

Amendment No. 2

Assembly Amendment to Senate Bill No. 124 First Reprint	(BDR 32-908)
Proposed by: Assembly Committee on Ways and Means	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is newly added language; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~fuchsia double strikethrough~~ is new language in the bill proposed to be deleted in this amendment; (6) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment.

SHORT FORM AMENDMENT

Section 2.3 of this act is the only section affected by this amendment.

AAK/BJF



Date: 2/20/2023

S.B. No. 124—Revises provisions relating to the tax upon the net proceeds of minerals and royalties of mining operations. (BDR 32-908)



The Title of Senate Bill No. 124 First Reprint is hereby amended as follows:

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; revising provisions relating to the transfer of money to the Education Stabilization Account in the State Education Fund; clarifying the treatment of the proceeds of such a tax within a county school district fund; clarifying the status of the money contained in such a fund on a certain date; 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.

If this amendment is adopted, the Legislative Counsel's Digest will be changed as follows:**Legislative Counsel's Digest:**

1 Existing law imposes a tax upon the net proceeds of minerals extracted in this State and
2 mineral royalties. (NRS 362.100-362.240) A portion of the revenue generated by the tax upon
3 the net proceeds of minerals and mineral royalties is appropriated to the county in which the
4 mining operation is located for apportionment by the county treasurer to each local
5 government or other local taxing entity in that county in an amount equal to the property tax
6 rate for local purposes in that jurisdiction multiplied by the net proceeds extracted from and
7 royalties paid by extractive operations in that jurisdiction, plus a pro rata share of any
8 penalties and interest collected by the Department of Taxation for any late payment of the tax.
9 (NRS 362.170) Existing law requires the portion of the revenue apportioned by the county
10 treasurer to a county school district for any purpose other than capital projects or debt service
11 for the county school district to be paid by the county treasurer to the State Treasurer for
12 deposit in the State Education Fund. The county treasurer is authorized to retain a commission
13 of 5 percent from this amount. (NRS 362.170) **Section 1** of this bill removes the appropriation
14 to the county, and apportionment by the county treasurer of, the portion of the revenue that
15 would otherwise be apportioned to a county school district for any purpose other than capital
16 projects or debt service for the county school district. Instead, **section 1** requires the
17 Department to deposit this revenue directly in the State Education Fund, which also has the
18 effect of removing the retention by the county treasurer of a commission of 5 percent of the
19 revenue and requiring the entire amount to be deposited in the State Education Fund. **Section**
20 **2** of this bill makes a conforming change to reflect that this revenue will be transferred to the
21 State Education Fund by the Department.

22 Existing law requires, with certain exceptions, that each county school district annually
23 transfer from the county school district fund to the Education Stabilization Account in the
24 State Education Fund any amount by which the budgeted ending fund balance of the county
25 school district fund exceeds 16.6 percent of the total budgeted expenditures for the fund.
26 (NRS 387.1213) **Section 2.3** of this bill revises this requirement to be based on the actual,
27 rather than budgeted, ending fund balance of a county school district fund and the total
28 actual, rather than budgeted, expenditures for the fund. Section 2.3 also clarifies that
29 certain proceeds of the tax upon the net proceeds of minerals and mineral royalties that are
30 received by a county school district are excluded from the ~~budgeted~~ actual ending fund

31 balance of a county school district fund for the purpose of the transfer to the Education
32 Stabilization Account required by existing law and, thus, are not subject to such a transfer.

33 If a county school district maintained an ending fund balance in its county school district
34 fund which exceeded 16.6 percent of the total budgeted expenditures for the fund on June 30,
35 2020, existing law allows the county school district to maintain an ending fund balance which
36 does not exceed that higher amount, rather than 16.6 percent, before being required to transfer
37 money to the Education Stabilization Account. (Section 77 of chapter 624, Statutes of Nevada
38 2019, at page 4252) **Section 5.5** of this bill repeals that provision, and **section 2.3** instead
39 provides that any money which was deposited in a county school district fund on or before
40 June 30, 2020, is excluded from the ~~budgeted~~ **actual** ending fund balance of a county school
41 district fund for the purpose of the transfer to the Education Stabilization Account required by
42 existing law and, thus, is not subject to such a transfer. **Section 1.5** of this bill makes a
43 conforming change to remove a reference to the repealed provision.

