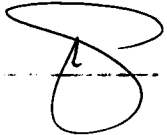


NINETEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*Third Regular Session* )

24 SEP 17 P1:07

**SENATE**  
**S. No. 2826**

RECEIVED 6/1  


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Introduced by Senator Joseph Victor G. Ejercito

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**AN ACT**  
**ENHANCING THE FISCAL REGIME FOR THE LARGE-SCALE METALLIC MINING INDUSTRY AMENDING FOR THE PURPOSE SECTIONS 34(B), 130(D), 287, AND THE SUBJECTS OF TITLE VI AND CHAPTER VII THEREOF, AND CREATING NEW SECTIONS 151-A, 151-B, 151-C, 151-D, AND 287-A, ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES**

**EXPLANATORY NOTE**

The Philippines is richly endowed with mineral resources that have the potential to propel the country's economic growth and development. However, such potential has not been realized, considering the mining sector's small contribution to the gross domestic product (GDP), as well as the general perception that mining, with all its negative externalities, does not really redound to the benefit of the nation. This bill aims to harness the full potential of the country's mineral resources by reforming how the government derives revenues from and secures the State's fair share in the development and utilization of these resources. Specifically, this bill seeks to rationalize the taxation of the large-scale metallic mining industry towards evolving a fiscal regime that is fairer, simpler, more competitive, and sustainable.

Based mainly on Republic Act No. 7942, or the "Philippine Mining Act of 1995", the existing fiscal regime governing the mining sector in the Philippines has been in place for several decades now. This current system is quite complicated, providing for differential tax treatment depending on the kind of license or agreement the mining operations are under and whether or not it is within a mineral

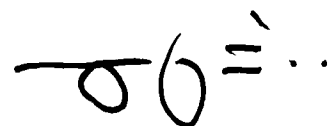
reservation or ancestral land, among others. To address this complexity and promote fairness, this bill proposes to amend the National Internal Revenue Code to provide a simplified single fiscal regime applicable to all large-scale metallic mining, which is designed to meet the objective of increasing the government's share without compromising the mining sector's need for a reasonable return on investment.

The bill seeks to:

- (1) levy royalties on all mining operations whether inside or outside mineral reservations as well as a windfall profits tax to capture extraordinary gains from high commodity prices;
- (2) consolidate the tax treatment of mining operations under a Mineral Production Sharing Agreement (MPSA) and of those under Financial and Technical Assistance Agreement (FTAA), creating a single tax structure applicable to both types of mining contracts;
- (3) introduce a provision that restricts thin capitalization by setting a maximum debt-to-equity ratio for the tax deductibility of interest expense, and ring fencing, where each mining operation of a mining contractor/operator with multiple operations will be treated as a separate taxable entity;
- (4) institutionalize a mechanism for public disclosure and scrutiny of extractive industry-related data and information to help ensure the open and accountable governance of the country's mineral resources, pursuant to international standards and best practices.

This bill represents a critical step in reforming the Philippine mining sector to ensure that our country's mineral wealth is harnessed responsibly and equitably for the benefit of present and future generations, striking a balance between increasing government revenues consistent with State ownership of mineral resources and maintaining competitiveness, attractiveness, and sustainability of the mining industry.

In light of the foregoing, the passage of this bill is earnestly sought.



**JOSEPH VICTOR G. EJERCITO**

NINETEENTH CONGRESS OF THE )  
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**AN ACT**  
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*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

1        **SECTION 1. *Title.*** – This Act shall be known as the “Enhanced Fiscal Regime  
2 for Large-Scale Metallic Mining Act”.

3        **SEC. 2. *Declaration of Policy.*** – All mineral resources within the territory  
4 and exclusive economic zone of the Republic of the Philippines are owned by the  
5 State. As the owner, the State shall exercise full control and supervision over the  
6 exploration, development, and utilization of these resources, and shall receive its fair  
7 share in the incomes therefrom.

8        In harnessing mineral resources to contribute to the country's economic growth  
9 and general welfare, the State recognizes the indispensable roles of the private

1 sector and civil society and shall encourage participation through transparency and  
2 public accountability.

3 In recognizing the indispensable role of the private sector, the State likewise  
4 encourages private enterprise and investments. Thus, the State guarantees the legal  
5 stability of agreements entered into by the government with metallic mining  
6 investors as contractors of the State, including the continued applicability of the tax  
7 regime in force at the time of the execution of these contracts for the duration of  
8 their validity.

9 **SEC. 3. *Scope of Application.*** – This Act shall apply to all large-scale  
10 metallic mining operations in the Philippines, as defined herein.

