

(REPRINTED WITH ADOPTED AMENDMENTS)
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ASSEMBLY BILL NO. 361—ASSEMBLYMAN MARVEL

MARCH 14, 2001

Referred to Committee on Taxation

SUMMARY—Revises provisions governing tax on net proceeds of minerals. (BDR 32-1078)

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

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

AN ACT relating to taxation; revising the provisions governing the reporting requirements, payment schedules and collection procedures for the tax on the net proceeds of minerals; 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 16 of each year, file with the
5 department a statement showing ~~the~~ :
6 ***(1) The*** gross yield and claimed net proceeds from each
7 geographically separate operation where a mineral is extracted by that
8 person during the calendar year immediately preceding the year in which
9 the statement is filed ~~it~~ ; and
10 ***(2) The estimated gross yield and estimated net proceeds from each***
11 ***such operation for the entire current calendar year and an estimate of all***
12 ***royalties that will be paid during the current calendar year.***
13 (b) May have up to 30 days after filing the statement required by
14 paragraph (a) to file an amended statement, if beforehand he ~~makes~~
15 ***submits a*** written application to the department and the department finds
16 good cause to allow the amendment of the statement.
17 2. The statement must:
18 (a) Show the claimed deductions from the gross yield ***reported***
19 ***pursuant to subparagraph (1) of paragraph (a) of subsection 1*** in the
20 detail set forth in NRS 362.120. The deductions are limited to the costs
21 incurred during the ~~period covered by the statement~~ ***calendar year***
22 ***immediately preceding the year in which the statement is filed.***
23 (b) Be in the form prescribed by the department.



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

4 3. Each recipient of a royalty as described in *subparagraph (1) of*
5 *paragraph (a) of* subsection 1 shall annually file with the department a list
6 showing each of the lessees responsible for taxes due in connection with
7 the operation or operations included in the statement filed pursuant to
8 subsections 1 and 2.

9 4. *The department shall:*

10 (a) *Use the information reported pursuant to subparagraph (2) of*
11 *paragraph (a) of subsection 1 only to prepare estimates for use by local*
12 *governments in the preparation of their budgets; and*

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

15 **Sec. 2.** NRS 362.120 is hereby amended to read as follows:

16 362.120 1. The department shall, from the statement *filed pursuant*
17 *to NRS 362.110* and from all obtainable data, evidence and reports,
18 compute in dollars and cents the gross yield and net proceeds of the ~~the period~~
19 ~~covered by the statement.~~ *calendar year immediately preceding the year*
20 *in which the statement is filed.*

21 2. The gross yield must include the value of any mineral extracted
22 which was:

23 (a) Sold;
24 (b) Exchanged for any thing or service;
25 (c) Removed from the state in a form ready for use or sale; or
26 (d) Used in a manufacturing process or in providing a
27 service,
28 during ~~the period covered by the statement.~~ *that period.*

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

32 (a) The actual cost of extracting the mineral.
33 (b) The actual cost of transporting the mineral to the place or places of
34 reduction, refining and sale.

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

36 (d) The actual cost of marketing and delivering the mineral and the
37 conversion of the mineral into money.

38 (e) The actual cost of maintenance and repairs of:

39 (1) All machinery, equipment, apparatus and facilities used in the
40 mine.

41 (2) All milling, refining, smelting and reduction works, plants and
42 facilities.

43 (3) All facilities and equipment for transportation except those that
44 are under the jurisdiction of the public utilities commission of Nevada or
45 the transportation services authority.

46 (f) The actual cost of fire insurance on the machinery, equipment,
47 apparatus, works, plants and facilities mentioned in paragraph (e).

48 (g) Depreciation of the original capitalized cost of the machinery,
49 equipment, apparatus, works, plants and facilities mentioned in paragraph



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1 (e). The annual depreciation charge consists of amortization of the original
2 cost in a manner prescribed by regulation of the Nevada tax commission.
3 The probable life of the property represented by the original cost must be
4 considered in computing the depreciation charge.

5 (h) All money expended for premiums for industrial insurance, and the
6 actual cost of hospital and medical attention and accident benefits and
7 group insurance for all employees.

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

14 (j) The actual cost of developmental work in or about the mine or upon
15 a group of mines when operated as a unit.

16 (k) All money paid as royalties by a lessee or sublessee of a mine or
17 well, or by both, in determining the net proceeds of the lessee or sublessee,
18 or both.