44 Existing law provides that the portion of the revenue generated by the tax upon the net
45 proceeds of minerals and mineral royalties which is appropriated to a county school district
46 pursuant to the Pupil-Centered Funding Plan is deemed to be the first money appropriated to
47 the county school district pursuant to the Plan. (NRS 387.1214) **Section 2.5** of this bill
48 clarifies that such money is also deemed to be the first money spent by a county school district
49 from the county school district fund each fiscal year. **Section 4.5** of this bill provides that
50 **sections 2.3 and 2.5** do not apply to or affect the obligation of any entity to repay any amount
51 of money to which the entity was not entitled.

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

Section 2.3 of Senate Bill No. 124 First Reprint is hereby amended as follows:

1 **Sec. 2.3.** NRS 387.1213 is hereby amended to read as follows:

2 387.1213 1. The Education Stabilization Account is hereby created in the
3 State Education Fund. Except as otherwise provided in subsections 3, ~~and~~ 4 ~~and~~
4 **and 5**, each year after the close of the previous fiscal year and before the issuance
5 of the State Controller's annual report, each county school district shall transfer
6 from the county school district fund to the Education Stabilization Account any
7 amount by which the ~~budgeted~~ **actual** ending fund balance of the county school
8 district fund exceeds 16.6 percent of the total ~~budgeted~~ **actual** expenditures for
9 the fund. The interest and income earned on the money in the Account, after
10 deducting any applicable charges, must be credited to the Account.

11 2. Money transferred pursuant to subsection 1 to the Education Stabilization
12 Account is a continuing appropriation solely for the purpose of authorizing the
13 expenditure of the transferred money for the purposes set forth in this section.

14 3. The balance in the Education Stabilization Account must not exceed 15
15 percent of the total of all appropriations and authorizations from the State

1 Education Fund, excluding the Education Stabilization Account, for the
2 immediately preceding fiscal year. Any money transferred to the Education
3 Stabilization Account which exceeds this amount must instead be transferred to the
4 State Education Fund.

5 4. If the Interim Finance Committee finds that:

6 (a) Upon submission of a request from the Department, the actual enrollment
7 growth for a fiscal year exceeds the projected enrollment growth by an amount that
8 the Interim Finance Committee determines would make a transfer of money to the
9 State Education Fund necessary to fund the excess enrollment; or

10 (b) The collection of revenue in any fiscal year will result in the State
11 Education Fund receiving 97 percent or less of the money authorized for
12 expenditure from the State Education Fund,

13 the Committee shall by resolution establish an amount of money to transfer from
14 the Education Stabilization Account to the State Education Fund and direct the
15 State Controller to transfer that amount to the State Education Fund. The State
16 Controller shall thereupon make the transfer.

17 5. *When determining the ~~budgeted~~ actual ending fund balance for the*
18 *purposes of subsection 1, each county school district shall exclude:*

19 (a) *Any money deposited in the county school district fund on or before June*
20 *30, 2020;*

21 (b) *Any money apportioned to the county school district for capital projects*
22 *or debt service pursuant to subsection 2 of NRS 362.170 and deposited in the*
23 *county school district fund when authorized by law; and*

24 (c) *Any money transferred to the county school district and authorized for*
25 *expenditure as a continuing appropriation pursuant to paragraph (b) of*
26 *subsection 6 of NRS 387.1214.*

27 6. The balance remaining in the State Education Fund, excluding the balance
28 remaining in the Education Stabilization Account, that has not been committed for
29 expenditure on or before June 30 of an odd-numbered fiscal year must be
30 transferred to the Education Stabilization Account to the extent that such a transfer
31 would not cause the balance in the Education Stabilization Account to exceed the
32 limit established in subsection 3.