

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-Sixth Session
June 5, 2011**

The Committee on Legislative Operations and Elections was called to order by Chair Tick Segerblom at 4:23 p.m. on Sunday, June 5, 2011, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Tick Segerblom, Chair
Assemblywoman Lucy Flores, Vice Chair
Assemblyman Marcus Conklin
Assemblyman Richard (Skip) Daly
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman Crescent Hardy
Assemblyman Pat Hickey
Assemblyman William C. Horne
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Richard McArthur
Assemblyman John Ocegüera
Assemblyman James Ohrenschall
Assemblywoman Debbie Smith
Assemblyman Lynn D. Stewart

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Steven A. Horsford, Clark County Senatorial District No. 4
Senator Sheila Leslie, Washoe County Senatorial District No. 1
Senator Allison Copenig, Clark County Senatorial District No. 6

STAFF MEMBERS PRESENT:

H. Pepper Sturm, Chief Deputy Research Director, Legislative
Counsel Bureau
Patrick Guinan, Committee Policy Analyst
Adrian Viesca, Committee Manager
Terry Horgan, Committee Secretary
Sally Stoner, Committee Assistant

OTHERS PRESENT:

Nicole Rourke, Executive Director, Government Affairs, Clark County
School District
Joyce Haldeman, Associate Superintendent, Clark County School District
Kyle Davis, representing Nevada Conservation League
Jan Gilbert, representing Progressive Leadership Alliance of Nevada
Val Sharp, Vice President, Las Vegas City Employees' Association
Ron Dreher, Government Affairs Director, Peace Officers Research
Association of Nevada
Al Martinez, representing Service Employees International Union
Local 1107
Leonard Cardinale, representing AFL-CIO Local 9110
Tim Crowley, President, Nevada Mining Association
Jim Wadhams, representing Barrick Gold Corporation
Michael J. Brown, Vice President, U.S. Public Affairs, Barrick Gold
Corporation

Chair Segerblom:

[Roll was taken.] Pepper Sturm will explain Senate Bill 211.

Senate Bill 211: Requires a legislative study of the implementation of the
Common Core State Standards in the public schools in Nevada.
(BDR S-1099)

H. Pepper Sturm, Chief Deputy Research Director, Legislative Counsel Bureau:

I am the Committee Policy Analyst for the Senate Committee on Education, and
am here at the request of Senator Denis. In his absence, he asked me to go

through his prepared remarks. I would remind you that as legislative staff I cannot advocate or oppose any legislation.

[Mr. Sturm read an explanation of the bill from prepared text ([Exhibit C](#)).]

Chair Segerblom:

Are there any questions for Mr. Sturm? [There were none.] Even though this bill calls for a separate committee, would this study be something more appropriately placed in the new interim committee format?

Pepper Sturm:

At this point, it is directed to the Legislative Committee on Education, which is an existing statutory committee. It would be part of their work program. If the new structure of interim standing committees is adopted, this study will be assigned to that joint interim standing committee.

Assemblyman Stewart:

Is the Legislative Committee going to do the study, or will they appoint a committee to do it?

Pepper Sturm:

My understanding from the testimony in the Senate is that this is mostly going to be a monitoring part of the work program that the Legislative Committee on Education normally undertakes. They receive reports from different groups and keep on top of what is going on in the state. They are not going to visit school districts or things like that. They are going to have the people involved in the program come talk about where they are, what recommendations they might have for improvements, and any statutory changes that might need to be made. It is not going to be active; it will mostly be reporting, from what I gather.

Assemblyman Stewart:

It is my understanding that there is already a study going on concerning this issue of Common Core State Standards. Would the group already doing this study report back to the Legislative Committee on Education? Is that your understanding?

Pepper Sturm:

That is correct, and you will probably hear from the school districts about their activities. Those are the folks who would come and talk about what they are doing.

Assemblyman Stewart:

I think we need information on the Common Core State Standards because if we are going to implement them, we need to know what we are doing, but I do not want two committees working on it.

Chair Segerblom:

Are there any other questions? [There was no response.] Does anyone in the audience want to speak on behalf of the bill, against the bill, or neutral on the bill?

Nicole Rourke, Executive Director, Government Affairs, Clark County School District:

We are neutral on the bill as a member of the Common Core steering committee that was developed by the Nevada Department of Education. A member of our staff is working on it. She is our Assistant Superintendent over accountability and research. They have been working on a transition plan from our current standards into the Common Core Standards as well as a professional development plan and an implementation plan. That work will continue. As I understand, there is typically a representative from each of the two largest school districts, and a rural representative, and they have also tapped into the community and business representation to look at all those issues.

Assemblyman Stewart:

Are you on this committee or is it the Assistant Superintendent?

Nicole Rourke:

I am not, Mr. Stewart; however, the Clark County School District is represented on that committee.

Assemblyman Stewart:

Who else is on the committee?

Nicole Rourke:

The Nevada Department of Education, a representative from the Washoe County School District, I believe, and members from the community as well as business and industry.

Assemblyman Stewart:

In this bill, is it your intent that this group that is already formed would report to the Legislative Committee on Education and there would not be a separate study done? Is that your understanding?

Nicole Rourke:

That is my understanding from what Mr. Sturm just said and has said in previous committees, yes.

Assemblyman Stewart:

Have you met with Senator Denis or anyone else to clarify that?

Nicole Rourke:

No, sir, I have not.

Chair Segerblom:

Are there any other questions? [There was no response.] Does anyone else want to speak on behalf of the bill or against the bill?

To clarify, today's agenda is almost all studies except for the one joint resolution. We are going to go through all of them and then go back and vote on them.

Joyce Haldeman, Associate Superintendent, Clark County School District:

Senate Bill 11 is still in the Senate Finance Committee. It is a bill that will eventually make its way to you. It concerns having a study take place during the interim regarding the per-pupil funding method of financing school funding in the State of Nevada.

Chair Segerblom:

Is that S.B. 11? [Ms. Haldeman indicated that it was.] All right, we will open the hearing on that bill, even though we do not have it. This hearing is preliminary and informational only.

Senate Bill 11 (1st Reprint): Directs the Legislative Commission to appoint a committee to conduct an interim study concerning the development of a new method for funding public schools. (BDR 34-304)

Joyce Haldeman:

Thank you, Mr. Chairman. I appreciate you giving me the opportunity to tell the Committee a little bit about this bill.

Senate Bill 11 is a bill we took to the Senate Finance Committee. We had a hearing on it several months ago. In 1967, the Nevada Plan for School Finance was created, but many changes have been made since that time. We would like to suggest that the interim be used to study the methods of identifying school funding and what levels of school funding we need for individual pupils and their different needs.

In 1967 when the funding mechanism was provided, the State of Nevada had 50,000 students, and 95 percent of them were Caucasian. In fact, at that time the Census Bureau at that time indicated you were Caucasian, Black, or Other. There were no other categories envisioned at that time. Now, 40 percent of our students in Clark County are of Hispanic origin. Many of them are English Language Learner (ELL) students. There is no recognition of the needs for that kind of funding, nor do we recognize the different funding needs for students who live in poverty or who have other kinds of issues to deal with, from homelessness to students who are transitory in nature.

