

SENATE BILL NO. 124—COMMITTEE ON FINANCE

FEBRUARY 8, 2023

Referred to Committee on Finance

SUMMARY—Revises provisions relating to the tax upon the net proceeds of minerals and royalties of mining operations. (BDR 32-908)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 manner by which a portion of the revenue generated by the tax upon the net proceeds of minerals and royalties of mining operations is distributed to the State Education Fund; providing for the early expiration of certain requirements regarding the imposition and advance payment of a portion of the tax upon the net proceeds of minerals and royalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law imposes a tax upon the net proceeds of minerals extracted in this
2 State and mineral royalties. (NRS 362.100-362.240) A portion of the revenue
3 generated by the tax upon the net proceeds of minerals and mineral royalties is
4 appropriated to the county in which the mining operation is located for
5 apportionment by the county treasurer to each local government or other local
6 taxing entity in that county in an amount equal to the property tax rate for local
7 purposes in that jurisdiction multiplied by the net proceeds extracted from and
8 royalties paid by extractive operations in that jurisdiction, plus a pro rata share of
9 any penalties and interest collected by the Department of Taxation for any late
10 payment of the tax. (NRS 362.170) Existing law requires the portion of the revenue
11 apportioned by the county treasurer to a county school district for any purpose other
12 than capital projects or debt service for the county school district to be paid by the
13 county treasurer to the State Treasurer for deposit in the State Education Fund. The
14 county treasurer is authorized to retain a commission of 5 percent from this amount.
15 (NRS 362.170) **Section 1** of this bill removes the appropriation to the county, and
16 apportionment by the county treasurer of, the portion of the revenue that would
17 otherwise be apportioned to a county school district for any purpose other than
18 capital projects or debt service for the county school district. Instead, **section 1**
19 requires the Department to deposit this revenue directly in the State Education



20 Fund, which also has the effect of removing the retention by the county treasurer of
21 a commission of 5 percent of the revenue and requiring the entire amount to be
22 deposited in the State Education Fund. **Section 2** of this bill makes a conforming
23 change to reflect that this revenue will be transferred to the State Education Fund
24 by the Department.

25 Existing law requires a person extracting any mineral in this State to file a
26 statement which shows the estimated gross yield and estimated net proceeds from
27 each operation for the current calendar year and an estimate of all royalties that will
28 be paid during the current calendar year. (NRS 362.115) Existing law temporarily
29 requires advance payment of the portion of the tax that is distributed to the State
30 General Fund, based upon the estimated net proceeds and royalties for the current
31 calendar year. (NRS 362.115) This advance payment requirement expires on
32 June 30, 2023. (Chapter 4, Statutes of Nevada 2020, 31st Special Session, at page
33 32) **Section 4** of this bill advances the date on which the advance payment
34 requirement expires to June 30, 2022. **Section 3** of this bill revises provisions
35 governing certain duties of the Department relating to the expiration of the advance
36 payment requirement to provide for the carrying out of those duties in Fiscal Year
37 2022-2023, rather than Fiscal Year 2023-2024.

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

1 **Section 1.** NRS 362.170 is hereby amended to read as follows:
2 362.170 1. There is hereby appropriated to each county the
3 total of the amounts obtained by multiplying, for each extractive
4 operation situated within the county, the net proceeds of that
5 operation and any royalties paid by that operation, by the combined
6 rate of tax ad valorem, excluding any rate levied by the State of
7 Nevada ~~and~~ *and any rate levied for a county school district for any*
8 *purpose other than capital projects or debt service for the county*
9 *school district*, for property at that site, plus a pro rata share of any
10 penalties and interest collected by the Department for the late
11 payment of taxes distributed to the county. The Department shall
12 report to the State Controller on or before May 25 of each year the
13 amount appropriated to each county, as calculated for each
14 operation from the final statement made in February of that year for
15 the preceding calendar year. The State Controller shall distribute all
16 money due to a county on or before May 30 of each year.
17 2. The county treasurer shall apportion to each local
18 government or other local entity an amount calculated by:
19 (a) Determining the total of the amounts obtained by
20 multiplying, for each extractive operation situated within its
21 jurisdiction, the net proceeds of that operation and any royalty
22 payments paid by that operation, by the rate levied on behalf of that
23 local government or other local entity ~~and~~, *excluding any rate levied*
24 *for a county school district for any purpose other than capital*
25 *projects or debt service for the county school district;*



1 (b) Adding to the amount determined pursuant to paragraph (a) a
2 pro rata share of any penalties and interest collected by the
3 Department for the late payment of taxes distributed to that local
4 government or local entity; and

5 (c) Subtracting from the amount determined pursuant to
6 paragraph (b) a commission of 5 percent, of which 3 percent must
7 be deposited in the county general fund and 2 percent must be
8 accounted for separately in the account for the acquisition and
9 improvement of technology in the office of the county assessor
10 created pursuant to NRS 250.085.

