NEVADA LEGISLATURE

Thirty-first Special Session, 2020

SENATE DAILY JOURNAL

THE FOURTH DAY

CARSON CITY (Saturday), July 11, 2020

Senate called to order at 1:38 p.m.
President Marshall presiding.
Roll called.
All present except Senator Spearman, who was excused.
Prayer by the Senator Hammond.

Our kind and gracious Heavenly Father, Your servants are here upon this Floor in order to contemplate the things that need to be done for those who have put their trust in us. We pray, Father, as we deliberate through these proceedings and hear the presentations and try to understand the information put before us, may we always keep in mind those who have put their trust in us and continue to help us in order to accomplish this job. May we remember everyone and do our best for those who are counting on us to come up with a plan to help ease the pain and suffering that is going on throughout our State.

We pray, Father, that we will work together, one with another, to come up with solutions that will best fit the needs of the people today. We are thankful for the many blessings we have received, namely, the talents we have. May we continue to use those talents to bless the lives of others.

We pray this day in the Name of Jesus Christ.

AMEN.

Pledge of Allegiance to the Flag.

By previous order of the Senate, the reading of the Journal is dispensed with, and the President and Secretary are authorized to make the necessary corrections and additions.

MOTIONS, RESOLUTIONS AND NOTICES

Pursuant to Senate Special Rule No. 4, Senate Majority Leader Cannizzaro has authorized Senator Spearman to use remote-technology systems to attend, participate, vote and take any other action in the proceedings of the Senate and the Committee of the Whole.

Senator Cannizzaro moved that the following person be accepted as an accredited press representative, and that he be allowed the use of appropriate media facilities: KOLO-TV: Kurt Schroeder.
Motion carried.

Senator Cannizzaro moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering Senate Bill No. 3 and other matters relating to the State's budget shortfall, with Senator Cannizzaro as Chair and Senator Ratti as Vice Chair.

Motion carried.

IN COMMITTEE OF THE WHOLE

At 1:45 p.m.

Senator Cannizzaro presiding.

Senate Bill No. 3 and other matters relating to the State's budget shortfall considered.

The Committee of the Whole was addressed by Melanie Young, Executive Director, Nevada State Department of Taxation; Jeff Mitchell, Deputy Director, Nevada State Department of Taxation; Senator Seevers Gansert; Senator Settelmeyer; Senator Ohrenschall; Susan Brown, Director, Office of Finance, Office of the Governor; Senator Hardy; Senator Pickard; Senator Scheible; Russell Guindon, Principal Deputy Analyst, Fiscal Analysis Division, Legislative Counsel Bureau; Felicia Denney, Assistant Director, Administration, Nevada Department of Transportation; Senator Goicoechea; Senator Ratti; Senator Denis; Senator Kieckhefer; Senator Cancela; Senator Brooks; Senator Hansen; Lalo Montoya, Political Director, Make the Road, Nevada; Maria-Teresa Liebermann-Parraga, Deputy Director, Battle Born Progress; Jackie Chiakulas; Laura Martin; Alexis Motarex, Nevada Chapter, Associated General Contractors; Cody Cunningham; Laura Hale; Marlene Lockard, Nevada Women's Lobby; Christine Saunders, Progressive Leadership Alliance Nevada; Chris Daly, Nevada State Education Association.

SENATOR CANNIZZARO:

We will open the hearing on Senate Bill No. 3.

MELANIE YOUNG (Executive Director, Nevada State Department of Taxation):

This bill does three things: it exchanges to the Net Proceeds of Minerals (NPM) taxes; the Government Services Tax (GST) and implements a tax-amnesty program. Presenters from various offices will discuss these issues.

JEFF MITCHELL (Deputy Director, Nevada State Department of Taxation):

Section 1 amends NRS 362.110. This section will temporarily require the mine operator to report the net proceeds on behalf of the … (unintelligible statement). It also removes a reporting requirement of the recipient … (unintelligible statement). It becomes effective July 1, 2021, and expires June 20, 2023.

Section 2 amends NRS 362.115. This requires a payment of taxes due on the annual estimate of the gross yield of net proceeds. Payment may be reduced by any credit due the taxpayer pursuant to NRS 362.130, and taxes paid for royalties may be deducted from the royalty payments mines make to the … (unintelligible statement). It allows for quarterly adjustment reports and payments. Those quarterly adjustment reports would be on March 31, June 30, September 30 and December 31, with payments following 30 days after the filing of the quarterly report. This becomes effective on passage and approval and expires of June 30, 2023.

Section 3 amends NRS 362.130. This governs the certification of the net proceeds. We shall deduct any estimated tax paid in the prior calendar year in the adjustments from the balance of the tax due on that certification. The certification of net proceeds shall be sent to the owner or the core operator of the mine. If the taxes paid from the annual estimate and adjustment are less than

90 percent of the amount certified, a penalty of 10 percent of the amount of the underpayment must be included unless there are certain requirements met where the penalty would not be applied. This would be if the estimated taxes paid in the prior calendar year are equal to or greater than the total liability of the operation or the preceding calendar year, or if the person files quarterly reports in a timely manner, and the total of all payments received exceeds 90 percent of the amount certified. Overpayments received must be credited to payments due on March 1 of the next calendar year. This would become effective July 1, 2021, and expire on June 30, 2023.

Sections 4 and 5 are similar sections. Section 4 amends NRS 362.170 and indicates how appropriations are to be made to different entities which are … (unintelligible statement). It becomes effective upon passage and expires June 30, 2021. This deals with the first year that prepayments are in effect. Section 5 mirrors the language in section 4, except it allows us to deal with the appropriations we receive from the net proceeds from minerals after the first year of the accelerated payment. Section 5 becomes effective July 1, 2021, and expires on June 30, 2023.

