

**MINUTES OF THE
SENATE COMMITTEE ON REVENUE**

**Seventy-sixth Session
May 20, 2011**

The Senate Committee on Revenue was called to order by Chair Sheila Leslie at 5:18 p.m. on Friday, May 20, 2011, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Sheila Leslie, Chair
Senator Steven A. Horsford, Vice Chair
Senator Michael A. Schneider
Senator Moises (Mo) Denis
Senator Mike McGinness

COMMITTEE MEMBERS ABSENT:

Senator Joseph (Joe) P. Hardy (Excused)
Senator Elizabeth Halseth (Excused)

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Mike Wiley, Committee Secretary

OTHERS PRESENT:

Tim Crowley, President, Nevada Mining Association
Michael J. Brown, Vice President, Barrick Gold Corporation

CHAIR LESLIE:

I will open the hearing on Senate Bill (S.B.) 491 with Proposed Amendment 6801.

SENATE BILL 491: Makes various changes regarding public revenue and taxation. (BDR 31-1150)

JOE REEL (Deputy Fiscal Analyst):

Three changes are contained in Proposed Amendment 6801 ([Exhibit C](#)). Section 14, subsection 1 provides the definition of "business entity" for the purposes of being subject to the margin tax. Section 14, subsection 2, paragraphs (a), (b) and (c) establish the type of entities that are excluded from the margin tax. The new provisions in paragraph (d) exempt State-chartered credit unions from the margin tax to match federal-chartered credit unions.

In section 35, subsection 6, paragraph (d), provisions were removed and replaced with new provisions. This section discussed the calculation of revenue and the items excluded from total revenue. The provisions removed related to mining, which provided a business entity must exclude from its total revenue the amount of any revenue which represents the proceeds of minerals except the paragraph "does not authorize the exclusion of any revenue derived from the proceeds of minerals after the identity of the proceeds as such is lost." The deletion of this provision will require the revenue be included in calculation of the business margin tax. The following language was added to the same paragraph (d): "A business entity that is required to pay a license fee pursuant to NRS 463.370 may exclude from its total revenue the amount of its gross revenue used to determine the amount of that fee." This provision excludes the gaming revenue percentage fees from the calculation of the margin tax.

CHAIR LESLIE:

We did hear the idea of the \$1 million at our last meeting, and our legal staff is working on it. I will close the hearing on S.B. 491 and open the work session on Senate Bill (S.B.) 493.

SENATE BILL 493 (1st Reprint): Creates the Mining Oversight and Accountability Commission. (BDR 32-1152)

SENATOR HORSFORD:

I have a copy of some of the technical amendments recommended by the industry ([Exhibit D](#)). If you would allow the mining industry to walk through their suggestions, then I can elaborate further on the provisions offered in the amendment on the deductions.

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TIM CROWLEY (President, Nevada Mining Association):

We have proposed three amendments to S.B. 493. We are concerned about the word "plenary" and thought it was not specific enough and would like to clarify the roles and duties of the Mining Oversight and Accountability Commission (Commission). We struck the words "plenary oversight" in section 7 of S.B. 493 and replaced it with "the Commission shall exercise its powers to provide oversight of compliance with Nevada law relating to the taxation, operation safety and environmental regulation of mines and mining."

CHAIR LESLIE:

Do you have this in writing?

MR. CROWLEY:

We are proposing to amend section 7 and remove "plenary oversight" with the following definitive language: "The Commission shall exercise its powers to provide oversight of compliance with Nevada law relating to the taxation, operation, safety and environmental regulation of mines and mining."

CHAIR LESLIE:

You are suggesting that we have a purpose with the general duties of what the Commission would do and suggest that we delete the word "plenary."

MR. CROWLEY:

I would propose in section 7 deleting:

... plenary oversight of the activities of each state agency, board, bureau, commission, department, division or political subdivision in connection with taxation, operation, safety and environmental regulation of mines and mining in the State

CHAIR LESLIE:

Does that not get rid of everything the Commission is supposed to do?

MR. CROWLEY:

I would recommend you replace it with: "The Commission shall exercise its powers to provide oversight of compliance with Nevada law relating to the taxation, operation, safety and environmental regulation of mines and mining."

CHAIR LESLIE:

It seems we are taking out the teeth.

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MR. CROWLEY:

Our only concern is the word "plenary." Remove the word to take out the vagueness. In section 11, we are proposing you strike the words "political subdivision," which prevents the Commission from having oversight authority over local government actions.

