

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 6020



Introduced by CIBAC Party-List Representatives
Eduardo "Bro. Eddie" C. Villanueva and Domingo C. Rivera

AN ACT
PROVIDING FOR THE MAXIMIZATION OF BENEFITS FROM FINITE
MINERALS AND MINERAL PRODUCTS AND QUARRY RESOURCES
AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The Filipino people are the inherent owners of the mineral resources of the country. Unfortunately, the country's existing fiscal regime for the mineral sector does not provide for the adequate and equitable payment by mining companies for the extraction and use of these resources.

Mining companies, just like any other businesses operating in the Philippines, are required to pay taxes (including income taxes, value added tax, local government taxes, etc.). On top of these taxes, mining companies are required to pay 5% royalty taxes. The royalty serves as a unique payment for the use of mineral resources.

However, since not all mining companies are required to pay the royalty, the Filipino people are not sufficiently compensated for the mineral resources that they own and the revenues earned by mining companies are unusually disproportionate to the revenues generated by the government from these companies. For example, royalty paid to the government amounted to less than one percent of the total proceeds of the mineral industry in 2018 – the government collected at most Php1.73 Billion in royalties from the total mining gross production value of Php179.6 Billion. Considering

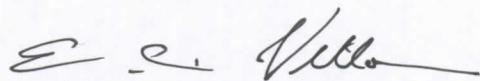
the negative social and environmental impacts of mining to the country, this small amount of taxes is barely enough to compensate the Filipino people for these finite resources.

In addition, the mining industry also falls short in terms of other contributions to the economy. For example, the mining sector is not a huge employment generator. Data from the Mines and Geosciences Bureau shows that the total employment contribution of mining in 2018 was only 207,000 or 0.46% of total employment in the country. To maximize the employment potential of the mining industry, the country should encourage the development of mining downstream industry in the Philippines. This will not only expand the employment opportunity in the said industry but also allow the country to maximize the value of our minerals at different stages of the value chain.

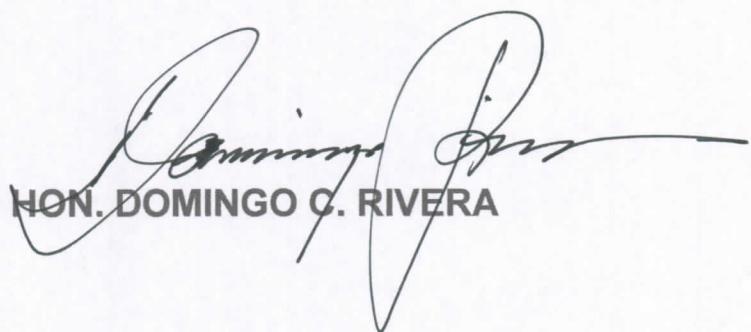
In line with the objective to increase the public benefits from mineral extraction in the country, this bill proposes the following measures:

- (a) Requirement of royalty payment from all mineral mining operations in the country;
- (b) The imposition of an export tax on raw ore from 2020 to 2022 (increasing gradually from 20% to 60%) to discourage companies from exporting unprocessed minerals, and encourage ore processing domestically;
- (c) The prohibition to export of raw ore by 2023 to further strengthen the link of mineral extraction to manufacturing in the long-run;
- (d) The establishment of the Mining Downstream Coordinating Council tasked to help govern the development of the mining downstream industry in the Philippines;
- (e) The increase in the share of local government units from 40% to 50% of the proceeds derived from the utilization and development of the national wealth. This will ensure that local governments hosting the mining operation will receive an equitable share from the extraction of resources in their respective areas; and
- (f) The creation of a Natural Resource Trust Fund using a fraction of the proceeds of mining activities, which may be used by the national and local governments to support educational programs, technological research programs of national and local relevance, and health services deemed to benefit future generations of Filipinos.

As such, the passage of this important measure is earnestly sought to enable the country to maximize of benefits from finite minerals and mineral products and quarry resources.

A handwritten signature in black ink, appearing to read "E. C. Villanueva".

HON. EDUARDO "BRO. EDDIE" C. VILLANUEVA

A large, flowing handwritten signature in black ink, appearing to read "Domingo C. Rivera".

HON. DOMINGO C. RIVERA

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AND FOR OTHER PURPOSES

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 “*Maximizing Benefits from Mineral*
2 *and Mineral Products and Quarry Resources Act.*”

4 **SECTION 2. Declaration of Principles.** –

6 a) All mineral resources within the territory and exclusive economic zones of the
7 Republic of the Philippines are owned by the State. It shall be the responsibility of
8 the State to promote their rational exploration, development, utilization and
9 conservation through the combined efforts of government and the private sector
10 in order to enhance national growth in a way that effectively safeguards the
11 environment and protect the rights of affected communities.