11 **SEC. 4.** Section 34(B) of the National Internal Revenue Code of 1997, as  
12 amended, is hereby further amended to read as follows:

13 "SEC. 34. *Deductions from Gross Income.* – x x x

14 (A) *Expenses.* –

15 x x x

16 (B) *Interest.* –

17 (1) *General.* – x x x

18 (2) *Exceptions.* – x x x

19 (a) x x x

20 (b) x x x;

21 (c) x x x[-]; **OR**

22 **(D) FOR METALLIC MINING CONTRACTORS OR OPERATORS,**  
23 **WHERE THE INTEREST INCURRED ON RELATED-PARTY DEBTS IS**  
24 **IN EXCESS OF THE ALLOWABLE INTEREST ON SUCH DEBTS,**

1 WHICH ALLOWABLE INTEREST IS BASED ON A QUARTERLY  
2 RELATED-PARTY DEBT-TO-EQUITY RATIO OF 2 TO 1 AT ANY  
3 TIME DURING A GIVEN TAXABLE YEAR.

4 FOR PURPOSES OF THIS SUBSECTION, THE TERM:

5 (I) *DEBT* SHALL MEAN THE GREATEST AMOUNT, AT ANY  
6 TIME DURING A TAXABLE YEAR, OF THE RELATED-PARTY DEBT  
7 OBLIGATIONS OF THE METALLIC MINING CONTRACTOR OR  
8 OPERATOR, ON WHICH INTEREST IS PAYABLE AS DETERMINED  
9 ACCORDING TO INTERNATIONAL FINANCIAL REPORTING  
10 STANDARDS;

11 (II) *EQUITY* SHALL MEAN THE GREATEST AMOUNT, AT ANY  
12 TIME DURING A TAXABLE YEAR, OF THE EQUITY OF THE  
13 METALLIC MINING CONTRACTOR OR OPERATOR, AS  
14 DETERMINED ACCORDING TO INTERNATIONAL FINANCIAL  
15 REPORTING STANDARDS, INCLUDING AN OBLIGATION TO MAKE  
16 A REPAYMENT OF MONEY IN RESPECT OF WHICH NO INTEREST  
17 IS PAYABLE;

18 (III) *METALLIC MINING CONTRACTOR* SHALL MEAN A  
19 QUALIFIED PERSON, ACTING ALONE OR IN A CONSORTIUM,  
20 WHO IS A PARTY TO ANY MINERAL AGREEMENT OR FINANCIAL  
21 OR TECHNICAL ASSISTANCE AGREEMENT ON METALLIC  
22 MINERAL PRODUCTION AS DEFINED UNDER REPUBLIC ACT NO.  
23 7942 OR THE PHILIPPINE MINING ACT OF 1995; AND

1           **(IV) METALLIC MINING OPERATOR SHALL MEAN AN ENTITY**  
2           **COMMISSIONED BY THE METALLIC MINING CONTRACTOR TO**  
3           **CONDUCT MINING OPERATIONS WITHIN THE MINERAL**  
4           **AGREEMENT OR FINANCIAL OR TECHNICAL ASSISTANCE**  
5           **AGREEMENT AREA BY VIRTUE OF THEIR VALIDLY EXECUTED**  
6           **OPERATING AGREEMENT, MEMORANDUM OF AGREEMENT, OR**  
7           **OTHER SIMILAR FORMS OF AGREEMENT, WHEREIN SUCH**  
8           **CONDUCT OF MINING OPERATIONS IS DULY APPROVED BY THE**  
9           **MINES AND GEOSCIENCES BUREAU.**

10           (3) *Optional Treatment of Interest Expense.* — x x x

11           x x x"

12           **SEC. 5.** The subjects of Title VI and Chapter VII thereof of the National  
13 Internal Revenue Code of 1997, as amended are hereby amended to read as  
14 follows:

15           **TITLE VI – EXCISE TAXES AND OTHER IMPOSITIONS ON CERTAIN GOODS**  
16                                               **AND SERVICES**

17                                               **xxx xxx xxx**

18           **CHAPTER VII – EXCISE TAX AND OTHER IMPOSITIONS ON MINERALS AND**  
19                                               **MINERAL PRODUCTS**

20           **SEC. 6.** A new section designated as Section 151-A under Chapter VII, Title VI  
21 of the National Internal Revenue Code of 1997, as amended, is hereby inserted, and  
22 shall read as follows:

