

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 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; making an appropriation; 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, consisting of seven members appointed by the Governor. Two of the members must be recommended by the Majority Leader of the Senate and two by the Speaker of the Assembly. In the first biennium, one member must be recommended by the Minority Leader of the Senate. In the next biennium, one member must be recommended by the Minority Leader of the Assembly. The 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 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



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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 reviewed by the Mining Oversight and Accountability Commission before being approved by the Legislative Commission. **Sections 12.5 and 12.7** of this bill 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.

Section 16.5 of this bill makes an appropriation to the Department of Taxation to fund the costs for the Mining Oversight and Accountability Commission.

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;



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

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

12 2. The Governor, Majority Leader of the Senate, Speaker of
13 the Assembly, Minority Leader of the Senate and Minority Leader
14 of the Assembly shall confer before the Governor makes an
15 appointment to ensure that:

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

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

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

23 4. A vacancy on the Commission must be filled by the
24 Governor in the same manner as the original appointment.

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

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

31 3. A majority of the members of the Commission constitutes a
32 quorum for the transaction of business, and a majority of those
33 members present at any meeting is sufficient for any official
34 action taken by the Commission.

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

39 5. The Executive Director of the Department shall assign
40 employees of the Department to provide such technical, clerical
41 and operational assistance to the Commission as the functions and
42 operations of the Commission may require.

43 **Sec. 7.** Notwithstanding any other provision of law, the
44 Commission shall provide oversight of compliance with Nevada
45 law relating to the activities of each state agency, board, bureau,



1 *commission, department or division with respect to the taxation,*
2 *operation, safety and environmental regulation of mines and*
3 *mining in this State, including, without limitation, the activities of:*

4 *1. The Nevada Tax Commission and the Department of*
5 *Taxation in the taxation of the net proceeds of minerals pursuant*
6 *to this chapter and Section 5 of Article 10 of the Nevada*
7 *Constitution.*

8 *2. The Division of Industrial Relations of the Department of*
9 *Business and Industry in administering the provisions of chapter*
10 *512 of NRS concerning the safe and healthful working conditions*
11 *at mines.*

12 *3. The Commission on Mineral Resources and the Division of*
13 *Minerals of the Commission in the administration of the*
14 *provisions of chapters 513 and 522 of NRS concerning the*
15 *conduct of mining operations and operations for the production of*
16 *oil, gas and geothermal energy in the State.*

17 *4. The Bureau of Mines and Geology of the State of Nevada*
18 *in the Public Service Division of the Nevada System of Higher*
19 *Education in its administration of the provisions of chapter 514 of*
20 *NRS.*

21 *5. The Division of Environmental Protection of the State*
22 *Department of Conservation and Natural Resources in its*
23 *administration of the provisions of chapter 519A of NRS*
24 *concerning the reclamation of mined land, areas of exploration*
25 *and former areas of mining or exploration.*

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

28 *1. The Administrator of the Division of Industrial Relations*
29 *of the Department of Business and Industry shall submit to the*
30 *Commission at its first regular meeting in each calendar year*
31 *the report that is required pursuant to NRS 512.140 concerning*
32 *the functions of the Administrator under chapter 512 of NRS*
33 *concerning the creation and maintenance of safe and healthful*
34 *working conditions at mines in this State during the immediately*
35 *preceding calendar year.*

36 *2. The Department of Taxation shall submit to the*
37 *Commission at the second regular meeting of the Commission in*
38 *each calendar year:*

39 *(a) An audit program identifying each mining operator or*
40 *other person who is required to file a statement concerning the*
41 *extraction of minerals in this State pursuant to NRS 362.100 to*
42 *362.240, inclusive, that the Department intends to audit during the*
43 *immediately following calendar year;*



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

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

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

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

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

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

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

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

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

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

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

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

3. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why the witness has not attended or testified or produced the books or



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1 *papers before the Commission. A certified copy of the order must*
2 *be served upon the witness.*

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

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

13 *2. The fees and mileage must be audited and paid upon the*
14 *presentation of proper claims sworn to by the witness and*
15 *approved by the Chair of the Commission.*

16 **Sec. 11.** *1. The Commission may submit a request to the*
17 *Legislative Commission that the Legislative Auditor be directed to*
18 *undertake, or to contract with a qualified accounting firm to*
19 *undertake, a special audit or investigation of the activities of any*
20 *state agency, board, bureau, commission or political subdivision in*
21 *connection with the taxation, operation, safety and environmental*
22 *regulation of mines and mining in this State.*