We would like to spend the interim having experts look at the ways other states fund education, recognizing the true cost of educating our students. When the bill was heard in the Senate Finance Committee it was received quite well; however, there was a recognition that the state does not have enough money to create another study or pay for the experts. I had a conversation with my Superintendent, Dwight Jones. As you know, he recently moved here from Colorado. A similar study was taking place in Colorado that did the same kinds of things. He said they raised the money from private sources because there is a lot of interest in making sure we fund education adequately. He believes that he, along with other superintendents in the state, can raise that money for a study to be conducted here. With that, we hope the Committee will include this as one of the studies that would go forward in the interim.

Chair Segerblom:

Obviously, we cannot vote on that bill today because we do not have it, but hopefully we will get it soon. Are there any other questions? [There was no answer.]

Mrs. Kirkpatrick, would you like to address Assembly Bill 71?

Assembly Bill 71: Directs the Legislative Commission to conduct an interim study concerning the equitable allocation of money distributed from the Local Government Tax Distribution Account. (BDR S-256)

Assemblywoman Kirkpatrick:

Assembly Bill 71 was a bill that came before this Committee at the very beginning of the session. It talked about revisiting the Consolidated Tax Distribution. We heard a couple of bills on this topic in the Assembly Taxation Committee and the actual study of the situation came before this Committee.

I believe this needs to be revisited. It has been quite some time since that structure was put in place. Some counties are guaranteed; there are other

counties that—based on whatever deliberative thinking occurred back then—the minutes are not very clear about. I bring this for North Las Vegas. For many years they have felt that they were wronged. The City of Fernley has the same situation. We have to discuss this. All of you know that Laughlin is looking to be incorporated if the vote of its citizens is successful, and there is nothing in our statute that addresses that situation.

Mr. Chairman, I would hope that you would bring it up so that the Taxation Committee could look at it during the interim. I am not a fan of studies, but if Laughlin incorporates, it will help. Fernley incorporated in 1981; the situation was different then, plus we have nine guaranteed counties. We need to make sure the tax structure is different.

Chair Segerblom:

We held the hearing on this bill in February, so we could have a motion right now if you want to have that as an interim study.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO DO PASS
ASSEMBLY BILL 71.

ASSEMBLYMAN GRADY SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Hardy:

In our hearing on the bill, I remember there was discussion about making sure that this study was done with "fresh eyes." Is that still your plan?

Assemblywoman Kirkpatrick:

I still believe that is very important. I also believe technical committees need to have a little bit of both. We need new people who will be around longer. I believe an amendment to that effect was made back then, but if not, I would be happy to include it.

Chair Segerblom:

All right, we will take a vote on the motion.

THE MOTION PASSED. (ASSEMBLYMAN MCARTHUR VOTED NO.
ASSEMBLYMEN CONKLIN, GOICOECHEA, AND OCEGUERA WERE
ABSENT FOR THE VOTE.)

Now we can discuss Senate Concurrent Resolution 5. We have a statement provided by Senator Cegavske that will be read into the record.

Senate Concurrent Resolution 5: Directs the Legislative Commission to conduct an interim study concerning the laws of this State governing the protection of children. (BDR R-364)

Patrick Guinan, Committee Policy Analyst:

I am going to read testimony in support of S.C.R. 5, which you have before you, into the record. It directs the Legislative Commission to conduct an interim study concerning the laws of the state governing the protection of children. The testimony was submitted by Denise Tanata Ashby, Executive Director of the Nevada Institute for Children's Research and Policy and Senior Scholar with the Lincy Institute. She submitted this testimony on behalf of those two groups. [Mr. Guinan read her letter into the record ([Exhibit D](#)).]

Chair Segerblom:

Does anyone want to make a motion on Senator Cegavske's interim study?

ASSEMBLYMAN OHRENSCHALL MOVED FOR ADOPTION OF
SENATE CONCURRENT RESOLUTION 5.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

Is there any discussion on the motion? [There was no response.]

THE MOTION PASSED. (ASSEMBLYMEN CONKLIN,
GOICOECHEA, AND OCEGUERA WERE ABSENT FOR THE VOTE.)

The next bill we are going to discuss is Assembly Concurrent Resolution 12.

Assembly Concurrent Resolution 12: Directs the Legislative Commission to conduct an interim study concerning the structure and operations of the Nevada Legislature. (BDR R-1312)

We heard testimony on this from Don Williams, Research Director of the Legislative Counsel Bureau during our last meeting. This involves studying the way the Legislature conducts business. The study would review "the structure and operations of the Nevada Legislature, including, without limitation, the timing, frequency and length of regular legislative sessions and the compensation of Legislators." The last time a study like this was conducted was in the mid-1980s. At that time we made \$130 a day, and we still make \$130 a day, so maybe we are entitled to a small raise. If the new rules go into effect, this Committee would be responsible for this study during the interim and would report back with, ideally, a proposed constitutional amendment. Does anyone have any comments or questions?

Assemblywoman Kirkpatrick:

I want to clarify that, concerning interim studies, if the committees changed, all these studies would be within the purview of the chairs. Is that correct?

Chair Segerblom:

If this new law passes, all the studies we pass today will go to the Legislative Commission. The Legislative Commission will decide whether the studies have merit and refer those that do to the various interim committees. The interim committees are not limited to the issues we are discussing today, but at least they would have to consider these bills we are voting on today. Does anyone have a motion?

ASSEMBLYMAN OHRENSCHALL MOVED FOR ADOPTION OF
ASSEMBLY CONCURRENT RESOLUTION 12.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN CONKLIN,
GOICOECHEA, AND OCEGUERA WERE ABSENT FOR THE VOTE.)

I want to go back to Senate Bill 211.

Senate Bill 211: Requires a legislative study of the implementation of the
Common Core State Standards in the public schools in Nevada.
(BDR S-1099)

Patrick Guinan, Committee Policy Analyst:

Senate Bill 211 is the Common Core State Standards study that
Pepper Sturm just gave a presentation on. That is Senator Denis's bill.

Chair Segerblom:

Is there a motion on Senator Denis's bill?

ASSEMBLYMAN DALY MOVED TO DO PASS SENATE BILL 211.

ASSEMBLYMAN HICKEY SECONDED THE MOTION.

Is there any discussion on the motion to approve S.B. 211?

Assemblyman Stewart:

I would like to make it clear that I do not want a separate committee or a separate group studying this. I want them to rely on the group that is already studying it, as was mentioned earlier in testimony by Ms. Rourke.

Chair Segerblom:

Yes, that is the intent of this motion.

THE MOTION PASSED. (ASSEMBLYMEN CONKLIN,
GOICOECHEA, AND OCEGUERA WERE ABSENT FOR THE VOTE.)

We will move on to Senate Bill 418, and Mr. Guinan is going to give us a brief presentation.