23           **"SEC. 151-A. ROYALTY. –**

1       **(A) ROYALTY RATE FOR LARGE-SCALE METALLIC MINING**  
2       **OPERATIONS. – THERE SHALL BE LEVIED ON LARGE-SCALE**  
3       **METALLIC MINING OPERATIONS, WHICH IS DEFINED AS THE**  
4       **EXPLORATION, DEVELOPMENT, AND UTILIZATION OF METALLIC**  
5       **MINERALS UNDER A MINERAL AGREEMENT OR FINANCIAL OR**  
6       **TECHNICAL ASSISTANCE AGREEMENT, AS SUCH AGREEMENTS**  
7       **ARE DEFINED UNDER REPUBLIC ACT NO. 7942 OR THE**  
8       **PHILIPPINE MINING ACT OF 1995, ROYALTY BASED ON THE**  
9       **FOLLOWING RATES:**

10       **(1) OPERATIONS WITHIN MINERAL RESERVATIONS. – LARGE-**  
11       **SCALE METALLIC MINING OPERATIONS WITHIN MINERAL**  
12       **RESERVATIONS, AS DEFINED IN REPUBLIC ACT NO. 7942**  
13       **OR THE PHILIPPINE MINING ACT OF 1995, SHALL BE**  
14       **SUBJECT TO A ROYALTY OF FIVE PERCENT (5%) OF THE**  
15       **GROSS OUTPUT OF THE MINERALS OR MINERAL PRODUCTS**  
16       **EXTRACTED OR PRODUCED.**

17       **(2) OPERATIONS OUTSIDE MINERAL RESERVATIONS. – LARGE-**  
18       **SCALE METALLIC MINING OPERATIONS OUTSIDE MINERAL**  
19       **RESERVATIONS SHALL BE SUBJECT TO A MARGIN-BASED**  
20       **ROYALTY ON INCOME FROM METALLIC MINING**  
21       **OPERATIONS, BASED ON THE FOLLOWING RATES:**

MARGIN	RATE
OVER 0% BUT NOT OVER 15%	1.0%
OVER 15% BUT NOT OVER 30%	2.0%

1	<b>OVER 30% BUT NOT OVER 45%</b>	<b>3.0%</b>
2	<b>OVER 45% BUT NOT OVER 60%</b>	<b>4.0%</b>
3	<b>OVER 60%</b>	<b>5.0%</b>

4 **PROVIDED, THAT IF THE MARGIN OF LARGE-SCALE**  
5 **METALLIC MINING OPERATIONS OUTSIDE MINERAL**  
6 **RESERVATIONS IS LESS THAN OR EQUAL TO ZERO PERCENT**  
7 **(0%), A MINIMUM ROYALTY OF ONE-TENTH (1/10) OF ONE**  
8 **PERCENT (1%) OF THE GROSS OUTPUT OF THE MINERALS**  
9 **OR MINERAL PRODUCTS EXTRACTED OR PRODUCED SHALL**  
10 **BE IMPOSED.**

11 **(B) FOR PURPOSES OF THIS SECTION, THE TERM:**

12 **(1) GROSS OUTPUT SHALL MEAN THE GROSS OUTPUT AS**  
13 **DEFINED IN SECTION 151 (B)(1) OF THIS CODE;**

14 **(2) INCOME FROM METALLIC MINING OPERATIONS SHALL MEAN**  
15 **THE GROSS OUTPUT LESS DEDUCTIONS DIRECTLY**  
16 **ATTRIBUTABLE TO MINING OPERATIONS WHICH INCLUDE:**

17 **(A) MINING, MILLING, TRANSPORTING, AND HANDLING**  
18 **EXPENSES TOGETHER WITH SMELTING AND REFINING**  
19 **COSTS INCURRED;**

20 **(B) GENERAL AND ADMINISTRATIVE EXPENSES ACTUALLY**  
21 **INCURRED BY THE METALLIC MINING CONTRACTOR**  
22 **OR OPERATOR;**

23 **(C) ENVIRONMENTAL EXPENSES OF THE METALLIC MINING**  
24 **CONTRACTOR OR OPERATOR, INCLUDING SUCH**



1 EXPENSES NECESSARY TO FULLY COMPLY WITH ITS  
2 ENVIRONMENTAL OBLIGATIONS AS STIPULATED IN  
3 THE ENVIRONMENTAL PROTECTION PROVISION OF  
4 THE MINERAL AGREEMENT OR FINANCIAL OR  
5 TECHNICAL ASSISTANCE AGREEMENT AND IN THE  
6 APPLICABLE IMPLEMENTING RULES AND  
7 REGULATIONS;

8 (D) EXPENSES FOR THE DEVELOPMENT OF HOST AND  
9 NEIGHBORING COMMUNITIES AND FOR THE  
10 DEVELOPMENT OF GEOSCIENCES AND MINING  
11 TECHNOLOGY, INCLUDING TRAINING COSTS AND  
12 EXPENSES, AS STIPULATED IN THE MINERAL  
13 AGREEMENT OR FINANCIAL OR TECHNICAL  
14 ASSISTANCE AGREEMENT AND IN THE APPLICABLE  
15 IMPLEMENTING RULES AND REGULATIONS;

