

Amendment No. 927

Senate Amendment to Senate Bill No. 493 Second Reprint (BDR 32-1152)

Proposed by: Senate Committee on Revenue

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 493 (§ 12.5).

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) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

SJC/BJE



Date: 6/5/2011

S.B. No. 493—Creates the Mining Oversight and Accountability Commission and revises the provisions governing the calculation of the net proceeds of mines. (BDR 32-1152)



## SENATE BILL NO. 493—COMMITTEE ON REVENUE

MARCH 28, 2011

Referred to Committee on Revenue

SUMMARY—Creates the Mining Oversight and Accountability Commission and revises the provisions governing ~~the calculation of the net proceeds of mines;~~ certain mining taxes and fees. (BDR 32-1152)

FISCAL NOTE: Effect on Local Government: No.  
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 mining; creating the Mining Oversight and Accountability Commission and establishing its membership, powers and duties; revising provisions governing the calculation of net proceeds from certain mining operations conducted in this State; repealing a fee imposed on certain filings regarding mining claims; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law does not provide for a single administrative body to oversee the activities of the various state agencies that have responsibility for the taxation, operation, safety and environmental regulation of mines and mining in this State. **Section 5** of this bill creates the Mining Oversight and Accountability Commission ~~Two members of the Commission are~~ consisting of seven members appointed by the Governor. ~~The~~ Two of the members must be recommended by the Majority Leader of the Senate and two by the Speaker of the Assembly ~~each appoint two additional members.~~ In the first biennium, ~~the seventh member is appointed~~ one member must be recommended by the Minority Leader of the Senate. In the next biennium, ~~the seventh member is appointed~~ one member must be recommended by the Minority Leader of the Assembly. The ~~appointment continues to alternate~~ authority of the Minority Leader of the Senate and the Minority Leader of the Assembly to make those recommendations alternates each biennium thereafter. **Section 7** of this bill requires the Commission to provide oversight of compliance with Nevada law relating to the activities of each state agency ~~for political subdivision~~ with respect to the taxation, operation, safety and environmental regulation of mines and mining in this State. **Section 7** also identifies particular state entities that are subject to the supervision of the Commission with respect to their activities related to mines and mining: (1) the Nevada Tax Commission and the Department of Taxation in the taxation of the net proceeds of minerals; (2) the Division of Industrial Relations of the Department of Business and Industry concerning the safe and healthful working conditions at mines; (3) the Commission on Mineral Resources and the Division of Minerals of the Commission; (4) the Bureau of Mines and Geology of the State of Nevada; and (5) the Division of Environmental Protection of the State Department of Conservation and Natural Resources in its activities concerning the reclamation of land used in mining. **Sections 8 and 13-16** of this bill establish certain reports and other information that those entities are required to provide to the Commission. **Section**

11 of this bill authorizes the Commission to request the Legislative Commission to direct the Legislative Auditor to provide for a special audit or investigation of the activities of any state agency, board, bureau, commission or political subdivision in connection with the taxation, operation, safety and environmental regulation of mines and mining in this State. **Section 12** of this bill provides that certain regulations of the Nevada Tax Commission, Administrator of the Division of Industrial Relations, Commission on Mineral Resources and the State Environmental Commission concerning mines and mining are not effective unless they are ~~approved~~ reviewed by the Mining Oversight and Accountability Commission. ~~Section 12.5~~ before being approved by the Legislative Commission. Sections 12.5 and 12.7 of this bill ~~revises~~ revise provisions governing the calculation of net proceeds from certain mining operations conducted in this State.

During the 26th Special Session in 2010, the Legislature enacted a law imposing a fee on the filing of an affidavit of the work performed on or improvements made to a mining claim or an affidavit of the intent to hold a mining claim, if the person who holds the mining claim holds 11 or more mining claims in this State. (NRS 517.187) Section 16.3 of this bill repeals that law. Section 16.7 of this bill allows any person who paid that fee to receive a credit of the amount paid against any liability of the person for the state modified business tax or, if that is not practical, a refund of the amount paid.