11 3. The amounts apportioned pursuant to subsection 2,
12 including, without limitation, the amount retained by the county and
13 excluding the percentage commission, must be applied to the uses
14 for which each levy was authorized in the same proportion as the
15 rate of each levy bears to the total rate.

16 4. ~~Any amount apportioned pursuant to subsection 2~~ *The*
17 *Department shall deposit to the credit of the State Education Fund*
18 *the total of the amounts obtained by multiplying, for each*
19 *extractive operation situated within a county, the net proceeds of*
20 *that operation and any royalties paid by that operation, by the*
21 *combined rate of tax ad valorem levied in that county for [a] the*
22 *county school district for any purpose other than capital projects or*
23 *debt service for the county school district [must be paid over to the*
24 *State Treasurer to be], plus a pro rata share of any penalties and*
25 *interest collected by the Department for the late payment of taxes*
26 *deposited to the credit of the State Education Fund.*

27 5. The Department shall report to the State Controller on or
28 before May 25 of each year the amount received as tax upon the net
29 proceeds of geothermal resources which equals the product of those
30 net proceeds multiplied by the rate of tax levied ad valorem by the
31 State of Nevada.

32 **Sec. 2.** NRS 387.1212 is hereby amended to read as follows:

33 387.1212 1. The State Education Fund is hereby created as a
34 special revenue fund to be administered by the Superintendent of
35 Public Instruction for the purpose of supporting the operation of the
36 public schools in this State. The interest and income earned on the
37 money in the Fund, excluding the direct legislative appropriation
38 from the State General Fund required by subsection 3, must, after
39 deducting any applicable charges, be credited to the Fund.

40 2. Money which must be deposited for credit to the State
41 Education Fund includes, without limitation:

42 (a) All money derived from interest on the State Permanent
43 School Fund, as provided in NRS 387.030;

44 (b) The proceeds of the tax imposed pursuant to NRS 244.33561
45 and any applicable penalty or interest, less any amount retained by



1 the county treasurer for the actual cost of collecting and
2 administering the tax;

3 (c) The proceeds of the tax imposed pursuant to subsection 1 of
4 NRS 387.195;

5 (d) The money identified in subsection 8 of NRS 120A.610;

6 (e) The portion of the money in each special account created
7 pursuant to subsection 1 of NRS 179.1187 which is identified in
8 paragraph (d) of subsection 2 of NRS 179.1187;

9 (f) The money identified in paragraph (d) of subsection 6 of
10 NRS 278C.250;

11 (g) The money identified in subsection 1 of NRS 328.450;

12 (h) The money identified in subsection 1 of NRS 328.460;

13 (i) The money identified in paragraph (a) of subsection 2 of
14 NRS 360.850;

15 (j) The money identified in paragraph (a) of subsection 2 of
16 NRS 360.855;

17 (k) The money required to be ~~paid over to the State Treasurer~~
18 ~~for deposit~~ *deposited* to the credit of the State Education Fund
19 pursuant to subsection 4 of NRS 362.170;

20 (l) The portion of the proceeds of the tax imposed pursuant to
21 subsection 1 of NRS 372A.290 identified in paragraph (b) of
22 subsection 4 of NRS 372A.290;

23 (m) The proceeds of the tax imposed pursuant to subsection 3 of
24 NRS 372A.290;

25 (n) The proceeds of the fees, taxes, interest and penalties
26 imposed pursuant to chapter 374 of NRS, as transferred pursuant to
27 subsection 3 of NRS 374.785;

28 (o) The money identified in subsection 5 of NRS 445B.640;

29 (p) The money identified in paragraph (b) of subsection 4 of
30 NRS 678B.390;

31 (q) The portion of the proceeds of the excise tax imposed
32 pursuant to subsection 1 of NRS 463.385 identified in paragraph (c)
33 of subsection 5 of NRS 463.385;

34 (r) The money required to be distributed to the State Education
35 Fund pursuant to subsection 3 of NRS 482.181;

36 (s) The portion of the proceeds of the fee imposed pursuant to
37 NRS 488.075 identified in subsection 2 of NRS 488.075;

38 (t) The portion of the net profits of the grantee of a franchise,
39 right or privilege identified in NRS 709.110;

40 (u) The portion of the net profits of the grantee of a franchise
41 identified in NRS 709.230;

42 (v) The portion of the net profits of the grantee of a franchise
43 identified in NRS 709.270; and

44 (w) The direct legislative appropriation from the State General
45 Fund required by subsection 3.



1 3. In addition to money from any other source provided by law,
2 support for the State Education Fund must be provided by direct
3 legislative appropriation from the State General Fund in an amount
4 determined by the Legislature to be sufficient to fund the operation
5 of the public schools in this State for kindergarten through grade 12
6 for the next ensuing biennium for the population reasonably
7 estimated for that biennium. Money in the State Education Fund
8 does not revert to the State General Fund at the end of a fiscal year,
9 and the balance in the State Education Fund must be carried forward
10 to the next fiscal year.