Sections 7 and 8 of the bill deal with appropriations of taxes from when we receive them to the General Fund as well as to local entities. Section 7 dictates the mine operators shall pay the NPM tax for the calendar year 2020 by May 10. Mine operators shall also pay an estimated NPM for calendar year 2021 by March 1 … (unintelligible statement). The county appropriations for that calendar year will be the amount determined before this change and the estimated tax amount determined by this change. It is effective upon passage and approval. Section 8 deals with the appropriation when the details of this bill sunset, and we go back to a payment in arrears on NPM, or however the tax currently stands at that time. This section allows and indicates to us how to collect and apportion those taxes to the different entities. The Department of Taxation (DOT) shall reduce the amount of tax due from the taxpayer by any estimated payment made during the calendar year of 2023 and any unused credit from the previous overpayment of tax. The amount appropriated to each county during the calendar year of 2024 must be reduced by the amount unappropriated by the estimated amounts made during the calendar year 2023. This allows us to step down from the accelerated payment of the tax.

Sections 9 through 11 and section 6 deal with GST and will be discussed by another presenter.

Section 12 indicates the following dates upon which things become effective or expire. It lays out the expiration of the accelerated payments and the collection of prepayments would then revert to the former method of collection on the actual net proceeds ending in calendar year 2024.

An amendment is being discussed that would limit the accelerated payment, which is the General Fund portion only of the tax due, instead of the current language which requires an acceleration of total tax due. This would change the appropriations so we would be allocating an estimated payment to the General Fund as well as the actual prior year NPM payment. What appropriates to the counties is only the actual prior year taxes due and not an estimated prepayment.

MS. YOUNG:

The amnesty section starts with Section 10. It states DOT shall establish and conduct a program that would relieve a person, who has not paid a tax, fee or assessment, of all penalties and interest imposed. This program will operate for a 90-day period in Fiscal Year 2020-2021 and will conclude before June 20, 2021. The taxpayer shall be relieved of all penalties and interest if they request relief and pay the tax fee or assessment in full. The amnesty program only applies to taxes, fees and assessments due prior to the effective date of this bill, which is on passage and approval. It will not apply to those who have already entered into a settlement agreement or an offer-of-compromise. This bill will not apply to a taxpayer where an audit is being conducted and a final determination has not been received.

Tax amnesty programs were last held in 2008 and 2010, and it could be assumed it is time to do one again. That is one reason to do this, but the main reason is the accounts receivable to DOT and the funding due to State and local governments and schools. Reducing the tax debt to these organizations is the main goal of DOT, and that is why the idea of a tax-amnesty program is being proposed. When we recently ran the aged tax-receivable amount, the number was $68.8 million. We can reasonably collect 30 percent, which is $20.6 million and $10 million of that would go to the General Fund. The difference would benefit local governments and schools. In the 2010 amnesty program, DOT collected approximately $28.5 million, which represented

9,000 delinquent tax payments. That amount includes the General Fund portion, and part of it would have gone to local governments and schools at that time. In 2008, DOT collected $40.6 million, which represented over 12,000 delinquent tax payments.

Without a tax-amnesty program, the debt may be collected, but the funding would more than likely be in the form of payment plans to be collected over an extended period of time. The State might not see the benefit of other forms of collection, such as liens, for years to come. Offers-in-compromise is a process DOT handles. We will collect a debt, but often at a reduced rate and over an extended period of time. The benefit to the taxpayer is the debt is paid, and the tax-collection effort ends. The interest would not continue to accrue, and the taxpayer's burden would decrease. Ultimately, the State, schools and local governments would benefit from the revenue collected.

Section 6 of the bill covers the GST, which revises the percent of distribution to a 50-percent split between General Fund and the Highway Fund. It is effective upon passage and approval of the bill.

SENATOR SEEVERS GANSERT:

You gave us numbers for the Tax Amnesty Program from 2008 and 2010. Do you know what the accounts receivable were at those two points in time? Those were back to back the first time there was a tax-amnesty program, and only certain taxes were allowed through the program. More were allowed the second time, and $20.6 million and $28.5 million is a lot of money. We have not had an amnesty program in 10 years. You mentioned our accounts receivable are $68.8 million and used a factor of 30 percent, with half going to the General Fund and half to State and local governments. What is the level of accounts receivable in comparison to when we last ran this program? The estimate you gave may be conservative, and there may be more room above the $10 million line item, being as we have not had one in 10 years. When we ran them before, we still had over $20 million in each of 2008 and 2010. That is why I am interested in the accounts receivable for those years.

MS. YOUNG:

The accounts receivable from those years was a lot less. Our accounts receivable extend to approximately $350 million at this time, which is a shocking number. The ones we estimate we could collect are $68.8 million, and those are current accounts receivable from a 60-day delinquency period to a 3-year delinquency period. The DOT felt anything greater than 4 years might not be able to be collected, but it is possible. We are willing to work with your Fiscal staff to take a deeper dive on the accounts receivable and see if we can increase the amount … (unintelligible statement).

SENATOR SEEVERS GANSERT:

Our accounts receivable are now sitting at $350 million. The ones you consider more current, which are 60-days to 3-years delinquent, are running at around $68 million. To come up with a number you thought conservatively could be collected, you took 30 percent. Thirty percent of the $68 million landed at $20.6 million, with half going to the General Fund and half to local governments. I would appreciate you taking a deeper dive, especially if accounts receivable were much less in 2008 and 2010. We are 10 years out from that point. I think taxpayers want to pay what is due, but they sometimes are overwhelmed by the interest and penalties and do not know how to address it. If you have a program set, I imagine there are many folks who would like to participate. This is a great idea, as it is better to get some money than no money. Offering this opportunity may bring in substantial dollars.

MS. YOUNG:

To clarify, the accounts receivable number is $68.8 million.

SENATOR SETTELMEYER:

In regards to accounts receivable, will all the taxes apply now rather than just some of the limited ones?

MS. YOUNG:

This would apply to any taxes DOT has on accounts receivable.