Senate Bill 418: Creates a subcommittee of the Legislative Committee on Health Care to oversee the implementation of federal health care reform in this State. (BDR 40-695)

Patrick Guinan, Committee Policy Analyst:

I am going to read from the summary of the bill for the Committee's consideration. Senate Bill 418 is an act relating to health care; creating a subcommittee of the Legislative Committee on Health Care to oversee the implementation of federal health care reform in this state. The bill prescribes the composition, powers, and duties of that subcommittee. It requires state agencies to cooperate with and provide periodic reports to that subcommittee, and provides other matters relating thereto.

Chair Segerblom:

Does anyone have any questions on S.B. 418? This is Senator Copeney's proposed interim study.

Patrick Guinan:

To clarify, it is not an interim study. It is a subcommittee to oversee the implementation of federal health care reform in the state. It requires the creation of a subcommittee of the Health Care Committee.

Chair Segerblom:

For our purposes, it is a recommendation.

Assemblyman Grady:

Why is this needed?

Chair Segerblom:

Since the bill's sponsor is not here, I cannot really answer that question. I will say this—these are all going to go to the Legislative Commission. The Commission is going to decide which ones they think are important and forward them on. This basically keeps the proposal alive.

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS
SENATE BILL 418.

ASSEMBLYWOMAN FLORES SECONDED THE MOTION.

Assemblyman Stewart:

I want to clarify what would happen: The Chair of the Legislative Committee on Health Care is going to appoint three people, including at least one from each house and one from the minority party.

Chair Segerblom:

That is what the bill says, but because of the new rules, it will actually become an interim study proposal, which goes to the Legislative Commission, which will send it to the Health Care Committee that meets in the interim.

Assemblywoman Kirkpatrick:

Typically, the Health Care Committee, as with any of the other interim committees, can form a subcommittee to work on separate things. Does this not fall under that? When I sit on the Interim Finance Committee (IFC), I think there is already a group of people working and consistently updating IFC on their progress. I am not sure this cannot already be done.

Chair Segerblom:

I cannot answer that question. Because of the new rules, some of those old processes may change, and we are trying to keep these interim study proposals alive.

Assemblywoman Kirkpatrick:

But IFC never changed.

Assemblywoman Smith:

The new structure has made it hard for us to make these decisions. Yes, the interim committees have always been able to decide at their first meetings what things they would like to study, but in the past we also would have bills that would direct them to study a certain topic, so that when they made up their lists, the Legislature would indicate that X should definitely be one of the topics.

I think this bill is just that; it is a big issue and we would be sure that this interim committee would take up this issue as one of the things that it takes care of during the interim.

Chair Segerblom:

That sounded like an endorsement. We have a motion and a second.

THE MOTION FAILED. (ASSEMBLYMEN GRADY, HARDY, HICKEY, MCARTHUR, AND STEWART VOTED NO.)

Assemblywoman Flores changed her vote to no, so the motion went down six to six.

We are waiting for someone to testify on the next bill, so we will take a brief recess [at 5:04 p.m.].

I will call the meeting back to order [at 5:18 p.m.] and open the hearing on Senate Joint Resolution 15.

Senate Joint Resolution 15: Proposes to amend the Nevada Constitution to remove the separate tax rate and manner of assessing and distributing the tax on mines and the proceeds of mines. (BDR C-1151)

Senator Steven J. Horsford, Clark County Senatorial District No. 4:

I appreciate you, Mr. Chairman, and the Committee for bringing this issue up. I hope after everyone has an opportunity to review the legislation and the intent, you will see that this is a measure that will give Nevadans a choice about how one of the largest industries in our state can pay its fair share in supporting education, public safety, and other vital services.

In 1987, the Legislature proposed a constitutional amendment to limit the tax on the net proceeds of mines to 5 percent. That measure was approved by the Legislature again in 1989 and ratified that same year by Nevada voters in an election. Nevadans spoke at that special election, and the 5 percent limit on taxation of net proceeds has been in effect ever since.

Senate Joint Resolution 15 would give Nevadans the opportunity to speak again more than 20 years later about whether they believe the current system for taxing the mining industry is fair and adequate given the changed circumstances in the state. As all of you know, we are not the same state we were 20 years ago. Our population has grown, our economy is changing, and we have challenges in meeting the educational needs of our children like never before.

In this session, we have discussed potential changes to our revenue system in support of these needs, and I believe that taxing mining is an important part of that overall dialogue. Senate Joint Resolution 15 would give Nevadans the opportunity to direct the Legislature on whether the current mining taxation system should be maintained or altered. It would allow Nevada voters to decide whether they want us to have the latitude as legislators, their elected officials, to determine how a new rate is more reflective of the needs of this state by lifting the constitutional ban and changing the rate.

I want to be clear that this is not a mandate for changing the current system, but an opportunity for the people of Nevada to tell us whether they want that change. We have spent a lot of time on this and still, at this hour, we cannot reach final agreement with the industry, which is in part due to how complicated the mining tax is on the net proceeds of minerals. The split between the counties and the state is problematic, and the imposition of the 5 percent cap is problematic. It is problematic because as legislators we have no flexibility. We cannot adjust based on the needs of the time or the situation to make the necessary, appropriate decisions.

As an example, we had a joint hearing in which we received information from all the local governments in the state. Several of the local governments were rural counties. I remember asking an elected official from one of the rural counties about whether that county had the ability to adjust its contribution from the Net Proceeds of Minerals Tax because it had received so much money. That county had a reserve that it could not use, yet there is not enough money to fund education in the state budget. During that conversation, it was clear to us that the split between the counties and the state is rather arbitrary. When you look at the history of what occurred in 1987, it was a decision made to try and reach a compromise. It ended up going on the ballot, and now it is in the *Nevada Constitution* in a way that we have no ability to change.

This measure, S.J.R. 15, would allow the voters to again direct whether we should have that flexibility. For those members who want to reform our revenue code in the future, we need to have all avenues on the table. The tax on mining, under the Net Proceeds of Minerals Tax, is a special, unique tax. It is not like any other tax in any other state or place around the world. Because of that, I think we need to do at least two things. One is to repeal Section 5 of the *Constitution*, which would allow us the latitude on the rate. There are times when that rate may need to go down if gold prices are at \$200 or \$300 an ounce. Or we, as legislators, should be able to determine whether the rate should go up when gold is over \$1,300 an ounce like it is today.

We also should be able to determine the split of the share that goes to the counties and the state. That is something we also do not have the latitude to do because of the constitutional provision in Section 5.

This is a process. Nothing in S.J.R. 15 changes the tax rate on mining today. This is about putting it to a vote of the public to determine, over a five-year period, whether that should occur. Based on the enormous appeal we have heard from our constituents, we in this Legislature need to do our part to give them every opportunity to speak on these issues—whether it is the mining issue or whether it is how we broaden our business tax as a whole.

We all have constituents who have asked why we cannot adjust this rate and why can the mining industry not contribute more. Why are they not part of an overall solution to help us balance our budget? When we were considering the margin tax, when we were considering the transaction tax, when we were looking at proposals that would have reformed our revenue code in a fair, equitable, and broad way, the mining industry would participate like every other industry participates. But without those options, they have a special deal. That special deal prevents us, as legislators, from asking them to do more to help us fund our budget. I think that is wrong and that the voters should be able to speak. So I ask this Committee to consider approving S.J.R. 15 and allowing the voters to have a say in this process.