16 (E) LEASE AND ROYALTY PAYMENTS TO CLAIM OWNERS OR  
17 SURFACE LANDOWNERS RELATING TO THE CONTRACT  
18 AREA DURING THE OPERATING PERIOD, IF ANY;

19 (F) CONTINUING EXPLORATION AND DEVELOPMENT  
20 EXPENSES WITHIN THE CONTRACT AREA AFTER THE  
21 PRE-OPERATING PERIOD;

22 (G) INTEREST EXPENSES CHARGED ON LOANS, SUBJECT TO  
23 SECTION 34(B)(2)(D) OF THIS CODE, OR SUCH OTHER  
24 FINANCING-RELATED EXPENSES INCURRED BY THE

1 METALLIC MINING CONTRACTOR OR OPERATOR  
2 SUBJECT TO FINANCING REQUIREMENTS IN THE  
3 RELEVANT MINERAL AGREEMENT OR FINANCIAL OR  
4 TECHNICAL ASSISTANCE AGREEMENT, WHICH SHALL  
5 NOT BE MORE THAN WHAT IS APPLICABLE FOR ARM'S  
6 LENGTH TRANSACTIONS AT THE TIME THE FINANCING  
7 WAS ARRANGED, AND WHERE SUCH LOANS ARE  
8 NECESSARY FOR ITS OPERATIONS;

9 (H) DEPRECIATION, DEPLETION, AND AMORTIZATION; AND

10 (I) DUTIES, FEES, CHARGES, AND TAXES, EXCLUDING  
11 ROYALTY, AS PROVIDED IN THIS SECTION, WINDFALL  
12 PROFIT TAX, AS PROVIDED IN SECTION 151-B AND  
13 SUBJECT TO THE LIMITATIONS UNDER SECTION 34(C)  
14 OF THIS CODE.

15 (3) *MARGIN* SHALL MEAN THE RATIO OF INCOME FROM  
16 METALLIC MINING OPERATIONS TO GROSS OUTPUT.

17 (C) *QUARTERLY RETURNS, PAYMENT, BOND; FINAL*  
18 *ADJUSTMENT. –*

19 (1) FOR LOCALLY PRODUCED OR EXTRACTED METALLIC  
20 MINERAL OR MINERAL PRODUCTS FROM INSIDE AND  
21 OUTSIDE MINERAL RESERVATIONS, THE MINING  
22 CONTRACTOR OR OPERATOR SHALL FILE A RETURN AND  
23 PAY THE ROYALTY WITHIN SIXTY (60) DAYS AFTER THE  
24 END OF THE CALENDAR QUARTER WHEN SUCH PRODUCTS

1 WERE REMOVED, SUBJECT TO SUCH CONDITIONS AS MAY  
2 BE PRESCRIBED BY RULES AND REGULATIONS TO BE  
3 PROMULGATED BY THE SECRETARY OF FINANCE, UPON  
4 RECOMMENDATION OF THE COMMISSIONER. FOR THIS  
5 PURPOSE, THE MINING CONTRACTOR OR OPERATOR SHALL  
6 FILE A BOND IN AN AMOUNT THAT APPROXIMATES THE  
7 AMOUNT OF ROYALTY DUE ON THE REMOVALS FOR THE  
8 SAID QUARTER, SUBJECT TO THE FILING OF A FINAL  
9 ROYALTY ADJUSTMENT RETURN COVERING THE TOTAL  
10 ROYALTY DUE FOR THE PRECEDING CALENDAR OR FISCAL  
11 YEAR. IF THE SUM OF THE QUARTERLY ROYALTY PAYMENTS  
12 MADE DURING THE SAID TAXABLE YEAR IS NOT EQUAL TO  
13 THE TOTAL ROYALTY DUE ON THE ENTIRE YEAR, THE  
14 MINING CONTRACTOR OR OPERATOR SHALL EITHER:

15 (A) PAY THE BALANCE OF ROYALTY STILL DUE; OR

16 (B) CARRY-OVER THE EXCESS CREDIT.

17 (2) THE ROYALTY RETURN SHALL BE EITHER ELECTRONICALLY  
18 OR MANUALLY FILED WITH AND THE TAX PAID TO THE  
19 BUREAU OF INTERNAL REVENUE THROUGH ANY REVENUE  
20 DISTRICT OFFICE THROUGH THE REVENUE COLLECTION  
21 OFFICER, AUTHORIZED AGENT BANK, OR AUTHORIZED TAX  
22 SOFTWARE PROVIDER, EXCEPT AS THE COMMISSIONER  
23 OTHERWISE PERMITS."