SENATOR SETTELMEYER:
That should bring in more. Regarding NPM, some of the smaller mines are interested in a concept whereby if they have paid no net proceeds in the previous year, they would not fall into this category because they have not brought in any money. They are concerned it would be difficult to pay next year's taxes when they have yet to bring in any money. Has this been discussed with the Mining Association, or others, or is this the first time you have heard of this?

MR. MITCHELL:
That question was posed in consideration with the amendment. Current language allows for quarterly true-ups to occur throughout the year. They could estimate a zero amount and true-up as revenue starts coming in. We thought this language might address the issue, but we are open for discussion.

SENATOR OHRENSCHALL:
The fiscal note for Senate Bill No. 3 talks about an estimated reduction in revenue of $21,417,256 to the Highway Fund. The fiscal note seems optimistic, and hopefully, no projects will suffer. What do the representatives from the Nevada Department of Transportation (NDOT) think might be the effect of this loss of revenue to the Highway Fund?

SUSAN BROWN (Director, Office of Finance, Office of the Governor):
I am not sure if the NDOT is with us. I had a message from them this morning that this would not affect any projects this fiscal year.

SENATOR OHRENSCHALL:
I was concerned that needed projects might not be able to go forward.

SENATOR HARDY:
In section 10, I was looking at the Compromise and Final Notice sections. The intent appears two-fold for the amnesty. First, to get money in sooner rather than later as well as get it in. In addition, we are giving the person who needs amnesty a way to do that. What was the rationale that would not allow the payment plan to be exempted if the debtor so chose? I also see the Final Notice of Deficiency Determination may happen after a deadline of 90 days, and the individual would be at the mercy of having DOT make the Final Notice of Deficiency before that. Why are we exempting those who may benefit from this, those from whom we may get more revenue rather than waiting for a compromise that may not be in their or the State's best interest in getting money sooner?

MS. YOUNG:
There were similar provisions in 2008 and 2010 related to amnesty. What we have done related to payment plans and offers-in-compromise is make negotiations that already would have eliminated or reduced the amount of penalty and interest due at that time. Based on working with taxpayers, when we enter into a payment plan or an offer-in-compromise, we look at their financial records and determine how much they … (unintelligible statement). At that time, we go into an agreement for a monthly amount, which could include a lump sum amount with smaller, monthly payments. There have been numerous negotiations to that point in time, and we have made negotiations with those taxpayers. Based on their financial situation, an amnesty might not work for them.

SENATOR HARDY:
Is there a problem with giving amnesty to a payer if paying now is better than the compromise deal they made?

MS. YOUNG:
They have already received the benefit of waiving the penalties and interest. We would have to look further into identifying how much revenue is identified as part of a payment plan or an offer-in-compromise. We would consider working with your fiscal staff on those questions.

SENATOR PICKARD:

It appears that under the bill there is no opportunity for an offer-in-compromise. It seems one must pay all of the taxes in arrears, or there is no opportunity to take advantage of it. Is that correct?

MS. YOUNG:

We negotiate with taxpayers on a regular basis regarding offers-in-compromise, which means we compromise, at times, on a debt that is lower than the taxes due. The goal of the amnesty is to collect the taxes due to the State and waive the penalties and interest. If a taxpayer does not feel the amnesty will work for them, we would continue to work on an offer-in-compromise and address those concerns. We do that on a regular basis.

SENATOR PICKARD:

When we look at the fact NDOT is potentially losing $21 million in highway revenues, do we know how many projects this will impact and how many jobs may be lost because of this revenue drop? Do you have data on this?

MS. YOUNG:

I do not have data on that. The information I have is this $21 million will not affect any planned projects at this point.

SENATOR PICKARD:

I understand it may not affect immediate projects, but this is for Fiscal Year 2020-2021. I cannot imagine NDOT has that amount of money sitting around without a plan for its use. It has to affect them somehow. Do you know if they have figured out their list of prioritized projects? The cut-off point has probably shifted. They must have a list. How do we get that?

MS. BROWN:

I can reach out to NDOT for that. They are listening in to this meeting, but they have not been able to get into the call.

SENATOR SCHEIBLE:

The first portion of the bill addresses NPM taxes and the new payment schedule. Some of us work with these numbers all of the time and some of us do not. There is a constitutional provision that caps the total taxes on any specific mine at 5 percent. Is that correct?

MR. MITCHELL:

Yes, that is correct.

SENATOR SCHEIBLE:

We also have statutory provisions that allow for some mines to be taxed at less than 5 percent on their net proceeds. Is that correct?

MR. MITCHELL:

The constitutional provision is … (unintelligible statement) … cap on the net proceeds of minerals, but the tax rate varies based on the levels of deductions. Those deductions are taken away from the gross, and they come down to the net proceeds. Where the net-to-gross ratio falls determines the tax rate applied against the net proceeds for minerals. The bottom tax rate is the local property tax rate where the mine is located, up to 5 percent, but not to exceed 5 percent.

SENATOR SCHEIBLE:

Is it correct that the floor and ceiling are set in statute as opposed to the *Nevada Constitution*? They are set in NRS 362.130?

MR. MITCHELL:

I would have to look at NRS. It might be NRS 362.140 but … (unintelligible statement) … constitutional cap, but the floor is set in statute.

SENATOR SCHEIBLE:

With this legislation, we are not changing the floor or the cap, we are just changing the time the taxes are paid to a full 12 months earlier than we get them now. Is that correct?

MR. MITCHELL:

Yes. This is not an additional tax, and it is not adjusting the rate. It is an acceleration of the tax due in the following year to the current year.

SENATOR SCHEIBLE:

Does this mean that at some point we would go 24 months without receiving any tax payments in order to get back on the previous schedule?

MR. MITCHELL:

Yes, that would occur during calendar year 2024. There would be a true-up period because the mines pay on a best estimate. They would prepay on March 1, 2023. They would then have the calendar year for production during 2023. Come calendar year 2024, we would have reviewed their returns and deductions to determine if they made their estimate or not. If they estimated correctly, there would be no taxes collected in 2024.

SENATOR SCHEIBLE:

Please give us an estimate, based on previous years, of how much mines pay into the General Fund.