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

**Section 1.** Chapter 362 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12 inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Chair” means the Chair of the Commission.*

**Sec. 4.** *“Commission” means the Mining Oversight and Accountability Commission created by section 5 of this act.*

**Sec. 5.** *1. There is hereby created the Mining Oversight and Accountability Commission consisting of seven members appointed as follows:*

*(a) Two members appointed by the Governor;*

*(b) Two members appointed by the Governor from a list of persons recommended by the Majority Leader of the Senate;*

*(c) Two members appointed by the Governor from a list of persons recommended by the Speaker of the Assembly; and*

*(d) One member appointed by the Governor from a list of persons recommended by the Minority Leader of the Senate or the Minority Leader of the Assembly. The Minority Leader of the Senate shall recommend persons for appointment for the initial term, the Minority Leader of the Assembly shall recommend persons for appointment for the next succeeding term, and thereafter, the authority to recommend persons for appointment must alternate each biennium between the Houses of the Legislature.*

*2. The Governor, Majority Leader of the Senate, Speaker of the Assembly, Minority Leader of the Senate and Minority Leader of the Assembly shall confer before ~~making~~ the Governor makes an appointment to ensure that:*

*(a) Not more than two of the members are appointed from any one county in this State; and*

*(b) Not more than two of the members have a direct or indirect financial interest in the mining industry or are related by blood or marriage to a person who has such an interest.*

*3. Each member of the Commission serves for a term of 2 years.*

1       4. A vacancy on the Commission must be filled by the ~~appointing~~  
2       ~~authority~~ Governor in the same manner as the original appointment.

3       Sec. 6. 1. The Commission shall elect one of its members as Chair and  
4       another as Vice Chair, who shall serve for a term of 1 year or until their  
5       successors are elected and qualified.

6       2. The Commission shall meet at least once each calendar quarter and may  
7       meet at other times on the call of the Chair or a majority of its members.

8       3. A majority of the members of the Commission constitutes a quorum for  
9       the transaction of business, and a majority of those members present at any  
10      meeting is sufficient for any official action taken by the Commission.

11      4. While engaged in the business of the Commission, each member of the  
12      Commission is entitled to receive the per diem allowance and travel expenses  
13      provided for state officers and employees generally.

14      5. The Executive Director of the Department shall assign employees of the  
15      Department to provide such technical, clerical and operational assistance to the  
16      Commission as the functions and operations of the Commission may require.

17      Sec. 7. Notwithstanding any other provision of law, the Commission shall  
18      provide oversight of compliance with Nevada law relating to the activities of each  
19      state agency, board, bureau, commission, department ~~or~~ ~~or~~ division ~~for political~~  
20      ~~subdivision~~ with respect to the taxation, operation, safety and environmental  
21      regulation of mines and mining in this State, including, without limitation, the  
22      activities of:

23      1. The Nevada Tax Commission and the Department of Taxation in the  
24      taxation of the net proceeds of minerals pursuant to this chapter and Section 5 of  
25      Article 10 of the Nevada Constitution.

26      2. The Division of Industrial Relations of the Department of Business and  
27      Industry in administering the provisions of chapter 512 of NRS concerning the  
28      safe and healthful working conditions at mines.

29      3. The Commission on Mineral Resources and the Division of Minerals of  
30      the Commission in the administration of the provisions of chapters 513 and 522  
31      of NRS concerning the conduct of mining operations and operations for the  
32      production of oil, gas and geothermal energy in the State.

33      4. The Bureau of Mines and Geology of the State of Nevada in the Public  
34      Service Division of the Nevada System of Higher Education in its administration  
35      of the provisions of chapter 514 of NRS.

36      5. The Division of Environmental Protection of the State Department of  
37      Conservation and Natural Resources in its administration of the provisions of  
38      chapter 519A of NRS concerning the reclamation of mined land, areas of  
39      exploration and former areas of mining or exploration.

40      Sec. 8. In addition to any other information requested by the Commission  
41      pursuant to section 9 of this act:

42      1. The Administrator of the Division of Industrial Relations of the  
43      Department of Business and Industry shall submit to the Commission at its first  
44      regular meeting in each calendar year the report that is required pursuant to  
45      NRS 512.140 concerning the functions of the Administrator under chapter 512 of  
46      NRS concerning the creation and maintenance of safe and healthful working  
47      conditions at mines in this State during the immediately preceding calendar year.

