

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