13 b) The state must establish a fiscal regime that ensures that present and future
14 generations of Filipinos benefit extensively from mining operations and other
15 extractive activities not just on the national level, but also on the local level. This
16 fiscal regime must also encourage the development of a downstream industry to
17 pave the way for the generation of more jobs for the Filipinos.

1 **SECTION 3. Definition of Terms. –**

- 2
- 3 a) **Arm's Length Debt Amount**, in relation to a mining contractor, means the
4 amount of debt that a bank that is not an associate of the contractor would be
5 prepared to lend to the contractor;
- 6
- 7 b) **Cash Flow Surcharge** refers to a surcharge to be imposed on the cash flows
8 of each mining area for each taxable fiscal year;
- 9
- 10 c) **Contract Area** means the land or body of water delineated under a mineral
11 agreement or a financial or technical assistance agreement (FTAA) of the
12 Contractor and properly defined by longitude and latitude;
- 13
- 14 d) **Contractor** means a Qualified Person, as defined in Department Order 2012-
15 21 of the Department of Environment and Natural Resources (DENR), acting
16 alone or in consortium who is party to a Mineral Agreement or FTAA;
- 17
- 18 e) **Debt**, in relation to a mining contractor, means the greatest amount, at any
19 time, during a taxable fiscal year, of the debt obligations of a contractor on
20 which interest is payable as defined according to international financial
21 reporting standards;
- 22
- 23 f) **Extractive Industries** refer to the mining, oil, gas and coal sectors and all other
24 sectors that require the extraction of non-renewable natural resources for
25 commercial use;
- 26
- 27 g) **Financial or Technical Assistance Agreement (FTAA)** means a contract
28 involving financial or technical assistance for large-scale exploration,
29 development and utilization of mineral resources;
- 30
- 31 h) **Gross Output** means the actual market value of minerals or mineral products
32 from each mine or mineral land operated as a separate entity, without any
33 deduction for mining, processing, refining, transporting, handling, marketing or
34 any other expenses;
- 35
- 36 i) **Mineral Agreement** means a contract between the Government and a
37 Contractor, involving Mineral Production Sharing Agreement, Co-Production
38 Agreement or Joint Venture Agreement;
- 39
- 40 j) **Mining Area** refers to a portion of the contract area identified by the Contractor
41 as defined and delineated in a Survey Plan duly approved by the
42 Director/Regional Director concerned for purposes of development and/or
43 utilization, and sites for support facilities;
- 44
- 45 k) **Minerals** refer to all naturally occurring inorganic substances in solid, liquid,
46 gas or any intermediate state excluding energy materials such as coal,
47 petroleum, natural gas, radioactive materials and geothermal energy;
- 48 l) **Mineral Products** mean materials derived from ores, minerals and/or rocks
49 and prepared into a marketable state by mineral processing;
- 50

- 1 m) **Mining Operations** means mining activities involving exploration, feasibility
2 study, development, and utilization;
 - 3
 - 4 n) **Quarry Resources** refers to any common rock or other mineral substances as
5 the Director of Mines and Geosciences Bureau may declare to be quarry
6 resources such as, but not limited to, andesite, basalt, conglomerate, coral
7 sand, diatomaceous earth, diorite, decorative stones, gabbro, granite,
8 limestone, marble, marl, red burning clays for potteries and bricks, rhyolite, rock
9 phosphate, sandstone, serpentine, shale, tuff, volcanic cinders, and volcanic
10 glass: *Provided*, That such quarry resources do not contain metals or metallic
11 constituents and/or other valuable minerals in economically workable
12 quantities: *Provided, further*, That non-metallic minerals such as kaolin,
13 feldspar, bullquartz, quartz or silica, sand and pebbles, bentonite, talc,
14 asbestos, barite, gypsum, bauxite, magnesite, dolomite, mica, precious and
15 semi-precious stones, and other non-metallic minerals that may later be
16 discovered and which the Director declares the same to be of economically
17 workable quantities, shall not be classified under the category of quarry
18 resources;
 - 19
 - 20 o) **Separate Taxable Person or Personality** refers to an independent taxable
21 entity as determined by business operations in a specific mining area;
 - 22
 - 23 p) **State** means the Republic of the Philippines;
 - 24
 - 25 q) **Taxable Fiscal Year** means an accounting period of twelve (12) months
26 depending on the accounting method of the Contractor; and
 - 27
 - 28 r) **Utilization** means the extraction, mineral processing and/or disposition of
29 minerals.