MR. MITCHELL:

Are you looking for the number of operators paying into the tax or the dollars associated with it?

SENATOR SCHEIBLE:

I would like both.

MR. MITCHELL:

During the 2019 calendar year, there were 103 operators of mines. An additional 390 royalty holders also pay into this tax. The total tax due for the 2019 calendar year was approximately $122 million, of which a portion was the State General Fund. The State General Fund portion in 2019 was $57,251,579.

SENATOR SCHEIBLE:

In 2019, the Nevada mining companies paid an aggregate of just over $57 million into our General Fund. Do we have reason to believe the number would be higher or lower going into the future?

RUSSELL GUINDON (Principal Deputy Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

The tax has a relative amount of volatility to it as you can tell from the structure, it being a net tax. Different rates come into play generating the proportion that belongs to the State General Fund. The amount for Fiscal Year 2020, based on calendar year 2019's business activity period, was $57.3 million. The consensus estimate done by DOT, the Budget Office and the Fiscal staff for Fiscal Year 2021, will be based on calendar year 2020 and is projected to be around $62.7 million. We have it falling back to $54.5 million for the extra payment that will occur in Fiscal Year 2021, based on calendar year 2021. The reason for the fallback is gold is running close to $1,800 dollars an ounce; through July, it has run $1,790. We think calendar year 2020 will be a good year, and things will start to recover. Perhaps, there will be a COVID-19 vaccine. As the economy recovers, gold prices may start to settle back, and calendar year 2021 may not be as good a year as calendar year 2020. That is your staff: Taxation, the Budget Office and Fiscal, trying to think through the future of where this tax could go. In the last several years, the General Fund portion has fluctuated between $50 million to $60 million.

SENATOR SCHEIBLE:

There is room within our tax structures, without a constitutional amendment, to increase the amount of taxes mines pay that would result in a larger net contribution to General Fund. I am not advocating for or against this.

MR. GUINDON:

The tax rate cannot be amended; the maximum tax rate is constitutionally 5 percent. The General Fund portion is the difference between the tax rate dictated by law and the minimum tax rate, which is the property tax rate. The General Fund receives that difference, with the maximum being the 5 percent in the *Nevada Constitution*. If you change the tax structure from one based on the preceding calendar year to one based on an estimate of current calendar year, it allows the pickup of an additional payment in the fiscal year during which you make the change. If you want to turn the tax back, such as proposed in the June 2023 sunset, the fiscal year after that sunset year, there will be a hole. There will be no tax payments, only true-up payments, if any.

The ability to gain additional tax funding from NPM is to change the thresholds in NRS 362.140 regarding what determines the net-to-gross ratio or to remove some of the deductions. This would increase the net proceeds tax to which the mining operator would be subject.

SENATOR OHRENSCHALL:

The fiscal note for Senate Bill No 3 mentions a possible reduction of $21.4 million for Fiscal Year 2020-2021. It says, "If additional reallocation is determined to be necessary above this level, or the Department is unable to issue bonds, a reduction in planned roadway projects will result. If necessary, the Department will carefully review our plans to determine the course of action which has the least impact to public safety and the mobility of people and the goods and services which drive our economy." Does NDOT think this loss of funds will result in any projects being postponed, delayed or scrapped, or will you be able to weather this loss of revenue? There is a lot of great work being done in southern Nevada and all over the State, and I would like to know how this would affect that.

FELICIA DENNEY (Assistant Director, Administration, Nevada Department of Transportation):

We are not anticipating this will have an impact on our program. The NDOT keeps reserves in the Highway Fund to cover emergencies and allow for flexibility in project delivery. We are not anticipating we will need to cut any projects and believe we will be able to continue with them.

SENATOR PICKARD:

I would like more detail on those projects. If NDOT has $21 million in reserves that have not already been swept by the Governor, that is concerning. A hit of that size has to affect some future projects, unless you are saying this money would have sat in the bank unused. Is there a list of NDOT priorities to move a cutoff line if they were not able to bond to recover what did not come from the GST? How could this not affect ongoing operations?

MS. DENNEY:

We have a procedure to prioritize projects and move forward. We also have projects approved by our Transportation Board. We prioritize based upon the needs of the State, the cost of the project, safety and other variables. We keep a minimum Highway Fund balance target of one month of operating expenditures for all Highway Fund agencies, and a month and a half of capital expenditures for NDOT. We frequently exceed that at fiscal year-end because it drops during the busy construction season. As we look forward and see future revenues drop, we work on the prioritization along with our Transportation Board to determine which projects would be best to move forward.

SENATOR PICKARD:

That is consistent with what we heard in the reserve portion of the testimony on the first day of this Session. How much does NDOT have in reserves?

MS. DENNEY:
We ended Fiscal Year 2019 with a Highway Fund unrestricted balance of $340 million. Our target was $142 million, so this was quite a bit higher. Some of the funding was from other agencies who were unable to or did not spend their budgets. We also had several projects delayed, such as the Spaghetti Bowl Express. Those revenues are in the fund and are expected to be expended this year versus last year.

SENATOR PICKARD:
I do not remember seeing a $340 million sweep in Capital Improvement Projects (CIP) related to completed projects, rather reversions. Can you tell me if those were included in CIP reversions already discussed?

MS. DENNEY:
That is not a reversion. It is our Highway Fund ending balance for Fiscal Year 2019. That was the amount of unrestricted funds in the Highway Fund available for NDOT and the Department of Public Safety and for other associated items to have in the fund above the minimum balance of $142 million we shoot for. That ending balance is not our low-cash balance, which is often $130 million less. It is in reserve for projects moving forward so we can address timing issues for projects. We have not closed Fiscal Year 2020 yet so I do not have those figures.

SENATOR PICKARD:
The ending balance carried forward is part of the budgeting process, and a certain amount is planned on, although it may fluctuate from year to year. Is that correct? Do you plan on that to maintain liquidity or cash-flow capability in projects going forward?

