

ASSEMBLY BILL NO. 428—ASSEMBLYWOMAN PIERCE

MARCH 21, 2011

Referred to Committee on Taxation

SUMMARY—Revises formula for determining tax on net proceeds of minerals extracted. (BDR 32-883)

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

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

AN ACT relating to taxation; revising the formula for determining the measure of the tax on the net proceeds of minerals extracted; extending the prospective expiration of certain requirements regarding the advance payment of the tax; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes a tax on the net proceeds of minerals extracted. (Chapter 362 of NRS) 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 60 percent, except for the portion of the proceeds that are paid as royalties and are separately taxable to the recipient thereof.
Existing law requires, until June 30, 2011, the advance payment of the tax on the net proceeds of minerals based upon the estimated net proceeds and royalties of a mining operation for the current calendar year. (Chapter 4, Statutes of Nevada 2008, 25th Special Session, pp. 15-18, 23) **Sections 2-5** of this bill delay the expiration of this requirement for advance payment until June 30, 2013.

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.



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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) *Forty percent of the amount of:*

(1) The actual cost of extracting the mineral.

~~(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 marketing and delivering the mineral and the conversion of the mineral into money.

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

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

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

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

~~(f)~~ (6) The actual cost of fire insurance on the machinery, equipment, apparatus, works, plants and facilities mentioned in ~~paragraph (e).~~

~~(g)~~ *subparagraph (5).*

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

~~(h)~~ (8) All money expended for premiums for industrial insurance, and the actual cost of hospital and medical attention and accident benefits and group insurance for all employees.

~~(i)~~ (9) 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



1 under any amendment to either or both of the statutes mentioned in
2 this ~~paragraph.~~

3 ~~—(f)~~ **subparagraph.**

4 **(10)** The actual cost of developmental work in or about the
5 mine or upon a group of mines when operated as a unit.

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

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

12 5. Every person acquiring property in the State of Nevada to
13 engage in the extraction of minerals and who incurs any of the
14 expenses mentioned in subsection 3 shall report those expenses and
15 the recipient of any royalty to the Department on forms provided by
16 the Department.

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

- 20 (a) The working of the mine;
21 (b) The operating of the mill, smelter or reduction works;
22 (c) The operating of the facilities or equipment for
23 transportation;
24 (d) Superintending the management of any of those operations;
25 or

26 (e) The State of Nevada, in office, clerical or engineering work
27 necessary or proper in connection with any of those operations.

28 **Sec. 2.** Section 16 of chapter 4, Statutes of Nevada 2008, 25th
29 Special Session, as amended by chapter 387, Statutes of Nevada
30 2009, at page 2097, is hereby amended to read as follows:

31 Sec. 16. 1. This section and sections 2, 4, 14 and 15 of
32 this act become effective upon passage and approval.

33 2. Sections 6 to 12, inclusive, of this act become
34 effective on January 1, 2009.

35 3. Sections 4 and 12 of this act expire by limitation on
36 June 30, 2009.

37 4. Sections 1, 3, 5 and 13 of this act become effective on
38 July 1, 2009.

39 5. Sections 1, 2, 3 and 5 of this act expire by limitation
40 on June 30, ~~2011.~~ **2013.**

41 **Sec. 3.** Section 29 of chapter 287, Statutes of Nevada 2009, at
42 page 1233, is hereby amended to read as follows:

43 Sec. 29. ~~(1.)~~ NRS 361A.155 is hereby repealed.

44 ~~[(2.)—Section 5 of chapter 4, Statutes of Nevada 2008, 25th
45 Special Session, at page 17, is hereby repealed.]~~



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Sec. 4. Section 31 of chapter 287, Statutes of Nevada 2009, at page 1233, is hereby amended to read as follows:

Sec. 31. 1. This section and sections 3, 4, 27 ~~1-28, subsection 2 of section 29 and section~~ **and** 30 of this act become effective upon passage and approval.

2. Sections 1, 2, ~~and~~ 5 to 26, inclusive, and ~~subsection 1 of section~~ 29 of this act become effective on July 1, 2009.

Sec. 5. Section 28 of chapter 287, Statutes of Nevada 2009, at page 1232, is hereby repealed.

Sec. 6. 1. When preparing its certificate of the tax due from a taxpayer pursuant to NRS 362.130 during the calendar year 2014, the Department of Taxation shall reduce the amount of the tax due from the taxpayer by the amount of:

(a) Any estimated payments of the tax made by or on behalf of the taxpayer during calendar year 2013 pursuant to NRS 362.115, as that section read on January 1, 2013; and

(b) Any unused credit to which the taxpayer may be entitled as a result of any previous overpayment of the tax.

2. Notwithstanding any provision of NRS 362.170 to the contrary:

(a) The amount appropriated to each county pursuant to that section for distribution to the county during calendar year 2014 must be reduced by the amount appropriated to the county pursuant to that section for distribution to the county during calendar year 2013, excluding any portion of the amount appropriated to the county pursuant to that section for distribution to the county during calendar year 2013 which is attributable to a pro rata share of any penalties and interest collected by the Department of Taxation for the late payment of taxes distributed to the county.

(b) In calculating the amount required to be apportioned to each local government or other local entity pursuant to subsection 2 of that section for calendar year 2014, the county treasurer shall reduce the amount required to be determined pursuant to paragraph (a) of that subsection for that calendar year by the amount determined pursuant to that paragraph for calendar year 2013.

Sec. 7. 1. This section and sections 2 to 6, inclusive, of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective on July 1, 2011.



TEXT OF REPEALED SECTION

Section 28 of chapter 287, Statutes of Nevada 2009:

Sec. 28. Section 16 of chapter 4, Statutes of Nevada 2008, 25th Special Session, at page 23, is hereby amended to read as follows:

Sec. 16. 1. This section and sections 2, 4, 14 and 15 of this act become effective upon passage and approval.

2. Sections 6 to 12, inclusive, of this act become effective on January 1, 2009 ~~1.~~

~~—3. Sections 4 and 6 to 12, inclusive, of this act~~ , and expire by limitation on June 30, 2009.

~~{4.}~~ 3. Sections 1, 3 ~~{, 5}~~ and 13 of this act become effective on July 1, 2009.

~~{5.}~~ 4. Sections 1 ~~{, 2, 3 and 5}~~ to 4, inclusive, of this act expire by limitation on June 30, 2011.