48      2. The Department of Taxation shall submit to the Commission at the  
49      second regular meeting of the Commission in each calendar year:

50      (a) An audit program identifying each mining operator or other person who  
51      is required to file a statement concerning the extraction of minerals in this State  
52      pursuant to NRS 362.100 to 362.240, inclusive, that the Department intends to  
53      audit during the immediately following calendar year;

1       (b) A report of the results of each audit of a mining operator or other person  
2       completed by the Department during the immediately preceding calendar year;  
3       and

4       (c) A report of the status of each audit of a mining operator or other person  
5       that is in process at the time of the report.

6       3. The Division of Environmental Protection of the State Department of  
7       Conservation and Natural Resources shall submit to the Commission at its third  
8       regular meeting in each calendar year a report concerning the Division's  
9       activities concerning the reclamation of mined lands, areas of exploration and  
10      former areas of mining or exploration during the immediately preceding calendar  
11      year, including, without limitation, an accounting of the amounts of fees  
12      collected for permits issued by the Division and any fines imposed by the  
13      Division.

14      Sec. 9. 1. In conducting the investigations and hearings of the  
15      Commission:

16      (a) The Chair or any member designated by the Chair may administer oaths.

17      (b) The Chair may cause the deposition of witnesses, residing either within  
18      or outside of the State, to be taken in the manner prescribed by rule of court for  
19      taking depositions in civil actions in the district courts.

20      (c) The Chair may issue subpoenas to compel the attendance of witnesses  
21      and the production of books and papers.

22      2. If any witness refuses to attend or testify or produce any books and  
23      papers as required by the subpoena, the Chair may report to the district court by  
24      petition, setting forth that:

25      (a) Due notice has been given of the time and place of attendance of the  
26      witness or the production of the books and papers;

27      (b) The witness has been subpoenaed by the Commission pursuant to this  
28      section; and

29      (c) The witness has failed or refused to attend or produce the books and  
30      papers required by the subpoena before the Commission which is named in the  
31      subpoena, or has refused to answer questions propounded to the witness,

32      ↳ and asking for an order of the court compelling the witness to attend and  
33      testify or produce the books and papers before the Commission.

34      3. Upon such a petition, the court shall enter an order directing the witness  
35      to appear before the court at a time and place to be fixed by the court in its order,  
36      the time to be not more than 10 days after the date of the order, and to show  
37      cause why the witness has not attended or testified or produced the books or  
38      papers before the Commission. A certified copy of the order must be served upon  
39      the witness.

40      4. If it appears to the court that the subpoena was regularly issued by the  
41      Commission, the court shall enter an order that the witness appear before the  
42      Commission at the time and place fixed in the order and testify or produce the  
43      required books or papers. Failure to obey the order constitutes contempt of court.

44      Sec. 10. 1. Each witness who appears before the Commission by its order,  
45      except a state officer or employee, is entitled to receive for such attendance the  
46      fees and mileage provided for witnesses in civil cases in the courts of record of  
47      this State.

48      2. The fees and mileage must be audited and paid upon the presentation of  
49      proper claims sworn to by the witness and approved by the Chair of the  
50      Commission.

51      Sec. 11. 1. The Commission may submit a request to the Legislative  
52      Commission that the Legislative Auditor be directed to undertake, or to contract  
53      with a qualified accounting firm to undertake, a special audit or investigation of

1 the activities of any state agency, board, bureau, commission or political  
2 subdivision in connection with the taxation, operation, safety and environmental  
3 regulation of mines and mining in this State.

4 2. The request submitted pursuant to subsection 1 must be accompanied by  
5 an explanation of the circumstances that give rise to the request.