MS. DENNEY:
Yes, that is correct.

SENATOR PICKARD:
Is the $340 million you are carrying forward capable of absorbing the impact diverting the $21 million that was going into the Highway Fund into the General Fund?

MS. DENNEY:
Yes, we believe we can absorb this and move forward with the projects we have.

SENATOR GOICOECHEA:
I am interesting in seeing the amendment to exempt local governments from the prepayment. Why did we strike the recipients of royalties out of the bill? In the past, they were required to list the royalties they received and the projects they were working. It appears they have been lumped together, and I do not know the rationale. The bill is about prepayment, but it also encourages overpayment. If you are at 90 percent and suffer a 10-percent penalty, the problem with local government is annual budgeting. It can be quite detrimental to the small, rural counties when we hit the true-up period if the money is received up front, and they have to run a year. When we did this in 2009 and 2011, there were counties that owed money in the true-up, and it decimated their budgets. Why did they exempt the requirement for royalty holders to file their list as they have previously?

MR. MITCHELL:
There is a technical issue with royalty holders being able to estimate and prepay when we go to a prepayment system because they are not holders of the information about what they will receive as a royalty. That is why there is the consideration. It is difficult for them to estimate and prepay on a royalty account. We diverted that prepayment amount to the mines to pay on their behalf.

SENATOR GOICOECHEA:
That makes sense. There is no way they would know what the mine was going to do. The mining company will be required to bring the prepayment on behalf of the royalty holders. Is that correct?

MR. MITCHELL:
Yes, that is correct.

SENATOR GOICOECHEA:
Do you have any insight on the amendment? The true-up can be detrimental to local government.

MR. MITCHELL:
That is the gist of what the amendment is addressing; leaving both governments out from receiving the estimated portion of taxes due, and therefore the hole or true-up would be excluded from that for the local entities. It is a difficult tax to administer as there are many moving parts.

SENATOR RATTI:
How often does a new mine start in a typical year?

MR. MITCHELL:
It depends on the definition of a "new mine." Many of the smaller operators may have production in one year, then no production for a couple of years, then come back into production. There is also development of new mines. The development of mines, on a large scale, is rarer than those that come in and out of production. The numbers are low and vary from 100 to 120 depending on whether they are producing in that calendar year.

SENATOR RATTI:
How do we work on the ending fund balance of the GST, and how might it be different because of the work done using that fund versus the General Fund balance? I know we do not want to drop any lower than 5 percent, but it seems we do things differently with this account. I would like to understand how we approach it and the reasoning behind it. What is the minimum dollar amount, and what is it as a percentage?

MS. DENNEY:
The NDOT, the Department of Motor Vehicles and the Department of Public Safety are the agencies that use Highway Funds. Of those agencies, NDOT spends about 80 percent of the funds, but we all work together during the budgeting process to maintain, on average, a minimum-cash balance of one month of operating expenditures, which is everything except our capital program, and a month and a half of budgeted capital expenditures. We choose to stay above that, knowing minimum-cash and minimum-fund balances are different. During the middle of the year, when we finish construction season, the balance is lower than at year-end when we capture the measure for the budget. I do not know the exact formula, but it is approximately 7.5 percent or more.

The GST revenue is deposited into the Highway Fund. Prior to enacting this bill, the Highway Fund received 75 percent of this revenue, with 25 percent going into the General Fund. As revenue enters and we plan the budget, we take into account what we can expend going forward and what we want to retain for emergencies such as projects that move more quickly than anticipated or if federal revenue is down. There is not a GST account. It is a source that places funds into the Highway Fund or the General Fund, and each has a way to ensure funds do not get too low.

SENATOR RATTI:
Are you still able to do the projects because there is a long lead-time even though we are contemplating moving some of the GST over, or is it because the delta is a smaller part of your overall budget? Why does this portion of moving GST not affect your ability to do projects?

MS. DENNEY:
It is a bit of all of the above. It is a lot of funding, but relative to other funding sources, more goes into the Highway Fund. The NDOT has been able to capture federal aid other states have not been able to use, and that has helped us shore up our reserves. There is a long window between planning for projects and dollars going out the door, and this helps us absorb the impact.

SENATOR SEEVERS GANSERT:

With the understanding you plan projects years in advance, you said typically you need to have $142 million at the end of the fiscal year, and in Fiscal Year 2019, you had $340 million. Is that correct?

MS. DENNEY:

That is correct, although the amount we shoot for is the minimum-cash balance. We look at the fund-balance target as well as minimum cash during the middle of the year. In 2019, there was over $100 million left, and we take that into account. We frequently end the year with a higher-than-minimum fund balance because we know about the timing. When June 30 comes into play and everything has been posted, it is the beginning of construction season. We look at the fund balance and the cash balance to ensure we have sufficient reserves, pay contractors and pay for weather emergencies like we have been having.

SENATOR SEEVERS GANSERT:

Because you plan so far out, it would be helpful to get your projections for ending-fund balances for Fiscal Years 2021, 2022 and 2023. It would also be helpful if we could get an idea of where you would hit the bottom related to cash flow. I know this may be hard to estimate, but many transportation organizations have to make 5- and 20-year plans. I would also like an estimate of the requirement for federal match and if you receive additional funds from other sources. Do you have an estimate on the percentage of the federal match needed in order to continue projects?

MS. DENNEY:

We have given the Budget Office our projections through 2021. Moving forward, we can provide projections. We do not have projections for the other entities, but we can estimate them. We have provided the 2021 projections to the Governor's Office of Finance. What years are you interested in seeing?

SENATOR SEEVERS GANSERT:

We are asking about current projects, but because you have to plan so far in advance, I am interested in knowing where you will be another couple of years out. I would also like to see cash-flow and the federal-match estimates. You mentioned some of the funds go to the Department of Public Safety and the Department of Motor Vehicles. We are all concerned public safety is preserved because they do not receive a lot of funding. With this reallocation, will the Department of Public Safety be substantially hit, or will you hold them harmless given you have enough money for your projects?