23 *2. The request submitted pursuant to subsection 1 must be*
24 *accompanied by an explanation of the circumstances that give rise to*
25 *the request.*

26 **Sec. 12.** *A permanent regulation adopted by the:*

27 *1. Nevada Tax Commission, pursuant to NRS 360.090,*
28 *concerning any taxation related to the extraction of any mineral in*
29 *this State, including, without limitation, the taxation of the net*
30 *proceeds pursuant to this chapter and Section 5 of Article 10 of*
31 *the Nevada Constitution;*

32 *2. Administrator of the Division of Industrial Relations of the*
33 *Department of Business and Industry for mine health and safety*
34 *pursuant to NRS 512.131;*

35 *3. Commission on Mineral Resources pursuant to 513.063,*
36 *513.094 or 519A.290; and*

37 *4. State Environmental Commission pursuant to*
38 *NRS 519A.160,*

39 *↪ is not effective unless it is reviewed by the Mining Oversight*
40 *and Accountability Commission before it is approved pursuant to*
41 *chapter 233B of NRS by the Legislative Commission or the*
42 *Subcommittee to Review Regulations appointed pursuant to*
43 *subsection 6 of NRS 233B.067. After conducting its review of the*
44 *regulation, the Mining Oversight and Accountability Commission*
45 *shall provide a report of its findings and recommendations*



1 *regarding the regulation to the Legislative Counsel for submission*
2 *to the Legislative Commission or the Subcommittee to Review*
3 *Regulations, as appropriate.*

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

5 362.120 1. The Department shall, from the statement filed
6 pursuant to NRS 362.110 and from all obtainable data, evidence and
7 reports, compute in dollars and cents the gross yield and net
8 proceeds of the calendar year immediately preceding the year in
9 which the statement is filed.

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

12 (a) Sold;

13 (b) Exchanged for any thing or service;

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

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

16 → during that period.

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

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

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

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

25 (d) The actual cost of ~~[marketing and]~~ delivering the mineral .
26 ~~[and the conversion of the mineral into money.]~~

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

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

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

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

35 ~~(f) [The actual cost of fire insurance on the machinery,~~
36 ~~equipment, apparatus, works, plants and facilities mentioned in~~
37 ~~paragraph (e).]~~

38 ~~—(g)—~~ Depreciation of the original capitalized cost of the
39 machinery, equipment, apparatus, works, plants and facilities
40 mentioned in paragraph (e). The annual depreciation charge consists
41 of amortization of the original cost in a manner prescribed by
42 regulation of the Nevada Tax Commission ~~[]~~ *and approved by the*
43 *Mining Oversight and Accountability Commission created by*
44 *section 5 of this act.* The probable life of the property represented



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1 by the original cost must be considered in computing the
2 depreciation charge.

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

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

13 ~~[(i)]~~ (h) *The costs of employee travel which occurs within the*
14 *State of Nevada and which is directly related to mining operations*
15 *within the State of Nevada.*

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

18 (j) The actual cost of developmental work in or about the mine
19 or upon a group of mines when operated as a unit ~~[-~~
20 ~~—(k)]~~, *which is limited to work that is necessary to the operation*
21 *of the mine or group of mines.*

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

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

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

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

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

41 (a) The working of the mine;

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

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



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

~~for~~

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

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.



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(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) 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.

~~(h)~~ (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.

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

~~(j)~~ (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.

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



~~(h)~~ (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 ~~(h)~~ (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.



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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. 16.5. 1. There is hereby appropriated from the State General Fund to the Department of Taxation to fund the costs for the Mining Oversight and Accountability Commission created by section 5 of this act the sums of:

For Fiscal Year 2011-2012..... \$17,050

For Fiscal Year 2012-2013..... \$17,050

2. Any balance of the sums appropriated pursuant to subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which the money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any other purpose after September 21, 2012, and September 20, 2013, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 21, 2012, and September 20, 2013, respectively.

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



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1 total amount paid by the applicant pursuant to NRS 517.187, the
2 Department shall:

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

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

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

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

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

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

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

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

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

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



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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 section, the Governor shall appoint to the Mining Oversight and Accountability Commission created by section 5 of this act:

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

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.

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.

TEXT OF REPEALED SECTION

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.



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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.