6 Sec. 12. A permanent regulation adopted by the:

7 1. Nevada Tax Commission, pursuant to NRS 360.090, concerning any  
8 taxation related to the extraction of any mineral in this State, including, without  
9 limitation, the taxation of the net proceeds pursuant to this chapter and Section 5  
10 of Article 10 of the Nevada Constitution;

11 2. Administrator of the Division of Industrial Relations of the Department  
12 of Business and Industry for mine health and safety pursuant to NRS 512.131;

13 3. Commission on Mineral Resources pursuant to 513.063, 513.094 or  
14 519A.290; and

15 4. State Environmental Commission pursuant to NRS 519A.160,  
16 is not effective unless it is ~~approved~~ reviewed by the Mining Oversight and  
17 Accountability Commission ~~and~~ before it is approved pursuant to chapter 233B of  
18 NRS by the Legislative Commission or the Subcommittee to Review Regulations  
19 appointed pursuant to subsection 6 of NRS 233B.067. After conducting its review  
20 of the regulation, the Mining Oversight and Accountability Commission shall  
21 provide a report of its findings and recommendations regarding the regulation to  
22 the Legislative Counsel for submission to the Legislative Commission or the  
23 Subcommittee to Review Regulations, as appropriate.

24 Sec. 12.5. NRS 362.120 is hereby amended to read as follows:

25 362.120 1. The Department shall, from the statement filed pursuant to NRS  
26 362.110 and from all obtainable data, evidence and reports, compute in dollars and  
27 cents the gross yield and net proceeds of the calendar year immediately preceding  
28 the year in which the statement is filed.

29 2. The gross yield must include the value of any mineral extracted which was:

- 30 (a) Sold;  
31 (b) Exchanged for any thing or service;  
32 (c) Removed from the State in a form ready for use or sale; or  
33 (d) Used in a manufacturing process or in providing a service,

34 is during that period.

35 3. The net proceeds are ascertained and determined by subtracting from the  
36 gross yield the following deductions for costs incurred during that period, and none  
37 other:

38 (a) The actual cost of extracting the mineral ~~and~~, which is limited to direct costs  
39 for activities performed in the State of Nevada.

40 (b) The actual cost of transporting the mineral to the place or places of  
41 reduction, refining and sale.

42 (c) The actual cost of reduction, refining and sale.

43 (d) The actual cost of ~~marketing and~~ delivering the mineral . ~~and the~~  
44 ~~conversion of the mineral into money.~~

45 (e) The actual cost of maintenance and repairs of:

46 (1) All machinery, equipment, apparatus and facilities used in the mine.

47 (2) All milling, refining, smelting and reduction works, plants and  
48 facilities.

49 (3) All facilities and equipment for transportation except those that are  
50 under the jurisdiction of the Public Utilities Commission of Nevada or the Nevada  
51 Transportation Authority.

52 (f) ~~The actual cost of fire insurance on the machinery, equipment, apparatus,~~  
53 ~~works, plants and facilities mentioned in paragraph (e).~~

~~(e)}~~ Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants and facilities mentioned in paragraph (e). The annual depreciation charge consists of amortization of the original cost in a manner prescribed by regulation of the Nevada Tax Commission ~~and approved by the Mining Oversight and Accountability Commission created by section 5 of this act.~~ The probable life of the property represented by the original cost must be considered in computing the depreciation charge.

~~(h) All money expended for premiums for industrial insurance, and the actual cost of hospital and medical attention and accident benefits and group insurance for all employees.~~

~~(i)}~~ (g) All money paid as contributions or payments under the unemployment compensation law of the State of Nevada, as contained in chapter 612 of NRS, all money paid as contributions under the Social Security Act of the Federal Government, and all money paid to either the State of Nevada or the Federal Government under any amendment to either or both of the statutes mentioned in this paragraph.

~~(j)}~~ (h) *The costs of employee travel which occurs within the State of Nevada and which is directly related to mining operations within the State of Nevada.*

(i) *The costs of Nevada-based corporate services relating to paragraphs (e) to (h), inclusive.*

(j) The actual cost of developmental work in or about the mine or upon a group of mines when operated as a unit ~~and~~

~~(k)}~~ , *which is limited to work that is necessary to the operation of the mine or group of mines.*

(k) *The costs of reclamation work in the years the reclamation work occurred, including, without limitation, costs associated with the remediation of a site.*

(l) All money paid as royalties by a lessee or sublessee of a mine or well, or by both, in determining the net proceeds of the lessee or sublessee, or both.