Chair Segerblom:

Because this is a constitutional amendment, we would vote on it this session. If it is approved, we would come back in two years and vote on it again. If it is approved then, it would go to a vote of the people. The people would ultimately decide whether to change the *Constitution*.

Assemblyman Conklin:

Senator, you mentioned the opportunity to change the tax rate with the boom and bust of gold. All precious metals are boom and bust products. In many instances, their value is countercyclical to both the business cycle and to how consumers with assets believe their investments are worth. As the stock market goes down, precious metals tend to rise. As the price of oil changes, investors alter where they want to put their money as they look for safe investments. If we want to have a vibrant industry, we would have to have some flexibility with that rate. The value can drastically change, but the cost to produce does not change with that boom and bust—it is flat. So given the nature of what we have endured and finding it very difficult to change any tax rate at all, what would give the Legislature more flexibility to deal with it? How would we find that flexibility we already know we do not have? Look at this session as a classic example.

Senator Horsford:

Your points are well taken. Without the voters determining one way or the other, if they say yes in five years and agree that the 5 percent rate should be lifted, that empowers a future Legislature to set tax policy based on the circumstances at the time. I think that is what we were elected to do. The more of these types of provisions we have in the *Constitution*, the more our hands are tied. We are ineffective in our ability as legislators to respond to the needs of our constituents. Right now is a perfect example. People are crying out for reform to our revenue code. Mining, and gaming to a lesser extent, are at the top of the list of what people say should be on the table for consideration.

I do not know about you, but I cannot explain in a simple one-page letter or email to my constituents why I cannot change the rate on mining, because it is too complicated due to the constitutional provisions. My response has been that I am working hard to reform the revenue code as a whole, and that mining and gaming and banking and manufacturing would pay on an equal and fair basis. Until, or unless, we have the ability as legislators to change these issues, our hands are tied and that is where I have found myself this session.

Assemblywoman Kirkpatrick:

Where does geothermal fit within this? They are currently under the same provisions of the Net Proceeds of Minerals Tax. Was that discussed?

Senator Horsford:

You are correct; they are. It did come up and it was discussed. I believe the geothermal industry is attempting to clarify the definition in a way that allows them to be differentiated going forward. I do not think anything in S.J.R. 15 imposes any impact on geothermal today. Over a five-year period, if the voters approve this constitutional question, then we, as legislators, would have the flexibility to determine how to impose the rate, who to impose it on, and how to differentiate between certain sectors, such as geothermal.

Assemblyman Grady:

We are very fortunate to have about four rural counties with mining. They have done very well. You mentioned a county with a revenue reserve. It is one of Nevada's smallest counties. That county has not always been as prosperous as it is now, nor have some of the other counties. What mining has brought to the rural areas are some of the highest-paying jobs. These counties do not rely on social services because of the wages they pay. Maybe it should be looked at, but if we look at it truthfully and put mining at \$3.64 rather than at the \$5.00 cap currently in place, we may be sorry we even looked at it because it could bring us less revenue. It is a real gamble because if you hit both ends of

it—go from \$5.00 to \$3.64 and the price of gold drops from \$1,300 an ounce to \$700—some of those counties may be coming to us asking for help.

Eureka County is very fortunate. It has some money in the bank, but it also has been through a \$270-an-ounce gold period. I do not disagree with you, but I think we need to be very, very careful.

Senator Horsford:

I completely agree, and your experience in local government is very insightful. The fact we have this unique tax on net proceeds—and I know there will probably be representatives from the mining industry who will talk about the property-tax element of that—has also been the problematic part of how this industry is treated and why it is not fair or equitable toward other industries. The fact they are able to take deductions against that property tax payment on net proceeds has also been problematic, and we are working to correct some of that in a measure that we hope will move through the process.

You raise a very valid point, but this is not necessarily about trying to get to an increase on mining; it is trying to get to a process that provides for fair and equitable treatment and for the flexibility and authority to be with the Legislature and with the Governor and not with a constitutional provision that is, in my view, antiquated. It is based on where we were 20 years ago and not where we are today or where we hope to go as a state.

Senator Sheila Leslie, Washoe County Senatorial District No. 1:

I concur with the comments of the Majority Leader. We have had extensive hearings in the Senate Revenue Committee this session on mining. We have learned a lot about mining and how it is taxed in other states. Most states tax nonrenewable resources like mining and oil through a severance tax, for example, yet we cannot even look at that option because of the way the *Constitution* reads.

I think it is really important to note that it is a nonrenewable resource. Right now, gold is over \$1,500 an ounce, but who knows how long that is going to go on. Mining has traditionally supported a lot of rural counties with high-paying jobs and good health insurance. They have been good employers, but at the same time, they are removing a resource that belongs to all of us and which we will never get back. We need to be able to tax them appropriately. I do not think tax policy really belongs in the *Constitution* for obvious reasons: It cannot ever be changed. I urge your consideration of this. To emphasize, this would have to be voted on by the 2013 Legislature and then it would go to a vote of the people. I think our constituents are demanding it; I know mine are. I do not know about Mr. Grady's; perhaps not as much. The constituents in the

urban areas who have been subsidizing, even with mining, all the rural counties for a long, long time are demanding that we look at it. We cannot look at it because of how the *Constitution* reads.

Senator Horsford:

I want to put on the record for the benefit of the Committee, under the repealed section, please focus on that term "and no other tax may be imposed on a mineral or its proceeds until the identity of the proceeds, as such is lost." That is such a restrictive provision. It denied all ability for a Legislature and Governor to act in a responsible way. I do not know who did it or why they did it, but I sure wish we could find out. I think that provision is the most restrictive provision in tax policy that exists in the State of Nevada.

Assemblywoman Flores:

I absolutely agree that there needs to be a fair and equitable rate of taxation among all the industries in Nevada, including mining. We could go back and forth all day about whether mining has paid its fair share and what they are doing this legislative session to help out. However, I have to say that I am very concerned. We did not manage to get a fair and equitable tax structure this session. From what I have heard, we have not managed to ever get that. If we were to do this, and voters approve, I am very doubtful that we are going to get a reformed tax structure in the next four to six years. What happens when we go to the uniform and equal rate of assessment in taxation and then, rather than getting what we are getting now, it goes down to the much lower percentage of assessment that is currently in place? That is a very real concern.

I am all for having mining pay more, especially in proportion to the type of profits they have been making. I am afraid that we are not going to end up getting it, though. I wonder if there are better ways to go about making them pay more.

Senator Horsford:

It is ironic. I used to work for Lee Smith, who did work for Independence Mining. That is how I learned so much about Elko and the ways of mining. I went to open pit mines to understand how the industry works. As a legislator and policymaker on both the Senate Finance Committee and Senate Revenue Committee and the work I have done during this session in reviewing every action that has been taken by the Tax Commission, I am really concerned about how the system has been used against us as legislators. I am concerned about how the provisions in this section of the *Constitution* have limited our ability to respond as legislators. Assemblywoman Flores, you raised a very legitimate point and one I share.