SECTION 4. Interpretation. – Nothing in this Act shall be construed as a diminution of the rights and privileges of local government units presently enjoyed under existing laws such as Republic Act No. 7160 or the Local Government Code of 1991. Further, nothing in this Act shall be construed as a diminution of the rights enjoyed by indigenous peoples under Republic Act No. 8371 of 1997 or The Indigenous Peoples Rights Act of 1997.

CHAPTER II

SCOPE AND APPLICATION

SECTION 5. Scope and Application. – This Act shall apply to new Mineral Agreements and FTAAAs covering large-scale mineral mining operations that shall be entered into after the effectivity of this Act.

46 This Act shall also cover existing Mineral Agreements and FTAsAs where such
47 agreements provide that any terms and conditions resulting from repeal or amendment
48 of any existing laws or regulation or from the enactment of a law, regulation or
49 administrative order shall be considered as part of said agreements. The renewal and

1 renegotiation of existing Mineral Agreements and FTAAAs shall also be governed by
2 this Act.

5 **CHAPTER III**

6 **TAXATION OF MINERALS, MINERAL PRODUCTS, AND QUARRY RESOURCES**

8 **SECTION 6. Separate Taxable Personality.** – Each mining operation in a mining
9 area shall be considered a separate taxable entity. If a mining contractor is party or
10 holds more than one mineral agreement, he shall be treated as a separate person in
11 respect of the business operations related to each mining area.

13 **SECTION 7. Mining Royalty.** – Mining contractors within and outside mining
14 reservation areas, whether large-scale or small-scale, shall pay to the government a
15 mineral royalty of five percent (5%), levied, assessed and collected on minerals,
16 mineral products and quarry resources, based on the market value of the gross output
17 at the time of sale, or the value used by the Bureau of Customs in determining tariff
18 and custom duties, whichever is higher.

20 **SECTION 8. Cash Flow Surcharge.** – A surcharge of ten percent (10%) shall be
21 imposed on the cash flows of each mining area for every taxable fiscal year.

23 For purposes of computing the cash flow surcharge (CFS), each mining area shall be
24 considered a separate taxable entity. The tax base of the CFS (CFS tax base) is
25 determined by adding back the depreciation and interest expense and other financing
26 charges to the regular taxable income used for the purposes of the corporate income
27 tax. In the event that CSF tax base is negative, such amount shall be carried over as
28 a deduction from the CSF tax base for the next three (3) consecutive years
29 immediately following the year of such loss.

31 **SECTION 9. Limitation on Deductions for Purposes of Computing the CFS.** –
32 When computing for the cash flow surcharge, mining companies must adhere to the
33 following guidelines:

- 35 a) A deduction for the expenses or losses incurred, wholly or partly, by a
36 contractor in undertaking mining operations in a mining area during a taxable
37 fiscal year is allowed only against the income derived by the contractor from
38 such operations in the mining area during the same taxable fiscal year;
- 40 b) If the total deductions in respect of the mining operations undertaken by the
41 contractor in a mining area during a taxable fiscal year exceed the total taxable
42 income derived from the same year, the excess may be carried forward and
43 allowed as a deduction against the taxable income of the contractor from mining
44 operations in the mining area for the next taxable fiscal year;
- 46 c) An amount that is not deducted under subsection (b) above may be carried
47 forward to the next taxable fiscal year and allowed as a deduction in accordance
48 with subsection (b) for that year and so on until the amount shall have been
49 fully deducted, or until the mining operations in the mining area shall have
50 ceased;

- 1 d) If a contractor has an excess carried forward under subsection (b) for more than
2 one fiscal year, the excess of the earliest period is allowed as a deduction first;
3
- 4 e) If a contractor has ceased mining operations in a mining area and the contractor
5 has a loss under subsection (b) in relation to the mining area, the contractor
6 may elect, by notice in writing to the Commissioner of the Bureau of Internal
7 Revenue (BIR), to treat the loss as a loss under Subsection (b) in relation to
8 another mining area operated by the contractor; *Provided*, That the latter mining
9 area falls wholly within the same contract area of the first-mentioned mining
10 area;
- 11
- 12 f) If a contractor has ceased mining operations in a mining area or if the contractor
13 has a loss under Subsection (b) in relation to the mining area and subsection
14 (e) does not apply to the Contractor, the Contractor may elect, by notice in
15 writing to the BIR Commissioner, to treat the loss as a loss under subsection
16 (b) in relation to mining operations undertaken by the contractor in another area.