1       **(D) NON-REFUNDABILITY AND NON-CREDITABILITY OF**  
2       **ROYALTY. – ROYALTY ON MINERAL PRODUCTS SHALL NOT BE**  
3       **CREDITABLE NOR REFUNDABLE EVEN IF THE MINERAL**  
4       **PRODUCTS ARE ACTUALLY EXPORTED.**

5       **(E) COLLECTION OF ROYALTIES FROM MINING OPERATIONS. –**  
6       **ANY PROVISION OF LAW TO THE CONTRARY**  
7       **NOTWITHSTANDING, PAYMENT OF THE ROYALTY DUE FROM**  
8       **MINING OPERATIONS UNDER THIS SECTION AND OTHER**  
9       **ROYALTIES SUBJECT TO THE SHARE ACCRUING TO THE MINES**  
10       **AND GEOSCIENCES BUREAU UNDER SECTION 5 OF REPUBLIC**  
11       **ACT NO. 7942 OR THE PHILIPPINE MINING ACT OF 1995, SHALL**  
12       **BE COLLECTED BY THE BUREAU OF INTERNAL REVENUE.**

13       **SEC. 7.** A new section designated as Section 151-B under Chapter VII, Title VI  
14 of the National Internal Revenue Code of 1997, as amended, is hereby inserted, and  
15 shall read as follows:

16       **"SEC. 151-B. WINDFALL PROFIT TAX. –**

17       **(A) WINDFALL PROFIT TAX RATES FOR LARGE-SCALE METALLIC**  
18       **MINING OPERATIONS. – METALLIC MINING OPERATIONS**  
19       **SUBJECT OF ANY MINERAL AGREEMENT OR FINANCIAL OR**  
20       **TECHNICAL ASSISTANCE AGREEMENT, AS SUCH**  
21       **AGREEMENTS ARE DEFINED UNDER REPUBLIC ACT NO. 7942**  
22       **OR THE PHILIPPINE MINING ACT OF 1995, SHALL PAY IN**  
23       **ADDITION TO THE TAXES IMPOSED UNDER THIS CODE, A**  
24       **WINDFALL PROFIT TAX ON NET INCOME FROM METALLIC**

1 MINING OPERATIONS BASED ON THE RATES IN  
2 ACCORDANCE WITH THE FOLLOWING SCHEDULE:

3 MARGIN	4 RATE
5 EQUAL TO 30% BUT NOT OVER 40%	6 1.0%
7 OVER 40% BUT NOT OVER 55%	8 3.0%
9 OVER 55% BUT NOT OVER 65%	10 5.0%
11 OVER 65% BUT NOT OVER 75%	12 7.0%
13 OVER 75%	14 10.00%

15 *PROVIDED*, THAT THIS WINDFALL PROFIT TAX SHALL NOT  
16 BE DEDUCTIBLE FROM TAXABLE INCOME AS DEFINED IN  
17 SECTION 31 OF THIS CODE: *PROVIDED, FURTHER*, THAT,  
18 FOR PURPOSES OF THIS SECTION, "*WINDFALL*" OR  
19 "*MARGIN*" MEANS THE RATIO OF "NET INCOME FROM  
20 METALLIC MINING OPERATIONS" TO GROSS OUTPUT,  
21 WHERE THE DEFINITION OF "GROSS OUTPUT" IS AS  
22 PROVIDED UNDER SECTION 151(B)(1) OF THIS CODE AND  
23 "NET INCOME FROM METALLIC MINING OPERATIONS" IS AS  
24 PROVIDED UNDER SECTION 151-A(B)(2), EXCEPT THAT  
ALLOWABLE TAX DEDUCTIONS SHALL INCLUDE CORPORATE  
INCOME TAX AND ROYALTY, UNDER SECTION 151-A:  
*PROVIDED, FINALLY*, THAT, FOR THE PURPOSE OF  
COMPUTING THE WINDFALL OR MARGIN, THE OPTIONAL  
STANDARD DEDUCTION UNDER SECTION 34(L) OF THIS  
CODE SHALL NOT BE USED.