I came into this session the same way I came into the last session—I wanted to reform our revenue code in a way that is fair, equitable, and broad-based. I have gone to Elko and spoken to mine employees at the mines. I attended their association meetings. At those meetings, I said that I did not know that we should be supporting single-industry taxes. That is my position; and I hold firm to that, but let us talk about what has happened in this session alone. Every attempt to broaden our revenue structure in a way that is fair, that is equitable, is responded to by every side "No." "No, no, no, no" and we end up with nothing. Even now, on our budget sheets that are being closed within the next 24 hours, it is a budget that will have some amount of investment from the mining industry, but it is not enough. They are not contributing their fair share this session. I feel strongly about that because when I came into this session my intent was clear—to find a broad, fair, and equitable tax structure that treated everyone in a way that would not have a large impact on any one industry. That is not what we are leaving with. There will be those who say they came to the table and supported that, but they really did not because they could not even get the representatives from their own counties to support it. How can they come to the table and, in all honesty, look us in the face, eye to eye, and say they did everything they could when they have not? They have not helped to communicate to my constituents, or to those throughout the state who are calling out for reform and want mining to pay their share, why we needed that reform package. They did not do that, so what we ended up with was nothing.

My point to that message is to say that we should absolutely be putting our effort into a reform of our revenue code that is fair and equitable and that keeps a low rate which allows every sector to contribute and protects our small businesses. That is where our efforts should be. Even under some of the proposals we were recommending, Section 5 of the *Constitution* still protects the mining industry in a way that they cannot do all they should be doing as an industry. Senate Joint Resolution 15 is about lifting this arbitrary 5 percent cap in the rate and allowing us as the Legislature to be able to adjust that rate up and down. There is nothing to say it automatically goes up; there is nothing that says it automatically goes down. That would be the decision of the Legislature and of the Governor. There is nothing that says that the split between the county and the state should not be adjusted. There are counties that are not doing as well, and the percentage cut in those counties may need to be better. In other counties where the reserve is high, the percentage rate may need to be adjusted, but we do not have the authority as the Legislature to change that, and that is a problem because we cannot do our jobs.

I think this measure, along with the reform package to our overall revenue code, could ultimately get us to where many of us want to be—a revenue structure

that is fair and equitable and works for the State of Nevada based on the economy we have today, not the economy of 50 or 100 years ago. The mining industry is a very important industry. They pay great wages; they are good corporate partners in the communities they serve. Overall, I have no beef with them, but I have a concern and a legitimate problem with Section 5 and the limitations that this provision places on all of us as elected officials and the responsibility and oath we swore to that we would do our jobs. We cannot do our jobs with these types of limitations in place.

Assemblyman Ohrenschall:

Is there any other industry that has its tax rate set in the *Nevada Constitution* like that so the Legislature's hands are tied?

Senator Leslie:

There is no personal income tax; that of course is in the *Constitution*.

Assemblywoman Kirkpatrick:

There are actually quite a few exemptions, such as for newspapers, farm equipment, and food.

Senator Leslie:

Those are exemptions and this is the *Constitution*. Those are in statute.

Assemblywoman Kirkpatrick:

Those are in the *Constitution*.

Senator Leslie:

Well, some are in the *Constitution*, such as the sales taxes, but I do not believe there is anything else like this.

Assemblywoman Kirkpatrick:

Geothermal.

Senator Leslie:

Well, geothermal is part of this.

Assemblywoman Kirkpatrick:

Yes.

Chair Segerblom:

Does anyone else have any further questions for the two Senators? [There was no response.] I know you have work to do, so thank you so much for coming.

We are going to go back to Senator Copenig's bill, Senate Bill 418.

Senate Bill 418: Creates a subcommittee of the Legislative Committee on Health Care to oversee the implementation of federal health care reform in this State. (BDR 40-695)

Senator Allison Copenig, Clark County Senatorial District No. 6:
This was a Committee bill we brought forward.

Chair Segerblom:

We had a tie vote on this bill because there was no one to present it. If you would explain it, we could probably pass it.

Senator Copenig:

Health care reform is one of the biggest programs that has come to our state. We want to make sure that the Legislature has a little bit of oversight over what happens for all these state agencies and the decisions they make regarding health care reform. It is not that we do not trust the state agencies, but this is big, and we need to be able to watch all of the different measures that are being proposed and have a say in the process. That is what this subcommittee will allow.

Assemblyman Ohrenschall:

In the bill, Senator, I noticed you mentioned studying high risk insurance pools. Do you think those might have a place in Nevada someday? I know we are not one of the states that has high risk insurance pools for people who cannot get insurance because of their preexisting conditions, but do you think they might find a home here in Nevada?

Senator Copenig:

It is part of health care reform. Any part of health care reform that has been federally mandated is what we as a state need to take a look at. I am not an expert on that; the Commissioner of Insurance has been working on that. It is all a part of the reform and is something we want to have a say in before state agencies are able to make decisions on our behalf.

Chair Segerblom:

Thank you, Senator. We are going to go back to testimony on Senate Joint Resolution 15.

Senate Joint Resolution 15: Proposes to amend the Nevada Constitution to remove the separate tax rate and manner of assessing and distributing the tax on mines and the proceeds of mines. (BDR C-1151)

Kyle Davis, representing Nevada Conservation League:

We are in support of Senate Joint Resolution 15. The main reason was mentioned by Senator Leslie when she talked about the way natural resources are dealt with in other states, and nationally as well. It makes a lot more sense to do something along the lines of a severance tax. That being said, all this bill does is give the people the ability to vote on whether Nevada ought to do something in statute rather than in the *Nevada Constitution*. That makes a lot of sense from a tax policy perspective, so we are in support of the bill.

Jan Gilbert, representing Progressive Leadership Alliance of Nevada:

We, too, support Senate Joint Resolution 15. No other industry is protected in the *Nevada Constitution*, so mining should be treated like other industries. In 2008, \$5.7 billion in gold was taken out of the state. The mining industry paid \$40 million to the state's General Fund. In 2009, gaming made \$6.8 billion and operated at a loss. Gaming paid \$1 billion to the General Fund. To me, mining needs to be looked at differently. I applaud them for what they do in the local communities. I know they do pay taxes—property taxes, sales taxes, and the Modified Business Tax, but they are a special industry. With this being in the *Constitution*, your hands are tied, so we urge you to pass this. The bill is for the future because it is a five-year plan. Currently, Senate Bill 493 is looking at a short-term plan, dealing with the deductions. I hope you will support both of these measures.