CHAIR LESLIE:

Why do you want it to read "... a special audit or investigation of the activities of any state agency, board, bureau or commission in connection with ... "?

MR. CROWLEY:

We believe that "political subdivision" refers to local governments, and we are trying to interpret that your intent in this bill is it should not apply to local governments. We are also asking that you add language that says "the Commission must adhere to the Nevada Administrative Procedures Act."

CHAIR LESLIE:

What does that mean?

MR. CROWLEY:

The same standards say the Commission would be overseeing and would have to abide in terms of the Nevada Open Meeting Law.

CHAIR LESLIE:

A lot of things are included in the Nevada Administrative Procedures Act.

MR. CROWLEY:

That is our main concern.

CHAIR LESLIE:

You are talking about the Nevada Open Meeting Law.

MR. CROWLEY:

We are recommending you strike section 12; the commissions that the Commission would be overseeing are making the rules and regulations by which we have to abide.

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CHAIR LESLIE:

Is that on the information you gave us? You wanting to delete section 12 sounds like you want to get rid of the whole purpose of having mining oversight.

MR. CROWLEY:

Our goal in presenting it to you is not a "hill to die for."

MICHAEL J. BROWN (Vice President, Barrick Gold Corporation):

Our Barrick Gold lawyer came up with the idea based on the Legislative Committee for the Review and Oversight of the Lake Tahoe Regional Planning Agency and the Marlette Lake Water System. We assume local government does not have a role in taxation, safety or environmental regulations of mining and that the authority rests with the Legislature.

CHAIR LESLIE:

The section where you are taking out the local governments refers to auditing.

MR. BROWN:

Yes, we think so. It says "eliminate oversight of local governments by deleting political subdivision" in section 7.

SENATOR HORSFORD:

The only additional part I want to clarify for the record is there are no deductions for federal, State and local taxes, and whether that is specific enough to include sales tax.

CHAIR LESLIE:

Who can help with the question? Can you rephrase the question?

SENATOR HORSFORD:

My Proposed Amendment 6968 ([Exhibit E](#) was Exhibit G in the meeting held on May 18, 2011, of the Senate Committee on Revenue) specifically does not allow the mining industry to deduct federal, State or local taxes against the Net Proceeds of Minerals Tax. I wanted to clarify that included sales tax.

RUSSELL GUINDON (Principal Deputy Fiscal Analyst):

The original bill would get rid of all taxes because State and local taxes would include your State and local sales tax.

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SENATOR HORSFORD:
Proposed Amendment 6968 does not allow for that deduction?

MR. GUINDON:
That is true for the amendment you were considering Wednesday.

SENATOR MCGINNESS:
Did you consider taking out the reference to mineral exploration?

SENATOR HORSFORD:
The amendment as proposed does not allow for deduction on reclamation.

MR. GUINDON:
In the original amendment you saw Wednesday, that is true.

SENATOR MCGINNESS:
What about mineral exploration?

SENATOR HORSFORD:
Anything related to the operation of the mine or land by the mine constitutes expenses specifically excluded from the allowable deductions as the cost of mineral exploration. This is located in [Exhibit E](#), page 7, line 23.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED S.B. 493 WITH THE PROPOSED CHANGES TO SECTION 7; THE ADDITION OF LANGUAGE THAT REQUIRES THE MINING OVERSIGHT AND ACCOUNTABILITY COMMISSION TO ADHERE TO THE NEVADA ADMINISTRATIVE PROCEDURES ACT; AND THE PROPOSED AMENDMENT 6968.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR MCGINNESS VOTED NO.)

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CHAIR LESLIE:

I will close the work session on S.B. 493 and open the work session on Senate Joint Resolution (S.J.R.) 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 HORSFORD MOVED TO DO PASS S.J.R. 15.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR MCGINNESS VOTED NO.)

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CHAIR LESLIE:

The meeting of the Senate Committee on Revenue is adjourned at 5:43 p.m.

RESPECTFULLY SUBMITTED:

Mike Wiley,
Committee Secretary

APPROVED BY:

Senator Sheila Leslie, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Roster
S.B. 491	C	Legal Division	Proposed Amendment 6801
S.B. 493	D	Tim Crowley	Proposed Amendment
S.B. 493	E	Senator Steven A. Horsford	Proposed Amendment 6968