4. Royalties deducted by a lessee or sublessee constitute part of the net proceeds of the minerals extracted, upon which a tax must be levied against the person to whom the royalty has been paid.

5. Every person acquiring property in the State of Nevada to engage in the extraction of minerals and who incurs any of the expenses mentioned in subsection 3 shall report those expenses and the recipient of any royalty to the Department on forms provided by the Department. *The Department shall report annually to the Mining Oversight and Accountability Commission the expenses and deductions of each mining operation in the State of Nevada.*

6. The several deductions mentioned in subsection 3 do not include any expenditures for salaries, or any portion of salaries, of any person not actually engaged in:

(a) The working of the mine;

(b) The operating of the mill, smelter or reduction works;

(c) The operating of the facilities or equipment for transportation;

(d) Superintending the management of any of those operations; ~~and~~

(e) The State of Nevada, in office, clerical or engineering work necessary or proper in connection with any of those operations ~~and~~; *or*

(f) *Nevada-based corporate services.*

7. *The following expenses are specifically excluded from any deductions from the gross yield:*

(a) *The costs of employee housing.*



*(b) Except as otherwise provided in paragraph (h) of subsection 3, the costs of employee travel.*

*(c) The costs of severing the employment of any employees.*

*(d) Any dues paid to a third-party organization or trade association to promote or advertise a product.*

*(e) Expenses relating to governmental relations or to compensate a natural person or entity to influence legislative decisions.*

*(f) The costs of mineral exploration.*

*(g) Any federal, state or local taxes.*

8. As used in this section, “Nevada-based corporate services” means corporate services which are performed in the State of Nevada from an office located in this State and which directly support mining operations in this State, including, without limitation, accounting functions relating to mining operations at a mine site in this State such as payroll, accounts payable, production reporting, cost reporting, state and local tax reporting and recordkeeping concerning property.

**Sec. 12.7. NRS 362.120 is hereby amended to read as follows:**

362.120 1. The Department shall, from the statement filed pursuant to NRS 362.110 and from all obtainable data, evidence and reports, compute in dollars and cents the gross yield and net proceeds of the calendar year immediately preceding the year in which the statement is filed.

2. The gross yield must include the value of any mineral extracted which was:

(a) Sold;

(b) Exchanged for any thing or service;

(c) Removed from the State in a form ready for use or sale; or

(d) Used in a manufacturing process or in providing a service,

↳ during that period.

3. The net proceeds are ascertained and determined by subtracting from the gross yield the following deductions for costs incurred during that period, and none other:

(a) The actual cost of extracting the mineral, which is limited to direct costs for activities performed in the State of Nevada.

(b) The actual cost of transporting the mineral to the place or places of reduction, refining and sale.

(c) The actual cost of reduction, refining and sale.

(d) The actual cost of delivering the mineral.

(e) The actual cost of maintenance and repairs of:

(1) All machinery, equipment, apparatus and facilities used in the mine.

(2) All milling, refining, smelting and reduction works, plants and facilities.

(3) All facilities and equipment for transportation except those that are under the jurisdiction of the Public Utilities Commission of Nevada or the Nevada Transportation Authority.

(f) Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants and facilities mentioned in paragraph (e). The annual depreciation charge consists of amortization of the original cost in a manner prescribed by regulation of the Nevada Tax Commission and approved by the Mining Oversight and Accountability Commission created by section 5 of this act. The probable life of the property represented by the original cost must be considered in computing the depreciation charge.

(g) All money expended for premiums for industrial insurance, and the actual cost of hospital and medical attention and accident benefits and group



*insurance for employees actually engaged in mining operations within the State of Nevada.*

~~(h)~~ (h) All money paid as contributions or payments under the unemployment compensation law of the State of Nevada, as contained in chapter 612 of NRS, all money paid as contributions under the Social Security Act of the Federal Government, and all money paid to either the State of Nevada or the Federal Government under any amendment to either or both of the statutes mentioned in this paragraph.

~~(i)~~ (i) The costs of employee travel which occurs within the State of Nevada and which is directly related to mining operations within the State of Nevada.