1       **(B) ANNUAL RETURNS AND PAYMENT. – THE MINING**  
2       **CONTRACTOR OR OPERATOR SHALL FILE A WINDFALL**  
3       **PROFIT TAX RETURN AND PAY THE TAX DUE THEREON, IF**  
4       **ANY WITHIN SIXTY (60) DAYS AFTER THE END OF THE**  
5       **CALENDAR YEAR OR FISCAL YEAR, SUBJECT TO RULES AND**  
6       **REGULATIONS TO BE PROMULGATED BY THE SECRETARY OF**  
7       **FINANCE, UPON RECOMMENDATION OF THE**  
8       **COMMISSIONER.**

9       **THE WINDFALL PROFIT TAX RETURN SHALL BE EITHER**  
10       **ELECTRONICALLY OR MANUALLY FILED WITH AND THE TAX**  
11       **PAID TO THE BUREAU OF INTERNAL REVENUE THROUGH**  
12       **ANY REVENUE DISTRICT OFFICE THROUGH THE REVENUE**  
13       **COLLECTION OFFICER, AUTHORIZED AGENT BANK, OR DULY**  
14       **AUTHORIZED TAX SOFTWARE PROVIDER, EXCEPT AS THE**  
15       **COMMISSIONER OTHERWISE PERMITS.**

16       **SEC. 8.** A new section designated as Section 151-C under Chapter VII, Title VI  
17 of the National Internal Revenue Code of 1997, as amended, is hereby inserted, and  
18 shall read as follows:

19       **"SEC. 151-C. RING-FENCING OF METALLIC MINING**  
20       **OPERATIONS. – FOR PURPOSES OF REPORTING AND PAYING THE**  
21       **TAXES UNDER SECTION 151-A AND SECTION 151-B OF THIS**  
22       **CODE, A METALLIC MINING CONTRACTOR SHALL BE TREATED AS**  
23       **A SEPARATE TAXABLE ENTITY WITH RESPECT TO EACH AND**  
24       **EVERY MINERAL AGREEMENT OR FINANCIAL OR TECHNICAL**

1       **ASSISTANCE AGREEMENT IT HOLDS AND/OR OPERATES:**  
2       ***PROVIDED*, THAT WHERE A CONTRACTOR HAS A VALID AND**  
3       **EFFECTIVE OPERATING AGREEMENT, THE MINING OPERATOR**  
4       **SHALL BE CONSIDERED AS THE SEPARATE TAXABLE ENTITY FOR**  
5       **PURPOSES OF THIS SECTION: *PROVIDED FURTHER*, THAT WHERE**  
6       **THERE IS MORE THAN ONE VALID MINING OPERATOR UNDER THE**  
7       **SAME MINERAL AGREEMENT OR FINANCIAL TECHNICAL**  
8       **ASSISTANCE AGREEMENT, EACH MINING OPERATOR SHALL BE**  
9       **DEEMED A SEPARATE TAXABLE ENTITY FOR ITS RESPECTIVE**  
10       **MINING OPERATIONS UNDER THE AGREEMENT: *PROVIDED*,**  
11       ***FINALLY*, THAT WHERE A MINING OPERATOR CONDUCTS THE**  
12       **MINING OPERATIONS BY VIRTUE OF A VALID OPERATING**  
13       **AGREEMENT WITH THE MINING CONTRACTOR, IT IS**  
14       **UNDERSTOOD THAT THE MINING OPERATOR IS THE ONE LIABLE**  
15       **TO PAY THE PERTINENT TAXES IMPOSED UNDER THIS CHAPTER.**

16       **EACH METALLIC MINING CONTRACTOR OR OPERATOR AS A**  
17       **SEPARATE TAXABLE ENTITY SHALL BE RESPONSIBLE FOR**  
18       **COMPLIANCE WITH THE CORRESPONDING REPORTORIAL AND**  
19       **OTHER REQUIREMENTS OF THE APPLICABLE LAWS, RULES AND**  
20       **REGULATIONS."**

21       **SEC. 9.** A new section designated as Section 151-D under Chapter VII, Title VI  
22 of the National Internal Revenue Code of 1997, as amended, is hereby inserted, and  
23 shall read as follows:

1           **"SEC. 151-D. *MONITORING AND AUDIT OF SALES AND***  
2           ***EXPORTATION OF MINERALS, MINERAL PRODUCTS, AND RAW***  
3           ***ORES. – THE BUREAU OF INTERNAL REVENUE AND THE BUREAU***  
4           **OF CUSTOMS ARE HEREBY AUTHORIZED TO EXAMINE AND**  
5           **AUDIT, FOR TAX PURPOSES, ALL SALES AND EXPORTATION OF**  
6           **MINERALS, MINERAL PRODUCTS, AND RAW ORES. FOR THIS**  
7           **PURPOSE, THE BOOKS OF ACCOUNTS AND RECORDS OF**  
8           **METALLIC MINING CONTRACTORS AND/OR OPERATORS,**  
9           **INCLUDING ASSAY REPORTS AND THE SALES AND MARKETING**  
10          **AGREEMENTS ENTERED INTO BY THEM, SHALL BE OPEN FOR**  
11          **INSPECTION BY THE SAID BUREAUS: *PROVIDED*, THAT THE**  
12          **SAID BUREAUS SHALL BE FURNISHED BY THE MINES AND**  
13          **GEOSCIENCES BUREAU WITH A COPY OF SUCH ASSAY REPORTS**  
14          **AND SALES AND MARKETING AGREEMENTS AS WELL AS THE**  
15          **INTEGRATED ANNUAL REPORTS OF METALLIC MINING**  
16          **CONTRACTORS AND/OR OPERATORS: *PROVIDED, FURTHER,***  
17          **THAT, METALLIC MINING CONTRACTORS AND/OR OPERATORS**  
18          **SHALL COMPLY WITH DISCLOSURE AND REPORTORIAL**  
19          **REQUIREMENTS PURSUANT TO THE TRANSPARENCY**  
20          **MECHANISM TO BE INSTITUTIONALIZED UNDER SECTION 14 OF**  
21          **THIS ACT."**

