

SENATE BILL NO. 502—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF LEGISLATIVE COMMITTEE TO STUDY THE
DISTRIBUTION AMONG LOCAL GOVERNMENTS OF
REVENUE FROM STATE AND LOCAL TAXES)

MARCH 22, 1999

Referred to Committee on Taxation

SUMMARY—Makes various changes regarding tax on net proceeds of minerals. (BDR 32-985)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to taxation; providing for a transition from a distribution to local governments of the estimated tax on net proceeds to a distribution based on the actual net proceeds of minerals; requiring the department of taxation to provide certain estimates to local governments for purposes of budgeting; authorizing a school district to set aside a portion of the revenue received from the tax on the net proceeds of minerals to establish a mitigation fund for use in certain circumstances; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 362.110 is hereby amended to read as follows:
2 362.110 1. Every person extracting any mineral in this state or
3 receiving any royalty:
4 (a) Shall, on or before February ~~{1}~~ **16** of each year, ~~{except as~~
5 ~~otherwise provided in paragraph (b),}~~ file with the department a statement
6 showing the gross yield and claimed net proceeds from each geographically
7 separate operation where a mineral is extracted by that person during the
8 calendar year immediately preceding the year in which the statement is
9 filed.
10 (b) May have up to ~~{15 additional days to file the}~~ **45 days after filing**
11 **the statement required by paragraph (a) to file an amended** statement, if

1 beforehand he makes written application to the department and the
2 department finds good cause ~~{for the extension.}~~ **to allow the amendment**
3 **of the statement.**

4 2. The statement must:

5 (a) Show the claimed deductions from the gross yield in the detail set
6 forth in NRS 362.120. The deductions are limited to the costs incurred
7 during the period covered by the statement.

8 (b) Be in the form prescribed by the department.

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

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

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

17 362.115 **1.** In addition to the statement required by subsection 1 of
18 NRS 362.110, each person extracting any mineral in this state shall, on or
19 before April ~~{30}~~ **1** of each year, file with the department a statement
20 showing the estimated gross yield and estimated net proceeds from each
21 such operation for the entire current calendar year and an estimate of all
22 royalties that will be paid during the current calendar year.

23 **2.** The department shall ~~{use this}~~ **:**

24 **(a)** *Use the statement filed pursuant to subsection 1* only to prepare
25 estimates for use by local governments in the preparation of *their* budgets
26 ~~{ }~~ **; and**

27 **(b)** *Submit those estimates to the local governments on or before April*
28 *25 of each year.*

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

30 362.130 **1.** When the department determines from the annual
31 statement filed pursuant to NRS 362.110 the net proceeds of any minerals
32 extracted, it shall prepare its certificate of the amount of the net proceeds
33 and the tax due and shall send a copy to the owner of the mine, operator of
34 the mine, or recipient of the royalty, as the case may be.

35 **2.** The certificate must be prepared and mailed not later than April 20
36 immediately following the month of February during which the statement
37 was filed.

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

41 **4.** If the owner of the mine, operator of the mine, or recipient of the
42 royalty paid taxes pursuant to subsection 1 or 2 of NRS 362.145, the
43 certificate must indicate any deficiency remaining from the previous

1 calendar year or any overpayment of the taxes made for the previous
2 calendar year.

3 5. Any deficiency remaining from the previous calendar year, as
4 indicated on the certificate prepared pursuant to this section must be paid
5 on or before May 10 of the year in which the certificate is received.

6 6. If an overpayment was made and subsection 1 or 2 of NRS 362.145
7 applies to the taxpayer for the current calendar year or the taxpayer chooses
8 to pay the tax pursuant to subsection 1 or 2 of NRS 362.145 for the current
9 calendar year, ~~{one-half of}~~ the overpayment may be credited ~~{towards}~~
10 *toward* the payment due on August 1 of the current calendar year . ~~{and~~
11 ~~one-quarter may be credited towards each of the other two payments due~~
12 ~~for the current calendar year.}~~ If neither subsection 1 nor subsection 2 of
13 NRS 362.145 ~~{is applicable}~~ *applies* to the taxpayer for the current
14 calendar year and the tax is paid on or before May 10 of the next calendar
15 year, the overpayment may be credited ~~{towards}~~ *toward* that payment. *If*
16 *the certificate prepared pursuant to this section shows a net loss for the*
17 *year covered by the certificate or an amount of tax due for that year*
18 *which is less than an overpayment made for the preceding year, the*
19 *amount or remaining amount of the overpayment must be refunded to*
20 *the taxpayer within 30 days after the certification was sent to the*
21 *taxpayer.*