18 **SECTION 10. Limitations on the Interest Expense Deductions.** – The following are
19 limitation on mining contractors for any interest expense deductions:

- 21 a) If a contractor has a debt-to-equity ratio in excess of 1.5 to 1 at any time during
22 a taxable fiscal year, a deduction of the interest paid by the contractor in the
23 portion of the debt which exceeds the 1.5 to 1 ratio for that same fiscal year
24 shall not be allowed.
- 25
- 26 b) If the debt-to-equity ratio of a contractor exceeds the 1.5 to 1 ratio for a taxable
27 fiscal year, subsection (a) above shall not apply; *Provided*, That during the said
28 fiscal year, the total amount of the debt of the contractor shall not exceed the
29 arm's length debt amount.

31 **SECTION 11. Export Tax on Raw Ore.** – Effective January 1, 2020, a twenty percent
32 (20%) export tax on the gross value of raw ore shall be imposed; *Provided*, That
33 effective January 1, 2021, a forty percent (40%) export tax on the gross value of raw
34 ore shall be imposed; *Provided further*, That effective January 1, 2022, a sixty percent
35 (60%) export tax on the gross value of raw ore shall be imposed.

37 **SECTION 12. Ban on Export of Raw Ore.** – Export of raw ore shall be prohibited
38 effective January 1, 2023.

40 **SECTION 13. Penalties.** – Any company proven to have violated Section 12 of this
41 Act shall be subject to a fine ranging from Five Million Pesos (P5,000,000.00) to Ten
42 Million Pesos (P10,000,000.00) plus five (5) times the gross value of raw ore illegally
43 exported. In addition, the responsible officers of the erring company shall be punished
44 by imprisonment of not less than one (1) year but not more than three (3) years.

46 **SECTION 14. Incentives.** – Notwithstanding anything to the contrary, all tax
47 incentives granted to mineral mining and quarry contractors shall be repealed
48 immediately upon the effectivity of this Act.

1
2 **CHAPTER IV**
3 **ALLOCATION OF PROCEEDS FROM THE DEVELOPMENT**
4 **OF THE NATIONAL WEALTH**

5 **SECTION 15. Share of Local Government Units.** – The local government unit
6 hosting the mining area shall have an equitable share in the proceeds derived from
7 the utilization and development of the national wealth, including sharing the same with
8 its inhabitants by way of direct benefits.
9

10 A local government unit shall, in addition to the internal revenue allotment, have a
11 share of fifty percent (50%) of the gross collection derived by the national government
12 from the preceding fiscal year from excise taxes, royalties and such other taxes, fees
13 or charges, including related surcharges, interests or fines, and from its share in any
14 co-production, joint venture or production sharing agreement in the utilization and
15 development of the national wealth within their territorial jurisdiction. The fifty percent
16 (50%) share shall be distributed among LGUs in accordance with the provisions of the
17 Local Government Code of 1991 and its implementing rules and regulations; *Provided*,
18 That in the event that the operation is hosted by several local government units, the
19 share shall be divided equitably among the host local government units based on the
20 amount of ore extracted from the local government unit.
21

22 The BIR shall have the authority to inspect mining sites and monitor the amount of
23 mineral resources extracted by companies. The BIR, the Mines and Geosciences
24 Bureau (MGB) and the Philippine Port Authority (PPA) shall coordinate among
25 themselves and reconcile the figures on the amount and value of minerals that were
26 actually extracted and exported by companies which were reported to them. The
27 reconciled figure shall be the basis for taxation and allocation of share among units of
28 government.
29

30 With respect to payment of business tax, eighty percent (80%) of the gross
31 sales/receipts of the business shall be taxable by the city or municipality hosting the
32 mining operation, while the remaining twenty percent (20%) of the gross sales/receipts
33 of the business shall be taxable by the local government unit where the main office of
34 the business is located. If the mining operation is hosted by several local government
35 units, the tax due on the eighty percent (80%) of the gross sales/receipts of the
36 business shall be shared equally by the said LGUs.
37

38 **SECTION 16. Natural Resource Trust Fund.** – The national government shall create
39 a National Natural Resource Trust Fund where all the proceeds from mining activities,
40 excluding shares of local government units, shall accrue. Local government units shall
41 also create a Local Natural Resource Trust Fund where shares from national
42 government and locally collected taxes from mining and quarrying shall accrue.
43

44 The National Trust Fund shall be governed by a multi-stakeholder oversight body
45 composed of representatives from the government, civil society, and the business
46 sector. The oversight body shall conduct regular monitoring and annual audit of the
47 utilization performance of the National Trust Fund and advise the concerned
48 government agencies on fund operations and compliance with the fund's mandate. It
49 shall be independent, and shall have access to all relevant public information
50 necessary to perform its mandates.