11 4. Money in the Fund must be paid out on claims as other
12 claims against the State are paid.

13 **Sec. 3.** Section 8 of chapter 4, Statutes of Nevada 2020, 31st
14 Special Session, at page 30, is hereby amended to read as follows:

15 Sec. 8. 1. When preparing its certificate of the tax due
16 from a taxpayer pursuant to NRS 362.130 during the calendar
17 year ~~[2024.]~~ 2023, the Department of Taxation shall reduce
18 the amount of the tax due from the taxpayer by the amount of:

19 (a) Any estimated payments of the tax made by or on
20 behalf of the taxpayer during the calendar year ~~[2023]~~ 2022
21 pursuant to NRS 362.115, as that section read on January 1,
22 ~~[2023.]~~ 2022; and

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

25 2. Notwithstanding any other provision of law, for the
26 calendar year ~~[2023.]~~ 2022, each person extracting any
27 mineral in this State may file with the Department a quarterly
28 report stating an estimate for the year and the actual quarterly
29 amounts of production, gross yield and net proceeds as of
30 March 31, June 30, September 30 and December 31 of that
31 year, and pay any additional amount of the portion of the tax
32 due pursuant to paragraph (a) of subsection 1 of NRS
33 362.115, as that section read on January 1, ~~[2023.]~~ 2022. The
34 additional estimated tax liability must be calculated by
35 determining the difference between the revised estimates of
36 net proceeds based on the recent production figures as
37 indicated by the quarterly reports and the original estimate
38 supplied pursuant to paragraph (a) of subsection 1 of NRS
39 362.115, as that section read on January 1, ~~[2023.]~~ 2022. If
40 the person chooses to submit such reports, the reports must be
41 submitted on a form prescribed by the Department not later
42 than the last day of the month following the end of the
43 calendar quarter and payment must be made within 30 days
44 after filing any quarterly report that indicates an additional
45 estimated tax liability.



1 3. Notwithstanding any other provision of law, for
2 calendar year ~~{2023,}~~ 2022, if the amount paid pursuant to
3 paragraph (a) of subsection 1 of NRS 362.115, as that section
4 read on January 1, ~~{2023,}~~ 2022, is less than 90 percent of the
5 amount certified pursuant to NRS 362.130 as the net proceeds
6 of any minerals extracted and royalties paid during calendar
7 year ~~{2023}~~ 2022 multiplied by a rate equal to the rate as
8 determined pursuant to NRS 362.140 minus the combined
9 rate of tax ad valorem for the county in which the operation is
10 located, including any rate levied by the State of Nevada, the
11 certificate prepared by the Department pursuant to this
12 section must include a penalty of 10 percent of the amount by
13 which that portion of the tax was underpaid unless:

14 (a) The amount paid pursuant to paragraph (a) of
15 subsection 1 of NRS 362.115, as that section read on
16 January 1, ~~{2023,}~~ 2022, in calendar year ~~{2023}~~ 2022 is
17 equal to or greater than the liability of the operation for the
18 calendar year ~~{2022}~~ 2021 for the portion of the tax that is
19 equal to the net proceeds of any minerals extracted and
20 royalties paid during that calendar year multiplied by a rate
21 equal to the rate as determined pursuant to NRS 362.140
22 minus the combined rate of tax ad valorem for the county in
23 which the operation is located, including any rate levied by
24 the State of Nevada; or

25 (b) The person files quarterly reports pursuant to
26 subsection 2 in a timely manner and the total of all payments
27 exceeds 90 percent of the amount certified as the net proceeds
28 of any minerals extracted and royalties paid during
29 the calendar year ~~{2023}~~ 2022 multiplied by a rate equal to
30 the rate as determined pursuant to NRS 362.140 minus the
31 combined rate of tax ad valorem for the county in which the
32 operation is located, including any rate levied by the State of
33 Nevada.

34 **Sec. 4.** Section 12 of chapter 4, Statutes of Nevada 2020, 31st
35 Special Session, at page 32, is hereby amended to read as follows:

36 Sec. 12. 1. This section and sections 2 and 5.5 to 11,
37 inclusive, of this act become effective upon passage and
38 approval.

39 2. Sections 5.5 and 6 of this act expire by limitation on
40 June 30, 2021.

41 3. Section 3 of this act becomes effective on July 1,
42 2021.

43 4. Sections 2 and 3 of this act expire by limitation on
44 June 30, ~~{2023,}~~ 2022.



1 **Sec. 5.** Notwithstanding the provisions of NRS 218D.430 and
2 218D.435, a committee may vote on this act before the expiration of
3 the period prescribed for the return of a fiscal note in NRS
4 218D.475. This section applies retroactively from and after
5 February 6, 2023.

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



