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SECRETARY OF STATE
ELECTIONS DIVISION

FINANCIAL IMPACT OF THE NEVADANS FOR FAIR MINING TAXES INITIATIVE

FINANCIAL IMPACT – CANNOT BE DETERMINED

OVERVIEW

The Nevadans For Fair Mining Taxes Initiative (Initiative) proposes to amend paragraphs 1 and 2 of Article 10, Section 5 of the *Nevada Constitution*, which require a tax on the proceeds of all minerals, including oil, gas, and other hydrocarbons, extracted in the state, to change the basis for imposing this tax from net proceeds to gross proceeds. The Initiative also revises the rate that must be imposed from a maximum rate of 5 percent to a minimum rate of 5 percent.

FINANCIAL IMPACT OF THE INITIATIVE

Taxation of the Proceeds from Mineral Operations Under Current Law

Article 10, Section 5 of the *Nevada Constitution* currently requires the Nevada Legislature to levy a tax upon the net proceeds of minerals at a rate not to exceed 5 percent of the net proceeds. Net proceeds are determined by calculating the gross proceeds of the mineral operation, and then deducting production-related expenses that are allowed according to the *Nevada Revised Statutes* or the *Nevada Administrative Code*. A mineral operation's tax liability is then determined by multiplying the net proceeds by the applicable tax rate.

Under current law, net proceeds of minerals are taxed at rates ranging from a minimum of 2 percent (or the rate equal to the property tax rate in the tax district where the mine is located, whichever is higher) to a maximum of 5 percent. The rate for each mineral operation will vary based on its ratio of net proceeds to gross proceeds, as specified in the *Nevada Revised Statutes*, except for geothermal operations, which are taxed at the combined property tax rate where they are located, and except for all mines with net proceeds above $4 million per calendar year, which are taxed at the maximum 5 percent rate, irrespective of the operation's ratio of net proceeds to gross proceeds.

Revenue generated from the portion of the net proceeds tax rate equivalent to the property tax rate in that tax district is distributed to counties, cities, towns, special districts, school districts, and the state in proportion to each entity's share of the combined property tax rate. The portion of the tax revenue from net proceeds attributable to the rate in excess of the combined property tax rate (up to the maximum of 5 percent) is deposited in the State General Fund.

Taxation of the Proceeds from Mineral Operations Under the Provisions of the Initiative

The provisions of the Initiative would require that the tax on minerals imposed pursuant to Article 10, Section 5 of the *Nevada Constitution* be based on gross proceeds instead of net proceeds. This change to the *Constitution* would increase the amount of proceeds to which the pertinent tax rate would apply; thus, the amount of revenue generated for the state, counties, cities, towns, school districts, and other entities who currently receive net proceeds of minerals revenue would increase.

The provisions of the Initiative would also require a minimum rate of 5 percent to be imposed on the gross proceeds of minerals, instead of the currently existing maximum rate of 5 percent. For those mining operations whose current rate is less than the maximum rate of 5 percent, these provisions would increase the tax rate on those mines to a minimum of 5 percent, which would generate additional tax revenue from these operations. However, because current law distributes all revenue above the rate equivalent to the property tax district in which the mining operation is located to the State General Fund, the increase in revenue generated from increasing the tax rate to a minimum of 5 percent would result only in increased revenue for the State General Fund. The provisions of the Initiative increasing the tax rate to a minimum of 5 percent would have no revenue effect upon local governments, including school districts (though, as discussed above, the change from net to gross proceeds would increase the amount of revenue generated for local governments).

Under the provisions of Article 19, Section 2 of the *Nevada Constitution*, the language contained within this Initiative must be approved by the voters at two separate general elections; thus, the provisions contained within this Initiative can become effective no earlier than the 2012 general election. Because the Fiscal Analysis Division cannot predict the price of minerals subject to the tax, the number of mining operations that will exist at that time, or the production levels of those operations, the amount of additional revenue that would be generated in future years for the state and local governments, including school districts, and the distribution of those additional revenues among the state and local governments entitled to receive a portion of the tax revenue, cannot be determined with any reasonable degree of certainty.

Based on information obtained from the 2008-09 Net Proceeds of Minerals Based on 2008 Calendar Year Report, as published by the Nevada Department of Taxation, total mineral operations in Nevada for calendar year 2008 (the last full year for which actual information is currently available) resulted in gross proceeds of approximately $5.7 billion. Had the provisions of the Initiative been effective during calendar year 2008, these gross proceeds would have generated approximately $284.4 million for the state and local governments at the minimum tax rate of 5 percent, compared to the $91.8 million that was generated based on the actual net proceeds of minerals and the rates required to be paid under current law for calendar year 2008. The distribution among the state, counties, cities, towns, school districts, and other local governments who currently receive net proceeds of minerals revenue would be dependent on the location of the operations that paid the tax and the property tax rates for each entity located within the district where the operation is located.

The Fiscal Analysis Division will be analyzing the actual gross and net proceeds, as reported by the Department of Taxation for calendar year 2008, by operation, mineral type, and county, to determine the actual distribution of this additional revenue among state and local governments, had the provisions of the Initiative been effective during calendar year 2008. An updated fiscal note will be submitted to the Office of the Secretary of State for placement on its website once this analysis has been completed.

If the Initiative were to become effective, the Department of Taxation would be required to incur costs related to the implementation of these provisions, including, but not limited to, changes to forms and computer programs, development of regulations, and other procedures necessary for the imposition, collection, and distribution of the minerals tax. The specific administrative costs to the Department of Taxation that are necessary to implement the provisions of the Initiative cannot be determined at this time with any reasonable degree of certainty.

Prepared by the Fiscal Analysis Division of the Legislative Counsel Bureau – April 6, 2010