~~(j)~~ (j) The costs of Nevada-based corporate services relating to paragraphs (e) to ~~(i)~~ (i), inclusive.

~~(k)~~ (k) The actual cost of developmental work in or about the mine or upon a group of mines when operated as a unit, which is limited to work that is necessary to the operation of the mine or group of mines.

~~(l)~~ (l) The costs of reclamation work in the years the reclamation work occurred, including, without limitation, costs associated with the remediation of a site.

~~(m)~~ (m) All money paid as royalties by a lessee or sublessee of a mine or well, or by both, in determining the net proceeds of the lessee or sublessee, or both.

4. Royalties deducted by a lessee or sublessee constitute part of the net proceeds of the minerals extracted, upon which a tax must be levied against the person to whom the royalty has been paid.

5. Every person acquiring property in the State of Nevada to engage in the extraction of minerals and who incurs any of the expenses mentioned in subsection 3 shall report those expenses and the recipient of any royalty to the Department on forms provided by the Department. The Department shall report annually to the Mining Oversight and Accountability Commission the expenses and deductions of each mining operation in the State of Nevada.

6. The several deductions mentioned in subsection 3 do not include any expenditures for salaries, or any portion of salaries, of any person not actually engaged in:

- (a) The working of the mine;
- (b) The operating of the mill, smelter or reduction works;
- (c) The operating of the facilities or equipment for transportation;
- (d) Superintending the management of any of those operations;
- (e) The State of Nevada, in office, clerical or engineering work necessary or proper in connection with any of those operations; or
- (f) Nevada-based corporate services.

7. The following expenses are specifically excluded from any deductions from the gross yield:

- (a) The costs of employee housing.
- (b) Except as otherwise provided in paragraph ~~(i)~~ (i) of subsection 3, the costs of employee travel.
- (c) The costs of severing the employment of any employees.
- (d) Any dues paid to a third-party organization or trade association to promote or advertise a product.
- (e) Expenses relating to governmental relations or to compensate a natural person or entity to influence legislative decisions.
- (f) The costs of mineral exploration.
- (g) Any federal, state or local taxes.

8. As used in this section, "Nevada-based corporate services" means corporate services which are performed in the State of Nevada from an office

located in this State and which directly support mining operations in this State, including, without limitation, accounting functions relating to mining operations at a mine site in this State such as payroll, accounts payable, production reporting, cost reporting, state and local tax reporting and recordkeeping concerning property.

**Sec. 13.** NRS 512.140 is hereby amended to read as follows:

512.140 The Administrator shall submit annually to the Governor, *and to the Mining Oversight and Accountability Commission created by section 5 of this act*, as soon as practicable after the beginning of each calendar year, a full report of the administration of the Administrator's functions under this chapter during the preceding calendar year. The report must include, either in summary or detailed form, the information obtained by the Administrator under this chapter together with such findings and comments thereon and such recommendations as the Administrator may deem proper.

**Sec. 14.** NRS 513.063 is hereby amended to read as follows:

513.063 The Commission shall:

1. Keep itself informed of and interested in the entire field of legislation and administration charged to the Division.

2. Report to the Governor, *the Mining Oversight and Accountability Commission created by section 5 of this act* and the Legislature on all matters which it may deem pertinent to the Division, and concerning any specific matters previously requested by the Governor ~~or~~ *or the Mining Oversight and Accountability Commission.*

3. Advise and make recommendations to the Governor, *the Mining Oversight and Accountability Commission* and the Legislature concerning the policy of this State relating to minerals.

4. Formulate the administrative policies of the Division.

5. Adopt regulations necessary for carrying out the duties of the Commission and the Division.

**Sec. 15.** NRS 513.093 is hereby amended to read as follows:

513.093 The Administrator:

1. Shall coordinate the activities of the Division.

2. Shall report to the Commission upon all matters pertaining to the administration of the Division.

3. *Shall attend each regular meeting of the Mining Oversight and Accountability Commission created by section 5 of this act and each special meeting if requested by the Chair of that Commission and:*

*(a) Report to the Mining Oversight and Accountability Commission on the activities of the Division undertaken since the Division's previous report, including, without limitation, an accounting of any fees or fines imposed or collected;*

*(b) The current condition of mining and of exploration for and production of oil, gas and geothermal energy in the State; and*

*(c) Provide any technical information required by the Mining Oversight and Accountability Commission during the course of the meeting.*

4. Shall submit a biennial report to the Governor and the Legislature through the Commission concerning the work of the Division, with recommendations that the Administrator may deem necessary. The report must set forth the facts relating to the condition of mining and of exploration for and production of oil and gas in the State.