22          **SEC. 10.** Section 287(A) of the National Internal Revenue Code of 1997, as  
23          amended, is hereby further amended to read as follows:



1 "SEC. 287. *Shares of Local Government Units in the Proceeds from the*  
2 *Development and Utilization of the National Wealth.* – x x x

3 (A) *Amount of Share of Local Government Units.* – Local  
4 government units shall, in addition to the internal revenue  
5 allotment, have a share of forty percent (40%) of the gross  
6 collection derived by the national government from the  
7 preceding fiscal year from excise taxes on mineral products,  
8 royalties, and such other taxes, fees or charges, including  
9 related surcharges, interests or fines, and from its share in  
10 any co-production, joint venture or production sharing  
11 agreement in the utilization and development of the national  
12 wealth within their territorial jurisdiction.

13 **FOR PURPOSES OF THIS SUBSECTION, THE SHARE OF**  
14 **EACH LOCAL GOVERNMENT UNIT SHALL BE**  
15 **RELEASED DIRECTLY TO THE PROVINCIAL, CITY,**  
16 **MUNICIPAL, OR BARANGAY TREASURER, AS THE CASE**  
17 **MAY BE, WITHIN A PERIOD OF SIX (6) MONTHS FROM**  
18 **PAYMENT, WITHOUT NEED FOR FURTHER ACTION AND**  
19 **WITHOUT BEING SUBJECT TO ANY LIEN OR**  
20 **HOLDBACK THAT MAY BE IMPOSED BY THE NATIONAL**  
21 **GOVERNMENT. THE DEPARTMENT OF FINANCE,**  
22 **DEPARTMENT OF BUDGET AND MANAGEMENT, AND**  
23 **DEPARTMENT OF THE INTERIOR AND LOCAL**  
24 **GOVERNMENT SHALL JOINTLY ISSUE THE NECESSARY**

1           **RULES AND REGULATIONS FOR A STREAMLINED**  
2           **DISBURSEMENT SCHEME TO ENSURE THE SPEEDY**  
3           **AND TIMELY RELEASE OF LOCAL GOVERNMENT**  
4           **SHARES IN THE NATIONAL WEALTH: PROVIDED, THAT THIS**  
5           **SHALL BE OVER AND ABOVE THE BUSINESS TAX THAT THE**  
6           **LOCAL GOVERNMENT MAY IMPOSE ON MINING**  
7           **CONTRACTORS, WHICH SHALL NOT EXCEED FIFTY PERCENT**  
8           **(50%) OF 1% OF THE TOTAL GROSS OUTPUT.**

9           *(B) Share of the Local Governments from Any Government*  
10           *Agency or Government-owned or -Controlled Corporation. – x x x*

11           *x x x"*

12           **SEC. 11.** A new section designated as Section 287-A under Chapter II, Title XI  
13 of the National Internal Revenue Code of 1997, as amended, is hereby inserted, and  
14 shall read as follows:

15           **"SEC. 287-A. DISPOSITION OF ROYALTY PROCEEDS FROM**  
16           **MINERAL RESERVATTONS. – A TEN PER CENTUM (10%) SHARE**  
17           **OF THE ROYALTY DERIVED FROM MINING OPERATIONS WITHIN**  
18           **MINERAL RESERVATIONS UNDER SECTION 151-A(A)(1) AND**  
19           **SECTION 151-A(D) OF THIS CODE SHALL ACCRUE TO THE MINES**  
20           **AND GEOSCIENCES BUREAU TO BE ALLOTTED FOR SPECIAL**  
21           **PROJECTS AND OTHER ADMINISTRATIVE EXPENSES RELATED TO**  
22           **THE EXPLORATION AND DEVELOPMENT OF OTHER MINERAL**  
23           **RESERVATIONS, AS PROVIDED IN SECTION 5 OF REPUBLIC ACT**  
24           **NO. 7942 OR THE PHILIPPINE MINING ACT OF 1995."**