Val Sharp, Vice President, Las Vegas City Employees' Association:

We also support this resolution. Net proceeds is a number that can be manipulated very easily. We know that the state's Department of Taxation had not audited mining for two years. Other articles in the paper indicated that even though there is a Commission that allows expenses to be used in this net proceeds area, against their own recommendations, other expenses were allowed to be put against the net proceeds. I agree that mining pays very well. That is how you can get people to go down in holes in the side of the mountain to do this, because it is a dangerous and hazardous job. We read in the paper all the risks that are involved in mining. However, what is fair is fair. The constitutional protection is not fair. The Legislature should have a say. Right now, with mining pulling out about \$1,500 per ounce, they have now shifted their focus on lesser quality ores which have higher costs involved because this is the time to mine those ores. Consequently, when they normally pay approximately \$300 per ounce for the extraction of gold, they are now going after ores that cost approximately \$500 to \$600 per ounce. That is because

their spread is so high. I think this is one of a number of steps that the State of Nevada needs to make to reform its tax structure. To say that we are going to do it, but not do this, is not an equitable way to accomplish that task. This puts it in the hands of the Legislature, so the mining corporations, many of which are foreign, can have their say with their legislators just like we do. We support this as a good first step.

Ron Dreher, Government Affairs Director, Peace Officers Research Association of Nevada:

Prior to the Legislature starting, when they had the forums and we talked about revenue, I told them they were missing one word, and that was mining. I have done a lot of work in this area over the years. Recently I represented the classified school employees in Battle Mountain and learned a lot about mining and arbitrations. What we have discussed for several sessions is doing something like S.J.R. 15. We support S.J.R. 15 for the following reasons. Obviously, there was a gentleman from Wyoming who talked about that state's tax structure and that mining did pay its fair share there. We talked about how mines are going to continue doing very well in the rurals for the next 20 to 30 years. This is not like what we saw 20 years ago. My wife's family is from Eureka County and back then, when the mines were flooded, it took a lot. I support S.J.R. 15.

Al Martinez, representing Service Employees International Union Local 1107:

This is long overdue. We believe there needs to be fairness and equity so that the legislators can have the flexibility to make the changes for Nevada and do what is right for all Nevadans.

Assemblyman Conklin:

Because you represent people who work for government, one of the things I was getting confirmation from goes to the heart of how difficult it is to find increases in tax rates. Under the *Constitution*, there is a 5 percent amount. It is a guaranteed amount that cannot be raised or lowered. If this were to pass, there will be the following mathematical equation: Five percent is the maximum because severance is a property, so there is a cap that is also a constitutional cap. In order to raise this, we need two-thirds approval from both houses. If I want to lower, I need only 50 percent plus one. Right now I have a guaranteed amount, or I have greater odds that the amount would go down rather than up if this were to pass. I have been on the record more times than I can count for increases, so we all know where I stand, but it is still very, very hard to do. What are your thoughts on that?

Ron Dreher:

I am a business owner. I pay my taxes on gross receipts, not net. I do not get the deductions that other people have, based on what I make. I understand what you are saying, but this is long overdue, letting the voters give you the power to go either way. But you are right; now that the mining industry is doing so well, we are asking them to pay their fair share like everyone else. Could the opposite occur, like your suggestion? I am sure it could. Hopefully you will have all the tools needed to make this a fair and equitable process. The Majority Leader could not have said it better for all of us throughout the state—we need to do something. A few weeks ago the mining industry paid \$7.7 billion in cash to buy another mine. We are missing the boat and your hands are tied. This is the only way we can fix it. If we had started three sessions ago, we would have an answer now.

Assemblyman Conklin:

I do not disagree with any of that. I am being the skeptic. Had we had the opportunity in front of us today, we would still be in the same boat because finding two-thirds has been an impossibility for us. On another point, this is a separate net proceeds tax; they pay all the other taxes. They pay the Modified Business Tax, they pay sales tax, property tax, they pay everything that every other business pays, and this is in excess. Much like gaming does. They have a separate tax on top of all the other business taxes they pay. I agree with the comments made, and I also think there is room for growth. I am not convinced this is the way to do it.

Leonard Cardinale, representing AFL-CIO Local 9110:

We are also in support of this resolution. I agree with the Majority Leader that this will give the legislators more latitude as we move into the future and be able to be involved in some of the decisions directly instead of being handcuffed. Ultimately, the people will have a say, which I think is a tremendous advantage. Yes, there may be some pitfalls down the road and it may work against us depending on how well mining does over the years, but I also think you have to start somewhere. At this point, we are limited by how much the legislators can do on behalf of their constituents who want reform in the tax structure.

Assemblywoman Flores:

I am all about giving the people their voice. I would love for the people to give us the two-thirds vote.

Chair Segerblom:

If this passes, it would be in the *Constitution* and people could vote on the referendum, which is 50 percent of the vote in November, and require the tax to change for at least a couple of years.

Is there anyone else in support? Seeing none, is there anyone here in opposition?

Tim Crowley, President, Nevada Mining Association:

I have a brief statement and would like to express that the mining industry is perplexed by a measure that would reduce our tax liability by removing the industry-specific tax that we pay. As the Senate Majority Leader pointed out, in 1987 this legislative body passed a related resolution that passed again in 1989 and went to the people. The people determined that they wanted to take our tax rate from the current property tax rates in the counties where we operate to the constitutional maximum of 5 percent. It was not the industry that asked for that. We paid the same rate as all other property tax payers; we did not ask for the increment on top in 1989. We are now defending a provision we did not ask for and asking that it not go back to the way it was 20 years ago.

As you know, mining pays all the conventional business taxes. We pay the Modified Business Tax, sales tax, regular property tax on our facilities, plus we pay the Net Proceeds of Minerals Tax. This measure would remove our industry's specific taxes and put our mines on the same level as all other Nevada businesses except for gaming, banking, and insurance, which also pay industry-specific taxes. We oppose industry-specific taxes, but that is on a go-forward basis. We have made our position clear that Nevada's tax structure should be changed and a broad-based tax should be put in place. Those are taxes we would pay. The provision in Section 5 does not prevent us from paying any future taxes on our businesses. Perhaps once that is done and a broad-based business tax is put in place, the state's industry-specific taxes could be undone. Until then, we do not support removal of the Net Proceeds of Minerals Tax, and we do not support a reduction in our taxes at this point.

Chair Segerblom:

You say you do not want to do anything until these other taxes are in place. This would obviously take at least five years. We could pass it this year, and then maybe next year those taxes would be in place and we would be ready for 2015.

Tim Crowley:

I think the main point that I am trying to make is that this is a tax reduction. It removes our industry-specific tax. The mining industry is firmly in support of

restructuring our tax structure and putting in place a broad-based structure, but to lead with a tax reduction—as opposed to the margins tax, which was introduced this session, or a sales tax on services, which we would support—and to take away our industry-specific tax seem counterintuitive to us.

Chair Segerblom:

The problem is that this is a five-year process. There are other taxes, but they do not apply to you because of this constitutional amendment, correct?

Tim Crowley:

All of those taxes would apply to us.

Chair Segerblom:

Would they apply on top of what you pay now?

Tim Crowley:

Absolutely. Just as the sales taxes, property taxes, and Modified Business Taxes do today, the margin tax would apply to us just like any other business. We are not precluded from paying taxes on our businesses; we are precluded from paying taxes on the value of our mineral in any other way than through the Net Proceeds of Minerals Tax.