**Sec. 16.** Chapter 514 of NRS is hereby amended by adding thereto a new section to read as follows:

*The Director of the Bureau of Mines and Geology shall attend each regular meeting of the Mining Oversight and Accountability Commission created by*

section 5 of this act and each special meeting if requested by the Chair of the Commission and:

1. Report to the Commission on the activities of the Bureau of Mines and Geology undertaken by the Bureau since its previous report, including, without limitation, the current condition of mining and of exploration for and production of oil and gas in the State; and

2. Provide any technical information required by the Commission during the course of the meeting.

Sec. 16.3. NRS 517.187 is hereby repealed.

Sec. 16.7. 1. Any person who paid any fee, interest or penalty imposed pursuant to NRS 517.187 may, on or before June 30, 2013, apply to the Department of Taxation pursuant to this section for a credit or refund of the total amount paid by the person pursuant to NRS 517.187.

2. Upon the receipt of an application pursuant to subsection 1 and proof to the satisfaction of the Department of Taxation of the total amount paid by the applicant pursuant to NRS 517.187, the Department shall:

(a) Except as otherwise provided in paragraph (b), allow the applicant a credit of the total amount paid by the person pursuant to NRS 517.187 against any liability of the person for the tax imposed pursuant to NRS 363B.110, and carry any unused portion of the credit forward until the credit is exhausted; or

(b) If the Department determines that it is impractical to provide a full credit to the applicant pursuant to paragraph (a), cause to be refunded to the applicant the total amount paid by the applicant pursuant to NRS 517.187.

3. A person who paid any fee, interest or penalty imposed pursuant to NRS 517.187 is not entitled to receive any penalty or interest on the amount paid.

4. The failure of any person to apply to the Department of Taxation pursuant to subsection 1 within the time prescribed constitutes a waiver of any demand against the State for any credit or refund of any fee, interest or penalty paid by or on behalf of the person pursuant to NRS 517.187.

5. Each county recorder shall, upon the request of the Department of Taxation, provide to the Department such documentation as the Department determines to be necessary to verify the total amount paid pursuant to NRS 517.187 by any person who applies to the Department pursuant to subsection 1.

6. All refunds made pursuant to this section must be paid from the State General Fund upon claims presented by the Department of Taxation, approved by the State Board of Examiners, and allowed and paid as other claims against the State are allowed and paid.

Sec. 17. The Department of Taxation shall submit to the Mining Oversight and Accountability Commission created by section 5 of this act at the first regular meeting of the Commission following the effective date of this ~~act~~ section a comprehensive audit program that sets forth the Department's plan for completing an audit of every mining operator or other person who is required to file a statement concerning the extraction of minerals in this State pursuant to NRS 362.100 to 362.240, inclusive.

Sec. 17.3. The amendatory provisions of section 12.5 of this act:

1. Do not apply to or affect any determination of gross yield or net proceeds required pursuant to NRS 362.100 to 362.240, inclusive, for the calendar year 2011.

2. Apply for the purposes of estimating and determining gross yield and net proceeds pursuant to NRS 362.100 to 362.240, inclusive, for the calendar year 2012 and each calendar year thereafter.

Sec. 17.5. The amendatory provisions of section 12.7 of this act:

1. Do not apply to or affect any determination of gross yield or net proceeds required pursuant to NRS 362.100 to 362.240, inclusive, for the calendar year 2013.

2. Apply for the purposes of estimating and determining gross yield and net proceeds pursuant to NRS 362.100 to 362.240, inclusive, for the calendar year 2014 and each calendar year thereafter.