MS. DENNEY:

The Department of Public Safety would not be impacted. All of those budgets are determined prior to NDOT looking at our projects, so they would not be impacted. Most of our federal match is 5 percent. On planning and a few other projects, it is 20 percent. We are able to put a lesser match down at NDOT than other states. We occasionally put out projects where we have enough funding. Although the match is only 5 percent, we will put in 15 percent so we can complete the project because we have already obligated all of our federal aid. You will see some projects with a higher than minimum match which allows us to get more projects out.

SENATOR SEEVERS GANSERT:

I would like to ask Director Young to break the tax-amnesty accounts receivables out by type of tax.

SENATOR DENIS:

You talked about federal funds and match. Regarding the $21 million shift to the General Fund, if we do not expend those funds, do we lose federal funds for future projects, and do we know what that represents?

MS. DENNEY:

The NDOT always prioritizes projects to allow our federal funding to be used first. If we needed to make cuts to projects, we would first look at those with no federal funding. We also use bonding for larger projects, and interest rates are low which is helpful. When we need to do larger projects, like Project Neon, that was a strategy we employed. We always make sure we expend our federal dollars.

SENATOR DENIS:
By being able to prioritize projects that do not have federal dollars, is the hit on those with federal dollars not as big?

MS. DENNEY:
That is correct. We would not anticipate losing federal dollars.

SENATOR DENIS:
How many mine operators are there?

MR. MITCHELL:
The number varies from year to year. For the 2019 calendar year, there were 103 operators.

SENATOR DENIS:
The tax rate is figured at an automatic 5 percent for larger operations having more than $4 million. Is that correct?

MR. MITCHELL:
That is correct.

SENATOR DENIS:
How many operators are in that category?

MR. MITCHELL:
I would have to do some analysis to get that number for you. I do not have it in front of me.

SENATOR DENIS:
The majority of operators impacted by the shift will be those who are in the 5-percent range, correct?

MR. MITCHELL:
All of the operators will be prepaying the estimated net proceeds, so it will affect them all. It will affect the larger operators to a greater scale.

SENATOR DENIS:
I am looking at how the rates do not matter—they will all pay that—but the 5 percent are the ones making the greater payments. Is that correct?

MR. MITCHELL:
Yes, those set at the 5-percent rate pay a greater percentage of the net proceeds.

SENATOR KIECKHEFER:
We are not talking about transferring an additional 25 percent of GST over to the Highway Fund. This is still just the delta created in 2009 when we decreased the depreciation by 10 percent. Is that correct? This is not all of GST. It is just a sliver of it, correct?

MS. BROWN:
The split in GST is now 75 percent to the Highway Fund and 25 percent to the General Fund. This proposes to change that allocation for just this fiscal year to a 50/50 split.

SENATOR KIECKHEFER:
This is only a small piece of GST that was changed in 2009 when we altered the depreciation factor for vehicles. Is that correct?

MR. GUINDON:
That is correct. Senator Kieckhefer is talking about the portion of GST that came from the statutory change when we added 10 percent to the depreciation factors. The money coming from the 10-percent delta change is the portion in play. That is the amount that has periodically been

moved between the Highway Fund and the General Fund, and it is only that portion, as Senator Kieckhefer has stated, that we are discussing. There is no effect on any of GST paid and distributed to local governments or school districts. It is only the 10-percent portion from the 2009 legislation.

SENATOR KIECKHEFER:
The fiscal note presented to us and attached to the bill has a total impact of $21.4 million. When the bill was presented on the first day of Session by Ms. Brown, it was indicated it would be more, a $2.3 million difference. Is the fiscal note more accurate, and will there be a shortfall of almost $2.5 million we need to fix?

MR. GUINDON:
It is the opposite. That was the number NDOT put in the fiscal note. The number, carried as the consensus estimate by Budget and Fiscal based on our June 29 consensus estimates, is the amount presented by Ms. Brown to the Legislature, the $23.8 million. That number is based on our analysis of the effect of the Governor suspending the payment of GST and our changing the timing of that from Fiscal Year 2020 to Fiscal Year 2021.

SENATOR KIECKHEFER:
The Highway Fund receives gas and diesel taxes. What is the estimated revenue for Fiscal Year 2021 for the Highway Fund?

MS. DENNEY:
For Fiscal Year 2021, State-user fees, not including federal aid or GST, are estimated to be $5.8. These include fuel taxes, driver's licenses, registration fees and commercial-carrier fees. The GST is on top of that.

SENATOR KIECKHEFER:
That is State revenue of over $500 million for Fiscal Year 2021 excluding the GST. Is that correct?

MS. DENNEY:
That is correct.

SENATOR KIECKHEFER:
I would like to get the tax-amnesty report broken down by type of tax due; that would be illustrative as well.

SENATOR CANCELA:
Is it clear this is a one-time movement of dollars, and that it will not be happening on a continuing basis?

MS. DENNEY:
That is my understanding.

SENATOR CANCELA:
Due to the COVID-19 pandemic, there has been approximately $35 million in cancelled projects. We are not moving $21 million out of the budget. Is there a reason that money could not be used to restart those projects considering they are already underway or prepared to launch?

MS. DENNEY:
At the Transportation Board, NDOT proposed to defer those projects and did this because of the revenue projections for the fuel taxes were projected to drop significantly. The projections have shored-up, and while still lower than anticipated, the outlook is better. The NDOT has a process whereby we put the projects back into consideration to be ranked and considered in the 2021 program. If they meet the criteria to move forward, they will do so.

SENATOR BROOKS:
What is the gross revenue of the 103 mine operators before deductions?

MR. MITCHELL:
For the 2019 calendar year, the total gross was $7.8 billion.

SENATOR BROOKS:
The gross was $7.8 billion. After deductions, the net was $57 million to the General Fund. What amount goes to the counties in an aggregate where they operate?