Chair Segerblom:

Do you deduct the tax as part of the process?

Tim Crowley:

No, sir. We do not deduct net proceeds from the other taxes. We do not deduct the Modified Business Tax from the Net Proceeds of Minerals Tax. We do not deduct our conventional property taxes from the Net Proceeds of Minerals Tax. We do deduct sales taxes. We deduct the cost of goods that we purchase, and that is a measure that is being considered at this moment in S.B. 493. That is a deduction in that bill, as it stands today, that would be removed. We do not support that removal, but we understand that is probably a change that will happen.

Assemblyman Horne:

Currently, your testimony is saying this bill is removing a tax. If the Legislature wanted to increase the 5 percent to 6 percent, or change it from net proceeds to gross proceeds, it could not do it because of constitutional restrictions. However, in removing it, it gives an opportunity for the legislative body to find a different formula in which to tax, not necessarily reducing the tax.

Tim Crowley:

All property tax payers have a constitutional cap on their property at 5 percent. In 1989, when this measure was passed the first time, it took us from the statutory cap on property to the constitutional cap. Instead of being capped at 3.64 percent on our property values, we are capped at 5 percent. The netting is a formula to pinpoint the fair market value of our property. There is not a debate over whether we pay a net or a gross; we pay 5 percent on the fair market value of our property.

Assemblyman Horne:

I understand that. Today that could not be changed by us. With the passage of S.J.R. 15 this session, next session, and if the vote of the people is "yes," and we want to repeal Section 5, then that could be changed. It would not be a 5 percent cap; it might be 4 percent or 6 percent. It might be 5 percent on the gross. This does not necessarily mean there is a reduction in tax revenue from mining; it is just opening a window to reformulate taxes from mining.

Tim Crowley:

The constitutional cap on property values is 5 percent for all taxpayers, whether this provision is in place or removed. The question was if you remove the Net Proceeds of Minerals Tax, that allows the voters to take our property tax above 5 percent. It is my understanding that is not accurate. The *Constitution* provides that all property taxes are capped at 5 percent. This would take us back to the statutory level; it would remove the assessment mechanism for finding our fair market value and reduce our tax liability. The constitutional provision that caps property values at 5 percent would remain.

Chair Segerblom:

If a gold mine is worth \$5 billion, does the property tax apply to the value of the mineral that is part of the property?

Tim Crowley:

Yes, it does.

Chair Segerblom:

So the 5 percent versus the 3.6 percent could be significant.

Tim Crowley:

I do not understand; 3 percent is less than 5 percent.

Chair Segerblom:

But the 5 percent is not on the value of the property; it is what you are making every year.

Tim Crowley:

No, sir.

Chair Segerblom:

It is the actual value of the gold in the ground?

Tim Crowley:

Yes.

Jim Wadhams, representing Barrick Gold Corporation:

Article 10 of the *Constitution* has a couple of provisions that are pertinent. The one that S.J.R. 15 would remove is Section 5. Section 5 was proposed and driven by Assemblyman Sedway in 1987. His intent was to increase the taxes derived from mining by taking mining property tax to the total 5 percent of all property. No property can be taxed at more than 5 percent. Assemblyman Sedway's intention was to max out our tax. Senate Joint Resolution 15 would remove that provision and put this property to be taxed literally, just like other property, which is at fair market value at the ad valorem rate in the county in which it is situated.

Chair Segerblom:

My question is what is the value of the gold in the ground in Nevada?

Jim Wadhams:

I cannot give you a monetary answer, but I can tell you that the system for the appraisal of all real property is based upon what a willing buyer would pay a willing seller. If I offer you an acre of land and assure you there is an ounce of gold in it, the question is how much will you pay me for that acre of land? That is the appraisal process. You have some mining claims, so what is someone going to buy them for? They will try to guess how much mineral is there.

Chair Segerblom:

Hypothetically, if we had \$100 billion of gold, what does that produce every year at 3.6 percent?

Jim Wadhams:

The question is what would somebody pay you to buy that?

Chair Segerblom:

It is worth \$100 billion. What would you get on an annual basis at 3.6 percent?

Jim Wadhams:

I cannot do that math.

Assemblyman Hardy:

If I am understanding correctly, basically if we go back to the same values of real estate that we had four years ago, it was going for \$10 per square foot. Today that same property is not worth \$3 per square foot. This puts it in line with the same taxes, and we are all now looking to get a decrease in our property values. Can that happen, in which we now lose the tax we were getting? Is that what you are saying would happen if we approve S.J.R. 15?

Jim Wadhams:

That is correct. By coincidence, I have a *Las Vegas Sun* article on how business property in the Las Vegas area lost \$12.5 billion in value and the proportionate property tax. It would put the mineral property on the same calculation.

Michael J. Brown, Vice President, U.S. Public Affairs, Barrick Gold Corporation:

In closing, I would like to point out that gold mining is quite unique to Nevada. Gold in any significant quantity comes from Nevada, Utah, Montana, and Alaska. When we are looking at cross-comparisons with other states, we were looking at those states. We are not looking at energy fuels; that is an entirely different model. An unprecedented portion of the world today is now open to mining investment, and Nevada competes on a world stage for mining investment. In most jurisdictions where we operate there is in place a broad-based business tax of some sort. Nevada is actually a unique exception to that. In places where there is not a broad-based business tax, what you often find is that before a company will invest billions of dollars in a speculatively captive capitol, they will do a tax stabilization agreement with the country. That is not traditionally done in the United States. States like Nevada that depend on industry-specific taxes are in many respects partners with those industries. Nevada has two industries that are quite unique. The state has been largely funded with industry-specific taxes. I raise these points in closing the issue because mining is not asking for something special, but mining is definitely something unique. The World Bank would not be publishing books on mineral royalties and mining taxations if mining was not something different as an industry. It is a risky and long-term investment. Mines have very long gestation periods where there is no revenue coming in. Mineral and commodity markets are volatile. I was the "gold guy" at the treasury. During my 17-year career at Barrick, gold has averaged \$489. In the last 10 years I have seen record highs and I have seen record lows. Mines are depleting assets. It is not like a factory that keeps running. A mine eventually runs out of gold. This makes it quite a different business entity. After the fall of the Berlin Wall, as countries sought advice on how to develop their mining industries, the World Bank started to give advice, and frankly Nevada gets it right in a lot of places. It has a tax system in place that allows for the recovery of costs. It

has a tax system in place that allows for the recouping of the costs, the investment of the mine, and it has a revenue sharing component. I do not know what the pleasure of the Legislature is going to be on this measure, but if there is a public debate on that, I sincerely hope we can bring in the experts. This is truly a unique industry that, over the long haul, has benefitted the state in many ways and can continue to benefit going forward.

Chair Segerblom:

I would concur with that. Mining has been great for Nevada.

Assemblyman Horne:

Mr. Brown, you stated how mining is unique to Nevada. I would agree with that, but also, we are in some unique times. In your opinion, S.J.R. 15 may not be the best way to solve some of our state's problems. I have not heard an alternative solution other than broad-based business tax, and we have had that discussion since 2003. I ask you, as a unique industry to Nevada, what is the mining industry's recommendation? What are they going to do to help Nevada take the step to get out of the problems we are having. I do not think your answer is going to be the status quo.