**Sec. 17.7.** 1. The Nevada Tax Commission, on or before January 1, 2012, and subject to the requirements of section 12 of this act, shall adopt regulations to carry out the provisions of NRS 362.120, as amended by section 12.5 of this act.

2. In adopting regulations pursuant to subsection 1, the Nevada Tax Commission shall amend or repeal any of its existing regulations that conflict or are inconsistent with the provisions of NRS 362.120, as amended by section 12.5 of this act.

**Sec. 18.** Notwithstanding the provisions of section 5 of this act, as soon as practicable after the effective date of this ~~act~~

~~1. The Governor, Majority Leader of the Senate and Speaker of the Assembly shall each~~ section, the Governor shall appoint to the Mining Oversight and Accountability Commission created by section 5 of this act:

~~(a)~~ 1. One member pursuant to paragraph (a), (b) and (c), respectively, of subsection 1 of that section whose term expires on June 30, 2012; and

~~(b)~~ 2. One member pursuant to paragraph (a), (b), (c) and (d), respectively, of subsection 1 of that section whose term expires on June 30, 2013.

~~[2. The Minority Leader of the Senate shall appoint to the Mining Oversight and Accountability Commission created by section 5 of this act one member whose term expires on June 30, 2013.]~~

**Sec. 19.** 1. This section and sections 1 to 12, inclusive, and 13 to 18, inclusive, of this act become effective upon passage and approval.

2. Section 12.5 of this act becomes effective on January 1, 2012.

3. Section 12.7 of this act becomes effective on January 1, 2014.

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### TEXT OF REPEALED SECTION

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517.187 Additional fee for filing made pursuant to NRS 517.230. [Effective through June 30, 2011.]

1. An additional fee is hereby imposed upon each filing made pursuant to NRS 517.230 regarding a mining claim held by a person who holds 11 or more mining claims in this State on the date of that filing, in the amount determined in accordance with subsection 2. The person making that filing shall remit the fee to the county recorder in such a manner that, at the option of that person:

(a) The fee is paid in full at the time of the filing;

(b) One-half of the fee is paid at the time of the filing and the remainder of the fee is paid not later than June 1 of the calendar year immediately following the filing date; or

(c) The fee is paid in full not later than June 1 of the calendar year immediately following the filing date.

2. If the greatest number of mining claims held in this State by any of the persons who hold any of the mining claims to which a filing made pursuant to NRS 517.230 pertains is:

(a) Not less than 11 and not more than 199 on the date of that filing, the fee imposed by this section is \$70 for each mining claim to which the filing pertains.

(b) Not less than 200 and not more than 1,299 on the date of that filing, the fee imposed by this section is \$85 for each mining claim to which the filing pertains.

(c) Not less than 1,300 on the date of that filing, the fee imposed by this section is \$195 for each mining claim to which the filing pertains.

3. The county recorder shall:

(a) Obtain from each person who makes a filing pursuant to NRS 517.230 an affidavit declaring that the greatest number of mining claims held in this State on the date of that filing by any of the persons who hold any of the mining claims to which the filing pertains is:

(1) Less than 11;

(2) Not less than 11 and not more than 199;

(3) Not less than 200 and not more than 1,299; or

(4) Not less than 1,300; and

(b) Based upon the information set forth in that affidavit, collect any fee imposed on that filing pursuant to this section.

4. Any person who:

(a) Fails to pay the fee imposed pursuant to this section within the time required shall pay a penalty in the amount of 10 percent of the amount of the fee that is owed, in addition to the fee, plus interest at the rate of 1 percent per month, or fraction of a month, from the date on which the fee is due until the date of payment.

(b) Knowingly makes a false declaration in an affidavit provided to a county recorder pursuant to subsection 3 is guilty of a misdemeanor and shall pay the amount of any additional fee, penalty and interest required pursuant to this section on account of the falsification.

5. The county recorder shall, on or before the fifth working day of each month, deposit with the county treasurer all the fees, penalties and interest imposed pursuant to this section which are collected during the preceding month. The county treasurer shall quarterly remit all money so collected to the State Controller, who shall place the money in the State General Fund.

6. The State Controller shall take such action as may be necessary to ensure that the fees, penalties and interest imposed pursuant to this section are paid in full.