1           **SEC. 12. *Royalty due to Indigenous Cultural Communities from***  
2           ***Mining Operations Within Ancestral Domains.*** – The royalty due to Indigenous  
3           Cultural Communities/Indigenous Peoples (ICCs/IPs) under Republic Act No. 7942 or  
4           the Philippine Mining Act of 1995 is based on the right of the ICCs/IPs to benefit from  
5           the utilization, extraction, and development of lands and natural resources within  
6           their ancestral domains, done with their free and prior informed consent, and shall  
7           be agreed upon by the parties concerned: *Provided*, that the ICC/IP shall be paid  
8           not more than two percent (2%) of the gross output of minerals produced from the  
9           ancestral domain, *Provided further*, that parties concerned shall be free to negotiate  
10          on its components, both monetary and non-financial, such as employment, social  
11          development, and environmental management of the ancestral domain.

12          **SEC. 13. *Incorporation of Fiscal Regime in Mineral Agreements.*** – The  
13          fiscal regime and revenue sharing arrangement provided in this Act shall accordingly  
14          be embodied, as appropriate, in the mineral agreements and financial or technical  
15          assistance agreements on metallic mineral production entered into by the  
16          government.

17          **SEC. 14. *Vested Rights.*** – Save for the implementation of the new Section  
18          151-A(D) of the Code, valid mineral agreements and financial or technical assistance  
19          agreements existing prior to the effectivity of this Act shall continue to be governed  
20          by their respective terms and conditions until the expiration of their periods, except  
21          if said agreements provide that terms and conditions resulting from the repeal or  
22          amendment of existing laws or regulations or from the enactment of new law or  
23          regulation shall be considered written into and part of said mineral agreements and  
24          financial or technical assistance agreements.

1           **SEC. 15. *Transparency and Accountability.*** – The Government, through  
2 the Department of Finance, and in coordination with other relevant agencies, shall  
3 institutionalize a mechanism for the public disclosure and scrutiny of all extractive  
4 industry-related data, including but not limited to tax, non-tax, and revenue data in  
5 the extractives value chain, pursuant to best practices in the open, accountable, and  
6 good governance of mineral resources: Provided, that the disclosure shall include  
7 the general information sheet and other reportorial requirements regularly submitted  
8 to the Securities and Exchange Commission.

9           Any provision of law to the contrary notwithstanding, all businesses and  
10 activities engaged in the exploration, development, and utilization of minerals and  
11 other natural resources, being vested with public interest, shall be exempt from the  
12 application of confidentiality clauses in the National Internal Revenue Code of 1997,  
13 as amended, including Section 270 in relation to Section 71, on disposition of income  
14 tax returns and publication of lists of taxpayers and filers, and in Republic Act No.  
15 11232 or the Revised Corporation Code of the Philippines, including Section 177  
16 thereof on reportorial requirements of corporations.

17           **SEC. 16. *Appropriations.*** – The amount necessary to carry out the  
18 provisions of this Act shall be included in the annual General Appropriations Act.

19           **SEC. 17. *Implementing Rules and Regulations.*** – The Department of  
20 Finance shall, upon the recommendation of the Bureau of Internal Revenue, and in  
21 consultation with the Department of Environment and Natural Resources, issue rules  
22 and regulations to implement this Act within ninety (90) days from its effectivity.  
23 Failure to promulgate the said rules and regulations shall not prevent the  
24 implementation of this Act upon its effectivity.

1           **SEC. 18. *Transitory Clause.*** – Large-scale metallic mining contractors and/or  
2 operators shall immediately be subject to the fiscal regime provided herein after one  
3 hundred and fifty (150) days from the effectivity of this Act.

4           **SEC. 19. *Separability Clause.*** – If any provision of this Act is declared  
5 invalid, the other provisions not affected thereby shall remain in full force and effect.

6           **SEC. 20. *Repealing Clause.*** – All other laws, acts, decrees, executive orders,  
7 rules, and regulations, or parts thereof which are contrary to or inconsistent with this  
8 Act are hereby repealed or modified accordingly. If the contrary or inconsistent laws,  
9 acts, decrees, executive orders, and rules and regulations cover subjects or matters  
10 besides large-scale metallic mining, they shall be repealed or modified by operation  
11 of this section only to the extent that they are applicable to large-scale metallic  
12 mining, and shall, as appropriate, continue to be effective insofar as they apply to  
13 the other matters within their coverage.

14           **SEC. 21. *Effectivity.*** – This Act shall take effect after fifteen (15) days  
15 following its complete publication in the Official Gazette or in a newspaper of general  
16 circulation.

17           *Approved,*