Michael Brown:

The mining industry was involved with the various panels on tax policy that were convened by Governor Guinn, and one that was convened later, and over the years has been an active part of the discussion on how to put that system in place. I was here in 2003 trying to advance Governor Guinn's program for a broad-based tax. I have served on the Council for a Better Nevada. The Nevada 20/30 group has worked on these issues. We have tried to be part of the policy debate going forward. On a practical level, rising gold prices have produced increased revenues from the mining sector. We anticipate the numbers that were provided in the fiscal forum on May 1, 2011, will be higher by the end of the summer. The associations had a long-standing position supporting broad-based taxes in the state, and we will continue to try to work with legislators to achieve some of those goals. As a company, we try to do our part in rural Nevada. I am one of two companies in the state on the Dow Jones Sustainability Index, which is a ranking of corporations that have a commitment to community and social development. Despite the fact that our 4,455 employees are in the rural counties, you see us in urban Nevada. We are actively engaged in a variety of charity measures in these very difficult times. With the recession, the one thing you want to focus on is job creation. My company has hired 950 people in the last two years. We had a job fair in Reno in April, and a job fair in Henderson in December. We have made an effort to do what we can in the Nevada economy. I have touched on a lot of points.

This is my ninth legislative session, Mr. Horne, and I plan to be here for a tenth and help this Legislature address the problems facing this state.

Assemblyman Horne:

Thank you. I do not know if I will be here for my sixth. I will note that, regarding the benefit of mining to rural Nevada, it is always said as if the only responsibility is to rural Nevada, and leave it alone, it is doing us good. I think it is all of Nevada that I am concerned about. I understand the benefits that mining has brought to rural Nevada. Many people would not have received a college education but for mining. Times have changed, and the rurals should not be the sole beneficiary of mining.

Michael Brown:

I understand. This is also why Governor Miller put the reforms in place for revenue sharing arrangements. We stand ready to continue to participate in a proactive position with the State of Nevada going forward.

Assemblyman Daly:

Article 10, Section 1 of the *Nevada Constitution* states, "The Legislature shall provide by law for a uniform and equal rate of assessment and taxation" Then there are the exceptions which are being proposed to be removed under this provision. The argument is when you go to Section 5, which is being proposed to be deleted; it says, "The Legislature shall provide by law for a tax upon the net proceeds of all minerals" I am assuming we already have the law, following the *Constitution*, that says what that is going to be, which is 5 percent. If we eliminate this exemption, that law would automatically be repealed and you would go down to 3.64 percent.

Michael Brown:

What I was addressing is that this is a very unique industry. I was not here in 1989 when this was reformed. I did have the occasion yesterday to go to the Legislative Counsel Bureau library and look at various changes that have been made since 1927. I know that a lot of thoughtful consideration has been put into this. I actually do not know the answer to that specific question but I can try to find it.

Assemblyman Daly:

I believe that is what the testimony was about. I think the important thing, in the rest of the provision that will be eliminated, is the county/state split and the part that says, "No other tax may be imposed upon a mineral or its proceeds until the identity of the proceeds as such is lost." Mining is unique, but not any more unique or special than the gaming industry, which also pays property taxes and sales taxes, et cetera, and they also pay an industry-specific tax to

benefit the state. We can have your property tax go down to 3.64 percent, the same as everyone else, but we can also then potentially implement an industry-specific tax to represent your uniqueness and importance in the state the same as gaming and other industries.

Michael Brown:

With respect to splitting between local and regional governments, this issue crops up around the world, because in many places with mining, the central government wants all the revenues, or the provincial government wants all the revenues. We often point to Nevada as an example of a state that has managed to find a way to bring balance to that.

Chair Segerblom:

Thank you. Senator Horsford would you like to summarize?

Senator Horsford:

Thank you for the indulgence. I need to respond to one argument I am hearing that I feel is not at all valid. To suggest somehow that putting S.J.R. 15 to a vote of the public in five years can somehow be a tax decrease on the mining industry is false. It is false. It is spin. It is misrepresentation of the facts. They want to come here and tell us do not pass S.J.R. 15 because it may result, in five years, in a tax decrease on us. Is that the message? That is what I heard, and I had to come back and refute it. This bill empowers the Legislature and the Governor, if it is approved again in 2013 and approved by the voters thereafter, to set the rate. It allows us to determine what the split is between county and state and it allows us to determine whether we would impose an additional tax other than the net proceeds. Those are three things we have no control over because of a special provision in the *Constitution* that they lobbied for and imposed in the *Constitution* dating back to 1987. To now come here and suggest that somehow, if we change that, they will get a tax decrease—I do not buy it, and neither should this Committee, or the people of the State of Nevada.

Chair Segerblom:

Is there any public comment? [There was none.] It appears that we have lost our voting majority, so we will recess to the call of the Chair.

[Committee recessed at 6:28 p.m. on June 5, 2011, and reconvened at 3:50 p.m. on June 6, 2011.]

Chair Segerblom:

We will begin with Senate Bill 418. We heard this bill yesterday and voted on it. We will have a motion to reconsider.

ASSEMBLYWOMAN FLORES MOVED TO RECONSIDER
SENATE BILL 418.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN GOICOECHEA, GRADY,
HARDY, HICKEY, MCARTHUR, AND STEWART VOTED NO.)

Do we have a new motion on S.B. 418?

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS
SENATE BILL 418.

ASSEMBLYWOMAN FLORES SECONDED THE MOTION.

Any discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN GOICOECHEA, GRADY,
HARDY, HICKEY, MCARTHUR, AND STEWART VOTED NO.
ASSEMBLYMAN OCEGUERA WAS ABSENT.)

Now we will consider Senate Joint Resolution 15. We heard yesterday that this is a proposed constitutional amendment. This will need to pass this session and pass next session, and then it will be a vote of the people. We are not amending the *Constitution*; we are just asking whether the people want to consider amending the *Constitution*. That would be in the election of 2014. Do I have a motion?

ASSEMBLYMAN DALY MOVED TO DO PASS SENATE JOINT
RESOLUTION 15.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Any discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN GOICOECHEA, GRADY,
HARDY, HICKEY, MCARTHUR, AND STEWART VOTED NO.)

Is there any public comment? We will recess to the call of the Chair.

Assembly Committee on Legislative Operations and Elections

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[Committee recessed at 3:58 p.m. on June 6, 2011, and reconvened at 9:36 p.m.]

Chair Segerblom:

Meeting is adjourned [at 9:36 p.m.].

RESPECTFULLY SUBMITTED:

Terry Horgan
Recording Secretary

Nancy Davis
Transcribing Secretary

APPROVED BY:

Assemblyman Tick Segerblom, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Legislative Operations and Elections

Date: June 5, 2011

Time of Meeting: 4:23 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 211	C	Senator Denis	Study of Implementation of the Common Core Standards
S.C.R. 5	D	Denise Tanata Ashby	Written Testimony