22 **Sec. 4.** NRS 362.145 is hereby amended to read as follows:

23 362.145 1. If the net proceeds of a geographically separate extractive
24 operation in any calendar year exceed \$4,000,000, the tax upon the net
25 proceeds for the next calendar year must be paid:

26 (a) On or before August 1 for *one-half of* the net proceeds extracted
27 from January 1 through June 30 of that year; *and*

28 (b) On or before ~~{November 1 for the net proceeds extracted from July 1~~
29 ~~through September 30 of that year; and~~

30 ~~—(c) On or before February 1}~~ *February 16 for the remaining one-half*
31 *of the net proceeds extracted from January 1 through June 30 and* for
32 the net proceeds extracted from ~~{October}~~ *July* 1 through December 31 of
33 the preceding year.

34 The rate of tax must be computed pursuant to NRS 362.140 on the basis of
35 the best estimate of the taxpayer as to the rate that will be applicable for the
36 current year. If the rate selected is different than the rate paid in the
37 previous year, the taxpayer shall submit a brief explanation with the
38 payment to justify the rate selected. If, upon investigation of the facts, the
39 department determines that an inappropriate rate was used which resulted
40 in an underpayment of the taxes due, the department shall immediately
41 notify the taxpayer in writing of the deficiency. The taxpayer shall pay the
42 deficiency within 10 days after receipt of such a notice.

2. If the total amount of royalties paid by a geographically separate operation to a person in any calendar year exceeds \$100,000, the recipient of the royalties shall pay the tax on the royalties for the next calendar year:

(a) On or before August 1 for royalties paid from January 1 through June 30 of that year; **and**

(b) On or before ~~November 1 for royalties paid from July 1 through September 30 of that year; and~~

~~—(c) On or before February 1~~ **February 16** for royalties paid from ~~October~~ **July** 1 through December 31 of the preceding year.

3. The tax upon the net proceeds for any other operation or on any other royalties may be paid pursuant to the requirements of subsection 1 or 2.

4. The taxpayer shall include with each payment made pursuant to this section a copy of the calculations by which the amount of the payment was determined, including, **, without limitation,** the amount of net proceeds and the rate of tax.

5. On or before March 15 of each year, the department shall provide a notice to each person to whom subsection 1 or 2 ~~is applicable.~~ **applies.** The notice must include a copy of this section and state that the department has determined that subsection 1 or 2 ~~is applicable~~ **applies** to that person for the current calendar year. Failure to receive the notice required by this subsection does not excuse late payment or nonpayment.

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, 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 February ~~15,~~ **28**, May 25 ~~and~~ **and** August 15 ~~and November 15~~ 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 statements filed pursuant to NRS 362.145. The state controller shall distribute all money due to a county on or before ~~February 20,~~ **March 5**, May 30 ~~and~~ **and** August 20 ~~and November 20~~ of each year.

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 percentage 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 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 362.171 is hereby amended to read as follows:

362.171 1. Each county to which money is appropriated by *subsection 1 of* NRS 362.170 may set aside a percentage of that appropriation to establish a county fund for mitigation.

~~{2-}~~ Money from the fund may be appropriated by the board of county commissioners only to mitigate adverse effects upon the county, or the school district located in the county, *which result* from ~~{the}~~ :

(a) A decline in the revenue received by the county from the tax on the net proceeds of minerals during the 2 fiscal years immediately preceding the current fiscal year; or

(b) The opening or closing of an extractive operation from the net proceeds of which revenue has been or is reasonably expected to be derived ~~{under}~~ pursuant to this chapter.

2. *Each school district to which money is apportioned by a county pursuant to subsection 2 of NRS 362.170 may set aside a percentage of the amount apportioned to establish a school district fund for mitigation. Money from the fund may be used by the school district only to mitigate adverse effects upon the school district which result from:*

(a) A decline in the revenue received by the school district from the tax on the net proceeds of minerals during the 2 fiscal years immediately preceding the current fiscal year; or

(b) The opening or closing of an extractive operation from the net proceeds of which revenue has been or is reasonably expected to be derived pursuant to this chapter.

Sec. 7. This act becomes effective on July 1, 1999.