MR. MITCHELL:
Gross yield for that year was $7.8 billion with approximately $5.5 billion in deductions. That ended up with a net proceed of approximately $2.5 billion. The rate is applied to that and split between the General Fund and the county portion. The General Fund part of that was $57 million, and the amount due to the counties was approximately $61 million. There was also approximately $4 million that went to the State.

SENATOR BROOKS:
Please clarify your statement about funds going to the State.

MR. MITCHELL:
Part of the local property-tax rate includes a State-debt portion. That portion is not dispersed to the counties but is held separate when we apportion money out to the county and goes to the State.

SENATOR SETTELMEYER:
The net proceeds of mines applies to all mines, not only precious metals but also things like copper, lithium and geothermal. Is that correct?

MR. MITCHELL:
That is correct.

SENATOR HANSEN:
Are any other industries singled out for an acceleration in their taxation or only mining?

MR. GUINDON:
This proposal was brought by the Governor's Office, so it may be more appropriate for it to be answered by the Governor's Office of Finance.

SENATOR HANSEN:
Mr. Mitchell, do you have an idea if any other industries were singled out? The *Nevada Constitution* requires a uniform and equal rate of taxation. Why is mining always singled out? Why do we pick one industry and attempt to force them to pay a year in advance, when they have had no production from which to base a fee? We did it in 2009 and 2011, and it caused many problems in future budget years when we had the reconciliation and mines were forced to pay substantially more than the rate would have been if it had been handled in a normal process.

MR. MITCHELL:
I am not aware of any others at this time. My direct oversight is over the net proceeds of minerals so my knowledge is limited.

SENATOR HANSEN:
How can we single out one industry and force them to pay well in advance, but it is not the case for any other taxpaying bodies of which I am aware? It seems they are being singled out because they are small, rural. There is a false assumption they are exceptionally lucrative. This is not true, as the Hecla Company experienced a $24 million loss. They are not all rolling in dough.

SENATOR CANNIZZARO:
We will now open the hearing to those in support of Senate Bill No. 3. Hearing none, will now open the hearing to those in opposition to Senate Bill No. 3.

LALO MONTOYA (Political Director, Make the Road, Nevada):
We are a member-led, nonprofit organization fighting to improve the quality of life of all immigrants and working families in Nevada. As our State and the world is currently grappling

with this pandemic, Make the Road Nevada has worked aggressively to serve as a resource for our members and members of the community-at-large in Las Vegas. As we look at Senate Bill No. 3, we stand in opposition. It is clear the early payment of NPM is not enough. This requires bold accountability to rein in the trillion-dollar mining industry to raise the revenue needed for Nevadans to survive this pandemic and create a more equitable Nevada where we can all prosper.

The burden of trying to come up with revenue for the State has fallen on the shoulders of our working families for too long. We do not agree with the approach of making deep budget cuts to an already weak safety net. The difference between life and death can be who has access to adequate health care and a home in which to stay safe. We are at a crossroads, and it is up to our elected officials and leaders to stand with their constituents and choose the right way forward. As elected officials, we know the weight is on your shoulders to care for your constituents, and it is a heavy one. In this moment, we need you to lead. We are calling on your leadership to do what is right and stand with working-class Nevadans who are trying to survive. We stand in solidarity with our members and Nevadans across the State to ask this Legislative Body to amend Senate Bill No. 3 to end the tax deductions and statutes for the mining industry immediately.

MARIA-TERESA LIEBERMANN-PARRAGA (Deputy Director, Battle Born Progress):

Since the inception of our State, mining has never paid their fair share to help the State from whom they extract natural resources. It is right that they are now being "singled out" because they need to pay their fair share at this time more than ever to ensure this State is a better place to live for everyone. Part of doing this is ensuring we remove the deductions they are able to make. That is why we stand opposed to this bill as written. We need to ensure they cannot use these deductions, unlike regular people in small businesses, who cannot make the type of deductions mining corporations can. Now is the time for one of the largest industries in the Silver State to stop keeping money to themselves while small businesses are struggling to survive and Nevadans are desperate for assistance and public services while unemployed. We ask you to include an amendment to address these deductions and take steps to ensure mining pays their fair share once and for all.

JACKIE CHIAKULAS:

I am opposed to Senate Bill No. 3 because it is not strong enough. I grew up in Las Vegas, and it is my home. I remember going on a field trip as a child to an abandoned gold mine, getting gold candies growing up, seeing the history of gold mining at the Reno Airport and looking at the trinkets for tourists to buy in our gift shops. Growing up, we were indoctrinated that mining is a part of our history in this State, but we were not educated about how it is failing our future.

Our mining laws have not changed since 1872, when miners used pick-axes. Mines extract minerals from our land then leave the State, paying minimal taxes. This leaves Nevadans out to dry. Once these resources are gone, we cannot get them back. When our casinos recently were shut down due to COVID-19, the mines were in full operation.

We have revenue in this State. Budget cuts are not our only option, but they will be unless our representatives stand up to the mining industry and require them to pay their fair share. We must tackle this now. Nevada has the only operating lithium mine in the United States. As we move forward into a future that is more dependent on renewable energy such as TESLA batteries, Nevada is essential, and mining is necessary. If we continue to fail to hold mining accountable and lack the morality to take on their corporate interest, we fail our State and future generations.

Senate Bill No. 3 does not go far enough, and it is not long-term. For how long will we put this off? Please amend this bill and start the process of removing the deductions for mines to bring much-needed relief to the State. It is possible now and will bring more revenue to our General Fund.

LAURA MARTIN:

I agree with the previous speakers. I would like to address the idea of singling-out one industry. I am tired of public education, State workers and healthcare workers being those singled-out for cuts—some that we will never heal from—in order to protect the profits of corporations and other businesses like the mining industry that use our State to enrich themselves for operations worldwide. Senate Bill No. 3 can be stronger; we just received the answers we need to make it stronger. I hope the Senate does what it needs to ensure everyone pays their fair share, and we do not continue to punish just education, State employees and healthcare workers. They should not be singled-out either.