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

22 5. Every person acquiring property in the State of Nevada to engage in
23 the extraction of minerals and who incurs any of the expenses mentioned in
24 subsection 3 shall report those expenses and the recipient of any royalty to
25 the department on forms provided by the department.

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

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

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

36 362.130 1. When the department determines from the annual
37 statement filed pursuant to NRS 362.110 the net proceeds of any minerals
38 extracted, it shall prepare its certificate of the amount of the net proceeds
39 and the tax due and shall send a copy to the owner of the mine, operator of
40 the mine, or recipient of the royalty, as the case may be.

41 2. The certificate must be prepared and mailed not later than April 20
42 immediately following the month of February during which the statement
43 was filed.

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

47 4. ~~If the owner of the mine, operator of the mine, or recipient of the~~
48 ~~royalty paid taxes pursuant to subsection 1 or 2 of NRS 362.145, the~~
49 ~~certificate must indicate any deficiency remaining from the previous~~



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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~~
7 ~~362.145 applies to the taxpayer for the current calendar year or the~~
8 ~~taxpayer chooses to pay the tax pursuant to subsection 1 or 2 of NRS~~
9 ~~362.145 for the current calendar year, the overpayment may be credited~~
10 ~~toward the payment due on August 1 of the current calendar year. If~~
11 ~~neither subsection 1 nor subsection 2 of NRS 362.145 applies to the~~
12 ~~taxpayer for the current calendar year and the tax is paid on or before~~
13 ~~May 10 of the next calendar year, the overpayment may be credited toward~~
14 ~~that payment.~~ If the certificate prepared pursuant to this section shows a
15 net loss for the year covered by the certificate or an amount of tax due for
16 that year which is less than an overpayment made for the preceding year,
17 the amount or remaining amount of the overpayment must be refunded to
18 the taxpayer within 30 days after the certification was sent to the taxpayer.
19 **Sec. 4.** NRS 362.170 is hereby amended to read as follows:
20 362.170 1. There is hereby appropriated to each county the total of
21 the amounts obtained by multiplying, for each extractive operation situated
22 within the county, the net proceeds of that operation and any royalties paid
23 by that operation, by the combined rate of tax ad valorem, excluding any
24 rate levied by the State of Nevada, for property at that site, plus a pro rata
25 share of any penalties and interest collected by the department for the late
26 payment of taxes distributed to the county. The department shall report to
27 the state controller on or before ~~February 28,~~ May 25 ~~and August 15~~ of
28 each year the amount appropriated to each county, as calculated for each
29 operation from the final statement made in February of that year for the
30 preceding calendar year. ~~and the statements filed pursuant to NRS~~
31 ~~362.145.~~ The state controller shall distribute all money due to a county on
32 or before ~~March 5,~~ May 30 ~~and August 20~~ of each year.
33 2. The county treasurer shall apportion to each local government or
34 other local entity an amount calculated by:
35 (a) Determining the total of the amounts obtained by multiplying, for
36 each extractive operation situated within its jurisdiction, the net proceeds
37 of that operation and any royalty payments paid by that operation, by the
38 rate levied on behalf of that local government or other local entity;
39 (b) Adding to the amount determined pursuant to paragraph (a) a pro
40 rata share of any penalties and interest collected by the department for the
41 late payment of taxes distributed to that local government or local entity;
42 and
43 (c) Subtracting from the amount determined pursuant to paragraph (b) a
44 ~~percentage~~ commission of 3 percent of that amount which must be
45 deposited in the county general fund.
46 3. The amounts apportioned pursuant to subsection 2, including,
47 without limitation, the amount retained by the county and excluding the
48 percentage commission, must be applied to the uses for which each levy



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1 was authorized in the same proportion as the rate of each levy bears to the
2 total rate.

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

7 **Sec. 5.** NRS 362.115 and 362.145 are hereby repealed.

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

TEXT OF REPEALED SECTION

362.115 Annual statement of estimated gross yield, net proceeds and royalties; use of statement.

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

2. The department shall:

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

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

362.145 Tax on net proceeds and royalties of certain geographically separate extractive operations: Due date of payment; rate; copy of calculations required; notice of applicability.

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

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

(b) On or before February 16 for the remaining one-half of the net proceeds extracted from January 1 through June 30 and for the net proceeds extracted from July 1 through December 31 of the preceding year.

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



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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 February 16 for royalties paid from 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 April 15 of each year, the department shall provide a notice to each person to whom subsection 1 or 2 applies. The notice must include a copy of this section and state that the department has determined that subsection 1 or 2 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.