1
2 The Local Trust Funds shall be governed in accordance with the resolution passed by
3 the local sanggunian concerned provided that transparency and accountability
4 mechanisms are put in place, which shall include the oversight of a local multi-
5 stakeholder oversight body composed of representatives from the LGU, civil society,
6 indigenous community (if applicable), and the business sector.

8 The local oversight body shall conduct regular monitoring and annual audit of the
9 utilization of the Local Trust Fund and the performance of the projects, activities and
10 programs funded by the Local Trust Fund. The body shall also advise the concerned
11 LGU on fund operations and compliance with the fund's mandate. It, shall be
12 independent, and shall have access to all relevant public information as may be
13 necessary for the efficient and effective performance of its functions.

14
15 The governing bodies may invest up to sixty percent (60%) of the money in the trust
16 and shall not be required to return the balance of the trust to the national government
17 at the end of every fiscal year

18
19 The funds which are not otherwise invested may be used by the national and local
20 governments to support educational programs, technological research programs of
21 national and local relevance, and health services deemed to benefit future generations
22 of Filipinos.

24 The funds shall adhere to the accounting and auditing rules of the Commission on
25 Audit, and shall be regularly audited by COA. The governing bodies of the funds shall
26 also adhere to the reporting requirements of the Philippine Extractive Industries and
27 Transparency Initiative.

CHAPTER V DOWNSTREAM INDUSTRY

SECTION 17. Mining Downstream Coordinating Council. – There is hereby created the Mining Downstream Coordinating Council (MDCC). The DENR, in coordination with Department of Trade and Industry (DTI), Department of Science and Technology (DOST), National Economic Development Authority (NEDA), the mining industry and civil society, shall submit, within a period of six (6) months, a fifteen-year (15) strategic mining downstream development program and road-map based on the Philippine Development Plan and National Industrialization Plan for the development of downstream mining industries and creation of jobs for strategic metallic and nonmetallic minerals subject to review every five (5) years.

SECTION 18. Composition of MDCC. – The MDCC shall be co-chaired by the Secretaries of DENR and DTI and shall have the following additional members: a representative from the mining industry, a representative from civil society organizations and the Chairperson of the Board of Investments.

48 SECTION 19. Powers and Functions. – The MDCC shall have the following powers
49 and functions:

- (a) Submit a work plan within sixty (60) days from the effectivity of this Act for the development of the mining downstream industry;
 - (b) Conduct and facilitate the necessary capacity and institutional building programs for all concerned government agencies and instrumentalities and stakeholders;
 - (c) Request the assistance of any government agency or instrumentality, including government-owned and controlled corporations and LGUs, in the implementation of the mining downstream development program and road-map;
 - (d) Conduct quarterly meetings among members of the council;
 - (e) Submit quarterly progress reports to the President on the status of the implementation of the mining downstream development program and road-map; and
 - (f) Perform such other functions and acts as may be necessary, proper or incidental to the attainment of its mandates and objectives, or as may be directed by the Chairpersons.

CHAPTER VI

TRANSITORY AND MISCELLANEOUS PROVISIONS

SECTION 20. Implementing Rules and Regulation. – The Secretaries of Environment and Natural Resources, Interior and Local Government, Finance, and Budget, in consultation with relevant stakeholders, shall promulgate the necessary rules and regulations for the effective implementation of this Act within sixty (60) days from the effectivity of this Act.

SECTION 21. Separability Clause. – If any provision of this Act is declared unconstitutional or invalid, other parts or provisions hereof not affected thereby shall continue to be in full force and effect.

SECTION 22. Repealing Clause. – All laws, decrees, executive orders, rules and regulations or parts thereof which are contrary to or inconsistent with this Act are hereby repealed, amended or modified accordingly; *Provided*, That nothing in this Act shall be construed as a diminution of local autonomy or in derogation of ancestral domain rights under the Indigenous Peoples' Right Act of 1997.

43 SECTION 23. Effectivity. – This Act shall take effect fifteen (15) days after its
44 publication in this Official Gazette or in any two newspapers of general circulation.

47 Approved,