SENATOR CANNIZZARO:
We will now hear neutral testimony on Senate Bill No. 3.

ALEXIS MOTAREX (Nevada Chapter, Associated General Contractors):
We are opposed to Senate Bill No. 3, section 6. We understand and appreciate the task before you in addressing this budget shortfall. We share the Governor's desire to preserve as many jobs as possible in this struggling economy. It is for that reason, we bring your attention to the downstream impact of redistributing $21 million in GST from the Highway Fund to the General Fund. Every million dollars spent on highway construction and/or maintenance results in about 11 jobs and $1.7 million in total economic output. A public investment of $21 million in our highway infrastructure has a combined direct, indirect and induced total economic output of $35 million. It creates 230 jobs a year with total wages of roughly $12 million. It generates approximately $1.5 million in tax revenue from a variety of sources such as fuel, NVT and sales. The loss of this revenue to the Highway Fund would further compound the reduction in gas-tax revenue we are coping with due to decreased travel during the COVID-19 shutdown. At the last NDOT Board meeting on June 8, $34.9 million in construction projects were postponed because of this reduction. Taking an additional $21 million from the Highway Fund effectively cuts more than 200 Nevadans out of work, and that will make Nevada's recovery that much more difficult. We appreciate the weight of the decisions you must make, but we also believe preserving funding that directly translates into jobs and economic activity is in the best interest of the State.

CODY CUNNINGHAM:
We are focusing on the wrong things in this bill. We should not be giving tax incentives to the mining industry, but we should also not target them for extra taxes. Our focus needs to be cutting our newest departments, such as the Office of New Americans, and on tax breaks for the little guy, such as property sales. We talk about cutting from schools, but rarely mention that 500 administrators in the Clark County School District make over $200,000 a year. We waste over $100 million a year in overpaid administrative expenses. We also have two new jets for our Governor totaling $17 million. I do not hear any cuts about that. It looks like we are too busy trying to cut everywhere rather than where it needs to be, and the tax breaks are not appropriate to Nevada's population.

LAURA HALE:
This morning, I was on a Zoom session with the League of Women Voters that had presentations from multiple law enforcement, sheriffs and chiefs in northern Nevada. Each of them identified mental and behavioral health as an overwhelming crisis that needs more resources for behavioral health professionals and training. They all coordinate with existing programs that are already straining to meet the level of demand. Funds for these essential coordinating programs are now on the chopping block. Every one of these law-enforcement agencies has been under increased demand and stress due to the COVID-19 pandemic, followed by the horrific killing of George Floyd and the subsequent protests that continue to this day. Now is not the time to cut funding to these or any other health programs. Cuts to these programs have shown to have an exponential impact that plays out over decades.

Now is the time to expand Nevada's tax base to not only support these programs at current levels but also expand them so they can reinvest in our communities to save lives and jobs and maintain the interdependent infrastructure that sustains us all. The mining industry in Nevada has never paid its fair share. Data shows mining was not negatively impacted by the economic downturn like most other businesses. The price of gold continues to increase. Please amend Senate Bill No. 3 to remove unfair deductions for the mining industry and go further to begin the process to amend our *Nevada Constitution* and remove the cap on taxes the mining industry does nothing to deserve.

MARLENE LOCKARD (Nevada Women's Lobby):

With COVID-19, we recognize this unprecedented impact to our budget that cuts are necessary, but it should be a combination of cuts and new revenue. I echo those who have asked for a review of deductions for the mining tax in statute. You can begin to lay the groundwork for an amendment to remove the cap from the *Nevada Constitution*.

CHRISTINE SAUNDERS (Progressive Leadership Alliance Nevada):

We are opposed to Senate Bill No. 3. The early payment of NPM is not good enough when our State continues to let mining have lucrative tax breaks and get by without paying their fair share. Nevada is the fourth largest producer of gold in the world, and when the markets crashed earlier this year, gold soared to almost $1,800 per ounce, the highest it has been since 2011. In this moment of shared sacrifice, we need to make mining corporations pay their fair share by removing their deductions. According to the most recent NPM, gross proceeds are over $7 billion, yet after deductions, mining only pays taxes on 30 percent of this amount; $5 billion was taken as deductions. Mining taxes are one of the smallest portions of revenue for the General Fund, making up slightly more than 1 percent. By changing deductions and calculating net proceeds, we would be taking a step toward the long-term goal of diversifying our revenue sources. In 2011, many members, who are still a part of this Body, supported a bill to adjust the NPM. Under today's circumstances, we must be bolder than ever before to prevent the devastating impact of potential cuts on education and healthcare. As our State aims to mitigate the $1.2 billion deficit, it is irresponsible to balance our budget on the backs of our children and those who rely on critical healthcare services without first considering real revenue reform. We urge you to include the removal of deductions for mining in Senate Bill No. 3.

CHRIS DALY (Nevada State Education Association):

I am sure you remember the hearing you had on cuts to K-12 education the other day; $156 million of painful cuts. We can do better in Nevada than just trying to cut our way out of this hole. We can expand revenue. That is why educators across the State have called for the Legislature to come up with at least one new dollar of revenue for every dollar of cuts proposed in this Special Session. If the mining-tax deductions were eliminated and the gross taxed, you would have nearly the amount needed to backfill all of the K-12 education cuts. We are joining with our partners to ask the Legislature to be brave and bold and do better by Nevada.

On the motion of Senator Woodhouse, seconded by Senator Parks, the Committee did rise and report back to the Senate.

SENATE IN SESSION

At 3:47 p.m.

President Marshall presiding.

Quorum present.

REPORTS OF COMMITTEE

Madam President:

Your Committee of the Whole has considered Senate Bill No. 3 and other matters relating to the State's budget shortfall.

NICOLE CANNIZZARO, *Chair*

Senator Cannizzaro moved that the Senate adjourn until Monday, July 13, 2020, at 9:00 a.m.

Motion carried.

Senate adjourned at 3:50 p.m.

Approved:

KATE MARSHALL
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate