MINUTES OF THE
SENATE COMMITTEE ON REVENUE

Seventy-sixth Session
March 10, 2011

The Senate Committee on Revenue was called to order by Chair Sheila Leslie at 1:11 p.m. on Thursday, March 10, 2011, in Room 2134 of the Legislative Building, Carson City, 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
Senator Joseph (Joe) P. Hardy
Senator Elizabeth Halseth

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Brenda Erdoes, Legislative Counsel
Gayle Rankin, Committee Secretary

OTHERS PRESENT:

Dino DiCianno, Executive Director, Department of Taxation
Terry Rubald, Chief, Division of Assessment Standards, Department of Taxation
Tim Crowley, President, Nevada Mining Association
James L. Wadhams, Newmont Gold Company
Michael Alastuey, Director of Public Policy and Analysis, Applied Analysis
Bob Fulkerson, Executive Director, Progressive Leadership Alliance of Nevada
Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance of Nevada

CHAIR LESLIE:
We have an overview and presentation on the Net Proceeds of Minerals Tax from Dino DiCianno, Executive Director, Department of Taxation, and Terry Rubald, Chief, Division of Assessment Standards, Department of Taxation.

DINO DICIANNO (Executive Director, Department of Taxation):
Terry Rubald, Chief, Division of Assessment Standards, Department of Taxation, is here with me today. I would like to go through a historical outline relating to Net Proceeds of Minerals Tax (NPOMT) and explain the process. After that, Terry is going to present more detail on how the Department of Taxation deals with NPOMT.

CHAIR LESLIE:
We have the "2009–2010 Bulletin, Net Proceeds of Minerals" (Exhibit C) and also a PowerPoint presentation, "Net Proceeds of Minerals Tax" (Exhibit D).

MR. DICIANNO:
The taxation of mines in Nevada has a long history. Nevada's Constitution was drawn by the Constitutional Convention of 1864 and adopted by a vote of the people in conjunction with the admission of Nevada to the Union in 1864. It appears the Constitution Article of taxation and the method of taxation of mines was the subject of more debate than any other provision of the 1864 Constitution. The basis of the Nevada mining tax as net proceeds was founded. *Nevada Revised Statute* (NRS) 362, as enacted by the Nevada Legislature, requires the Department of Taxation to annually determine the Net Proceeds of Minerals Tax due for all operating mines, oil and gas wells, and geothermal operations in Nevada.

The Department also calculates the amount of taxes due on the royalties paid by the mining operators to the lessor. In addition, the NPOMT law requires the Department to administer the billing, collection and distribution of those revenues. The revenue is shared between the State General Fund and local governments. Every Nevada mine operator must file an annual statement with the Department. This statement lists the mine's production, gross yield, allowable deductions, royalties paid and net proceeds resulting from the previous calendar year's activity. The lien day for NPOMT is January 1 of the prior year. The Department mails this reporting form to each taxpayer in December of the reporting year. The report must be completed and returned no later than the following February 16, unless a 30-day extension to file is requested timely and in writing. The NPOMT upon which the tax is based is the gross yield, less statutorily allowed deductions.

The gross yield is the value the product was sold or exchanged for any thing or service, its value if removed from the State in a form ready for use or sale, or its value if used in a manufacturing process or providing a service. The gross yield or value is established at the first point of sale regardless of the form of the mined product.

Statutorily allowed deductions for costs only incurred at the mine during the reporting period are taken against the gross yield. There are three key elements concerning deductions.

1. Net proceeds are a one-year snapshot, and therefore only current expenses are allowed. With the exception of reclamation costs, accumulative amounts are not allowed.

2. Direct mining costs are allowed and the cost of doing business is not.

3. The mine operator does have the option to report deductions on an accrual or cash basis. When mine operators report, they follow generally accepted accounting principles.

The Division of Assessment Standards, Mining Section, which Terry Rubald oversees, completes a desk audit for each return. The desk audit procedure consists of determining whether or not the reported gross yield and deductions conform to Nevada law and the Nevada Administrative Code adopted by the Nevada Tax Commission. The evaluation of each return involves a review of the following items:

1. Production in gross yield amounts to see if the annual totals agree with the reviewing appraiser’s knowledge of the commodity market and the individual property.

2. Mining deductions to see if the costs incurred correspond with the appraiser’s knowledge and understanding of the particular property’s activity. Each mine property is unique. There are gold producers and silver producers. There are nonprecious mine producers that do not operate in the same way as gold producers. The appraiser reviews each category of deduction for

consistency and proper classification. The taxpayer must list only allowable deductions within the specified categories detailed on the reporting form. The reviewing appraiser uses a personal awareness of the mining operation gathered from appraisal visits for property tax purposes and a study of the property history and characteristics.

Nevada Revised Statute 362 permits the mine operator to deduct mining costs to the first point of sale. These costs include extraction, transportation, milling and reduction, marketing, insurance, depreciation, and royalty payments. Royalty recipients are taxed based on the reported amount received in the prior calendar year. Royalty recipients pay tax on a cash basis only. The Nevada Tax Commission has adopted regulations to provide an in-depth listing and analysis of the allowable deductions and the procedure used to evaluate the determination of gross yield for all types of mine operators. In addition, those regulations further detail the allowable deductions to include equipment rent, contract mining, corporate services under contract and management fees provided by the joint venture partner.

The review established by the Department of Taxation to monitor the NPOMT reports is reliable and cost-effective. I will turn this over to Terry Rubald for more detail on the process.

CHAIR LESLIE:
Why do we not have a severance tax? Other states with natural resources have a severance tax.

MR. DICIANNO:
That was the constitutional debate.

CHAIR LESLIE:
There should be some kind of severance tax, and the Legislators decided to do it on the property and the ground.

MR. DICIANNO:
That is correct. Ms. Rubald will get into more detail about why this is tied to a property tax.

CHAIR LESLIE:
After 12 years here, I finally understand this tax. How many people do you have in your office dedicated to looking at these returns and making sure they are done properly?

TERRY RUBALD (Chief, Division of Assessment Standards, Department of Taxation):
We have two and a half appraisers who also go out in the field to do the mining property tax. They also review the NPOMT returns.

CHAIR LESLIE:
Has that number changed in recent years, or has it been two and a half people for a long time?

MS. RUBALD
For a long time. We also have a working supervisor who assists with this process.

CHAIR LESLIE:
When we have more mining activity, what happens?

MS. RUBALD:
We work very hard. We work harder.

CHAIR LESLIE:
Do you prioritize the bigger mines or the ones where there is more risk?

MS. RUBALD:
This is a desk review. We give equal time to making sure the returns are completed according to the NRS and regulations. We devote more time to the larger mines that are more complex. Mr. DiCianno has given you an overview of the NPOMT. My goal is to provide you with more specific information regarding how the tax is calculated, how the tax rate is applied and how the taxes are distributed.

The second slide in Exhibit D shows the gold industry is the driver for NPOMT in Nevada, with 88 percent of the gross yield produced by gold and silver mines. The next chart in Exhibit D, Percent of Total Gross Proceeds by Mineral Type, shows similar information. It shows the relative position of the contribution of each type of mineral to the whole over a five-year period. The copper mine we have in the State was previously listed under gold, but last year we separated it. Geothermal is climbing as a percent of the total NPOMT while the "Other" mineral category is dropping during the last period. "Other" includes a variety of minerals such as clay, gemstones and bentonite, among others.

On slide 4, Exhibit D, NPOMT is classified as a property tax or an in lieu of property tax. It has characteristics of an income tax. That is because the goal is to find the value of the mineral extracted and sold during the year. In order to do that, we have to start at the point of first sale. We subtract the deductions, such as transportation, which occurred after the mouth of the mine. Other states often value the mineral in place, including reserves, but in order to do that, a number of assumptions have to be made. The benefit of a NPOMT is we can start with firm information about the gross yield.

See slide 5 of Exhibit D. The gross yield is most often reported in terms of the number of units produced times a unit price. The price of gold this morning was $1,424.25 per ounce. If a mine produced 100 ounces, the gross yield would be $142,525. We subtract certain allowable deductions to obtain a net. The net is then multiplied by a tax rate that must not exceed 5 percent. That is a limit provided in Article 10, section 5 of the Nevada Constitution.

Slide 6, Exhibit D, shows the actual tax varies depending on the number of criteria. The NRS 362.140 provides a sliding scale of tax rates to be applied depending on the ratio of NPOMT to gross yield. If the gross yield of a mine was $1 million, but the mine had allowable deductions of $950,000, leaving a net of $50,000, the net-to-gross ratio would be 5 percent. Using this table, the rate of tax to be applied would be $2 per $100 of NPOMT. In this example, the total taxes would be $1,000. If the mine had allowable deductions of $400,000, leaving a net of $600,000, the net-to-gross ratio would be 60 percent and the tax rate would be $5 per $100, or $30,000.

Some exceptions to this sliding scale are on slide 7, Exhibit D. If a mine has gross proceeds of $4 million or more, the rate of tax is 5 percent. The tax rate on all royalties is also 5 percent. The maximum rate applied to geothermal properties is an exception because the combined tax rate of the local jurisdiction is the maximum rate. In Churchill County where many geothermal properties are located, the typical rate would be $2.80 per $100 of NPOMT. The combined property tax rate of the local jurisdiction is also the minimum tax rate to be applied.

The next chart on page 8, Exhibit D, shows the average net-to-gross ratio for all mines for the last 15 years. The bars show the actual total dollars, with the gross yield in red and the net in blue. The yellow line shows the relative percentage of the net-to-gross ratio. In the last few years, the ratio of net-to-gross has been increasing and is about 30 percent. This tells us that the mines have the benefit of improved cost ratios compared to gross yield, which ultimately shows up in our NPOMT bottom line.

On slide 9, Exhibit D, 2009 Net Proceeds, Net/Gross Ratio, you will see the net/gross ratio varies by mine and by type of industry. In 2009, the net-to-gross ratio for gold was 29.4 percent, while the net-to-gross ratio for other mines was 21.7 percent. This is influenced by matters of scale; some gold mines have the benefits of larger economies of scale, while our small opal and gemstone producers have a far different market and economic conditions.

Slide 10, Exhibit D, has the allowable deductions component of the NPOMT formula. By law, certain costs of production are allowed. As Mr. DiCianno mentioned, costs of doing business, with certain exceptions, are generally not allowed. Direct costs of extraction, refining and marketing are allowed.

The next chart, slide 11, Exhibit D, shows the types of costs that occur during the life of a mine. Exploration costs to discover the ore body are not allowed as a deduction. Many preproduction costs are not allowed, such as feasibility studies, design fees or regional exploration. The costs in blue all have to do with producing a saleable product. Many of those costs are allowed, including engineering, computer installation and safety training.

Other costs, such as legal services, licenses, permits and fees, seminars and community relations, are not allowed as deductions. We have regulations regarding deductions, and since 2000, the Nevada Tax Commission has gone through regulatory sessions and has now allowed deductions for accrued reclamation, which is part of the closing costs of the mine. The regulations also allow employee transportation to the site and certain kinds of employee housing. In the geothermal arena, they allow for a return on investment, amortization of power purchase contracts, in-town medical facilities and operating costs, and sales tax on tangible personal property, just to name a few.

The next slide, Exhibit D, shows the extraction costs. Ninety-two percent of all the reporting gold companies reported extraction costs. The total gold industry reported extraction costs of $1.3 billion, and extraction costs represented 41 percent of the total costs reported. The same analysis is provided for each of the major mining industries, copper, geothermal, gypsum, oil, gas and others. The largest percentage of costs come from extraction costs followed by processing costs. A smaller percentage are costs for transportation, depreciation, insurance, reclamation, marketing and royalties.

SENATOR HORSFORD:
Can you go back to the deductions? Could you go through each one of these in more detail and give a better explanation of what is entailed in each of the descriptions? Are there any data that show where it is by company or with more specifics to the entire industry?

MS. RUBALD:
Yes, we do keep track of the deductions each company takes. We have that compiled, but we have not published the information.

CHAIR LESLIE:
Do they all take the same deductions, or is there a variation?

MS. RUBALD:
There is a wide variation. That is what I was showing in this slide. Most of the gold producers say that extraction costs comprise about 41 percent of the total cost. In geothermal, extraction is 13 percent of the cost. With geothermal, companies are drilling wells. They have discovered steam heat, and they bring that up and transport it through pipes to their electric generation plants. It is more of a processing cost than gold, which has to prepare mine sites and get down to the ore body. Oil and gas has a higher extraction cost. These companies do more of that than the transportation. If you compare that to the next slide, which is the transportation cost, you can see that for oil and gas companies, it is a small 0.8 percent of their total costs related to transportation.

CHAIR LESLIE:
We understand your charts now.

MS. RUBALD:
Did I cover your question about the deductions?

SENATOR HORSFORD:
I would like to go through these. I have more questions on refining and reduction.

CHAIR LESLIE:
These are statutory. Have there been any changes, or have the regulations always been this way?

MS. RUBALD:
They have been that way for a long time. There have been a few things that have been added over the years, like pensions.

CHAIR LESLIE:
Pensions? Mining companies get to deduct pensions?

MS. RUBALD:
It used to be they did not deduct, but they do now. It has been that way for several years.

CHAIR LESLIE:
What is several? How many years?

MS. RUBALD:
At least 14.

MR. DICIANNO:
As I indicated earlier, the NPOMT goes back to the Constitutional Convention. The statute has rarely been amended. When the language in the statute was enacted, mining was considerably different than today. The majority of mining back in the late 1860s and early 1900s was underground. There were no such things as open pit mines, leach pads and extracting gold out of leach pads using cyanide. The process has changed since that time. Through regulatory processes, we have had to adjust the way mines conduct business through the way regulations are written in conjunction with the statute. Those regulations were vetted in an open meeting. They were reviewed by Legislative Counsel;

they were adopted by the Tax Commission in a public forum and they were also further reviewed by the Legislative Commission.

CHAIR LESLIE:
No one is suggesting this was done improperly.

MR. DICIANNO:
I am just trying to explain the process.

CHAIR LESLIE:
We are trying to understand. We are speaking on behalf of our constituents. These are questions we have to answer all the time. That is what this hearing is for—to understand NPOMT better.

MS. RUBALD:
I would like to add a good example of how things have changed since we have had regulations providing for recognition of accumulated expenses for reclamation. In the 1860s, reclamation was unheard of, but it is a major cost for mines today.

CHAIR LESLIE:
I have a hard time explaining to my constituents why we do not have a severance tax like other states do and why we have these convoluted deductions. Did you say the companies get to deduct the cost of their association dues as part of the cost of production? Did I understand that right?

MS. RUBALD:
If you get a chance to look at the page 11 slide up close in Exhibit D, the items in blue are mostly production costs, so we are talking about producing a saleable product. The list of allowable deductions include accounting, advertising, etc. You can read the list. You also can see some of the items are in italics and have an asterisk beside them. Those are items we do not allow, even though they are part of the overhead for the mine in their production costs, like auditing contributions, donations, dues, land exchanges and liability insurance. Those things are disallowed.

CHAIR LESLIE:
The dues are disallowed?

MS. RUBALD:
They are disallowed, except for World Gold Council dues.

CHAIR LESLIE:
Who decides that? Is that through the regulatory process?

MS. RUBALD:
Yes, we have guidance through the regulations. There have been audits in the past where there have been determinations and appeals, and we have rulings from the Tax Commission.

CHAIR LESLIE:
All of that could be changed?

MS. RUBALD:
Yes.

CHAIR LESLIE:
Could you explain what a severance tax is for the benefit of the Committee?

MS. RUBALD:
A severance tax is similar to an excise tax in that it is for the privilege of severing the mineral from the ground. It has similar aspects to NPOMT because it originates at a point of sale, less deductions. It is not considered to be a property tax because there also may be property tax on the ore.

CHAIR LESLIE:
Does Wyoming have severance and property taxes on ore?

MS. RUBALD:
Yes.

CHAIR LESLIE:
Does Alaska have a severance tax on oil?

MS. RUBALD:
I believe so.

CHAIR LESLIE:
It is the same principle. In Alaska, the state gives money back to the citizens through the severance tax?

MS. RUBALD:
Yes. Quite a bit of money.

CHAIR LESLIE:
Did you want to go back to that blue slide that had the allowable deductions? We can read that easier, and you can give us a better understanding of what those deductions are.

MS. RUBALD:
On page 10, Exhibit D, we will start with Extraction Costs: These are the payroll of the miners and their associated pension expense. This is considered to be part of the costs of having a direct labor cost of the individuals at the mine.

Transportation: Some of the larger mines have different milling operations in different parts of the state, and depending on the ore grade or what kind of processing is necessary, they will transport if from one area to another.

Reduction, Refining and Sale: In the gold industry, companies process and refine the ore and try to get as high a quality as they can, put it in dore bars and send it on for further refining for a pure product.

Marketing and Delivery of Product: This gets the ore to the refinery.

Maintenance and Repairs: The mines have equipment that needs to be maintained.

Insurance and Fire Insurance: Workers' compensation is included in this.

Depreciation: There are regulations defining in what life category the types of assets would be placed and depreciated on a straight-line basis.

Royalties: There are owners of the minerals, and the mining companies are obligated to pay royalties to the owners of the mine and ore body. Senate Bill No. 2 of the 25th Special Session requires the mine operators to pay the tax on behalf of the royalty recipients. This has made it much easier at our Department because there are 400 to 500 royalty recipients who we do not have to bill separately.

Are there other questions I can answer?

CHAIR LESLIE:
Does most of the mining in Nevada happen on public land?

MS. RUBALD:
A great deal of it does. There is quite a bit on the checkerboard too.

CHAIR LESLIE:
Who owns the gold on the public land?

MS. RUBALD:
The public does. There will be a 12.5 percent royalty to the Minerals Management Service of the federal government. We do not place a NPOMT on that. That kind of royalty is not taxable.

CHAIR LESLIE:
That royalty goes to the federal government. Is that what President Barack Obama is talking about giving back?

MS. RUBALD:
My understanding was that the federal government wants to enact a leasing system rather than a mining claim system.

CHAIR LESLIE:
That is something different from the royalty. Marketing and delivery of product is the one my constituents always talk to me about. Do the mining companies get to deduct the cost of the billboards that say "Mining Works for Nevada"? Is that because it is a marketing cost?

MS. RUBALD:
That has been a debate for some time. My interpretation of marketing and delivery of product is simply marketing to the refinery that refines it further. There is a certain amount of advertising that could be under marketing, and there has been an ongoing debate about the definition of marketing.

CHAIR LESLIE:
When you do the desk audit and see that deduction, do you allow it?

MS. RUBALD:
It is allowed if we know it is marketing for the product.

CHAIR LESLIE:
Do you get down to that level of detail in your desk audit where you would be able to see that?

MS. RUBALD:
No, we do not. It is a report with itemized listings. It is not like an audit where you look at a source document. When the mine reports line items, it is in categories. We would not know that marketing is to take it to the refinery or whether it is a billboard.

CHAIR LESLIE:
Companies may be deducting it and we do not know it?

MS. RUBALD:
We do not know. If it is through a formal audit, we can tell.

CHAIR LESLIE:
Are you going to cover how you audit and how often? Any other questions about audits? We will let you proceed.

SENATOR HORSFORD:
You are giving us the 2009 NPOMT snapshot. Is there a reason there is not a trend line, over a decade or two? Why are we seeing the 2009 first? Do we have a trend line of the deductions by each of these categories?

MS. RUBALD:
I do not have a trend line available today. I took the most recently published data, which is our 2009 bulletin. When I say 2009, I am talking about the production year 2009. The taxpayers send in reports in February and we review them in March and the early part of April. We certify the NPOMT value on April 20 of each year. Between April 20 and May 10, the taxpayer pays on that certified value. With the advent of S.B. No. 2 of the 25th Special Session, we introduced a quarterly payment system with the bulk of the value being reported

on March 1 along with the projection statements. What has occurred because of this reporting system of the accelerated collection, part of it is now in one fiscal year and part of it is in another fiscal year. With regard to the deductions, we still true up what has been reported to us under the accelerated payment system. We still true up with the annual report that is received in February. The staff is looking at those reports today and certifying value. On April 20, staff will certify final value for the 2010 production, even though the payments were made in 2010. The bulk of the payments were made a year ago.

The graph of the NPOMT trend, page 19, Exhibit D, shows a bright spot in mining. The green line shows the trend of the county portion of tax and the red line shows us the trend of the State portion of tax. They are close, sometimes with the State portion of tax leading and sometimes the county is leading.

CHAIR LESLIE:
Why is this different?

MS. RUBALD:
It goes back to the tax rate and production in any given year. If a mine has met the $4 million NPOMT, the tax rate is automatically 5 percent. If the mine is located in a county where the combined tax rate is 2 percent, then the county would get the 2 percent and the State would get the difference between 5 percent and 2 percent, or 3 percent. It varies depending on production and location so we know which tax rate to apply.

CHAIR LESLIE:
Is it fair to say when the price of gold is high, as it is now, the State earns more? Or does it depend on the county?

MS. RUBALD:
It depends on the county, and I will show you.

I have talked about the accelerated payment. On March 1, the taxpayers had to submit a projection along with payment based on their projection of what they expect to have for NPOMT for this year. They may not have mined the gold yet, but they have paid on it. There are some late filers, and we still have to consider the credits from the prior year. As of today, the largest NPOMT taxpayer is Barrick Gold. It paid 64 percent of the total projections paid last week, followed by four other gold mines, a geothermal company, a limestone company, an oil company and a diatomaceous earth company. There is a big difference between Barrick and the last one on the pie chart, page 20, Exhibit D.

SENATOR HORSFORD:
These are the top ten taxpayers?

MS. RUBALD:
Yes, as of March 1.

SENATOR HORSFORD:
Does gross yield, page 21, Exhibit D, mean the amount the mining company sold its product for?

MS. RUBALD:
It had X number of units sold at a price in the market; multiplying that gave the gross yield of sales. The next column is the allowable deductions. These are what companies are allowed to take as deductions against the gross yield to derive the NPOMT in the far right column. Barrick was $1.9 billion in NPOMT. The tax rates vary depending if the company met the $4 million minimum net on the mine and depending on the underlying combined tax rate. Last week, Barrick reported the projection for the year, and if it had credits owing for the prior year, the company took those credits. This is what remains, the net tax after credits. Barrick paid $101 million last week.

SENATOR HORSFORD:
Barrick had $3.7 billion of gross yield, $1.7 billion of allowable deductions, which means NPOMT of $1.9 billion. Depending on the tax rate in the county, then it paid a tax of $101 million. Newmont is $2.2 billion in yield, $1.5 billion in allowable deductions; its NPOMT was $620 million and the net tax was $33.7 million. What is the reason for the huge variation between those two companies? If Barrick had a yield of $3.7 billion, Newmont had a yield of $2.2 billion, Barrick paid $101 million in taxes and Newmont only paid $33 million. What is the reason for the large variation?

MS. RUBALD:
You have to consider where their mines are located. Some mines are more difficult to get to the ore, so Newmont may have had higher processing costs or difficulty getting it out of the location. Newmont may have had more transportation costs getting the ore to the mill process.

SENATOR HORSFORD:
Newmont was allowed to take more deductions potentially? Is it the process of mining in the county that creates the variation?

MS. RUBALD:
Yes. It is an inherent part of the location of the mine and the quality of gold or mineral being processed.

SENATOR HORSFORD:
That can explain some of it. Looking at it on a sheet of paper, if this was another industry and I put gaming side by side and looked at the top ten taxpayers and saw what Harrah's, MGM and Wynn pay, I do not know if I would see the same variation, even though one of those companies has more properties than the other. That is what I am trying to understand here.

MS. RUBALD:
That explains some of it.

One thing we should note, there is a difference in the number of mines. I did not include the number of mines. Newmont has five mines and Barrick has six or seven mines. One that recently came on line is a large producer, and that makes a substantial difference in the relative positions.

SENATOR HORSFORD:
I would like to go back to the question about the allowable deductions for all of these. Who determines and how is it determined if this is an allowable deduction? Do they do it themselves, and if they are audited, you correct them?

MS. RUBALD:
It is a self-reporting tax system. The taxpayers use the statutes and regulations as best they can to determine whether something is deductible. In our desk audit, our staff members perform a review to see if it is an allowable deduction. They disallow deductions they believe are in error. When we issue the certification in April of each year, we note those disallowances. Beyond that, there is a formal audit program.

SENATOR HORSFORD:
Have you seen more allowances for deductions? If so, where are you seeing those allowances?

MS. RUBALD:
The Nevada Mining Association can explain this better than I. It is my understanding there are different grades of ore. The mines like to mine the high-quality ore when the price is low. When the price is high, they can expand their area of mining and find the lower-quality gold. It is more economical to develop the ore because the market is paying more to find the lower-quality gold. There are more expenses associated with the lower-quality gold.

SENATOR HORSFORD:
If deductions being taken are not allowable or appropriate, we will not know that until next February?

MS. RUBALD:
That is correct. We are doing the reporting for 2010.

SENATOR HORSFORD:
In that report, are you seeing a lot of allowances that should not be authorized?

MS. RUBALD:
I do not think so. We have just begun.

SENATOR HORSFORD:
What about for 2009?

MS. RUBALD:
Without looking at source documents in a regular audit, the taxpayers appear to be reporting in a correct manner.

CHAIR LESLIE:
We have two and a half people doing desk audits for companies grossing $3.7 billion. Why do I feel a little bit outgunned? As wonderful as I am sure your staff is, and this is obviously highly technical, it just does not seem right.

MS. RUBALD:
We do the very best we can.

CHAIR LESLIE:
I am sure you do, but I am not comfortable with that.

MS. RUBALD:
The next chart, page 22, Exhibit D, shows the actual assessed valuations for the last 20 years. It also shows spikes and valleys in terms of percentage change between the years. This shows us many of the minerals, particularly gold, are a commodity subject to worldwide influences. Since 2001, the trend has been up, but in any given sequence of years, there might be peaks and valleys.

CHAIR LESLIE:
The trend is up sharply for 2010 and 2011.

MS. RUBALD:
The price of gold has doubled or more. This chart on page 23, Exhibit D, is tax revenue. The driver of NPOMT is gold and is subject to volatility in the commodities market. As quickly as it has gone up, we have to be mindful it could go down. The next page shows the same information as the graph, but it is in number form. Of the fiscal year (FY) 2011-2012 estimates received last week, $159 million reflects at least 90 percent of the total. There is a penalty if the mines do not report at least 90 percent of the total in the accelerated payment system. They can modify this over the next three quarters and reflect their changing conditions. The FY 2010-2011 estimates are currently being desk-reviewed, and the total tax revenue from NPOMT is $152.8 million. This is an increase from the prior year of 57 percent. The projections we got last week were at $159 million. That is up 5 percent from last year.

Page 25, Exhibit D, shows how it is distributed; this chart and the next chart come from our "Net Proceeds of Minerals" bulletin. This is 2009 information. It has not changed a lot because it is based on the mine locations. The big producing mines are in Eureka, Elko, Lander and Humboldt Counties. You can see the county share of net proceeds. The big three are Eureka, Humboldt and Lander in terms of the gross proceeds of minerals. The next slide shows the same thing, but this time it is the net proceeds of minerals.

On the next slide, page 27, Exhibit D, the bars on the far right are both estimates for the 2010 and 2011 year split. I made those estimates to the split between counties and State. I took 2009 data, found out the relative percentage split and applied it to this year's data. We are currently performing the annual desk reviews for the 2010 year. We will have this final information available in April. For 2011, we show the projections we received as of March 1. This is an amount not yet earned but received.

The next chart, page 28, Exhibit D, shows it better. You can see the typical State-county split, since 2000 is half and half. In 2000, the county got 48 percent of the NPOMT revenues and the State got 52 percent. Our estimate for 2011 is the county will receive 54 percent and the State will receive 46 percent. This seems reasonable, considering the new mine opened up in Lander County is a large producer. These estimates for 2010 and 2011 could change considerably with the desk reviews for 2010 and the quarterly reporting system for 2011. Conditions and prices can change anytime at the mines.

The next slide, page 29, Exhibit D, shows the total revenue stream of that county's general fund from NPOMT revenue. In Churchill County, NPOMT represents just over 1 percent of the total revenue available to the County's general fund. We took most of these statistics from the 2010 audits. We have to make a few phone calls to counties to get more specific information or details. The NPOMT, as a percentage of the general fund, is small in Churchill County, but it represents one-third of the general fund in Eureka County.

The next slide, page 30, Exhibit D, shows how the NPOMT is used in the principal mining counties and not just for the general fund. Pershing County uses $3,700 in the general fund from NPOMT, but it uses $454,491 in the county building fund, medical indigent funds 1 and 2, and the capital projects fund. Humboldt County uses $1.3 million in the general fund but also uses $1.6 million in the indigent fund, Cooperative Extension, the Sixth Judicial District Court, the library and several other funds. In total, these principal mining counties apply $17 million of their receipts from NPOMT to their general funds and $22.5 million to all the other various funds. The 2010 audit shows that nearly $40 million is used by these local jurisdictions.

On the next slide, page 31, Exhibit D, S.B. No. 2 of the 25th Special Session did not change how the tax was calculated. It was still gross yield minus allowable deductions equals net proceeds. It does change when the tax is collected. The taxpayers have to make a projection report for the current production year, and they pay at least 90 percent of that projection in March of the current year, almost a year sooner than previously. They have the opportunity to update the initial projection report in the following three quarters. The annual report is still submitted in February when we review the reports. If there are any taxes owing, we issue certifications and the taxpayers make payment on May 10. The May payments are considerably less because they have made the bulk of their payments in March the year before.

The last page is the calendar for NPOMT, Exhibit D, which shows how the accelerated payment system works. You can see in red that S.B. No. 2 of the 25th Special Session is due to sunset on June 30. This means the quarterly payment system would disappear for the third and fourth quarters. We would still do the updates with the annual report next February. Next May, when the counties are used to receiving NPOMT, they will not receive it because they are going to receive it in the next month.

CHAIR LESLIE:
As I understand it, the Governor's *Executive Budget* has built it in again. This provision will not sunset to keep the prepayment going. Unless we act, that is what would happen.

MS. RUBALD:
Yes, I believe so. Are there any questions?

CHAIR LESLIE:
Can you tell from this how much it costs to produce an ounce of gold?

MS. RUBALD:
I would like to defer that to the Mining Association. The cost per ounce, depending on the quality of gold, can range from $400 to $800.

CHAIR LESLIE:
From the information reported to you, that is not something you figure out and compare it to what they are telling their shareholders?

MS. RUBALD:
Yes, we do. We have that information.

CHAIR LESLIE:
Do you compare it to their shareholder reports?

Ms. Rubald:
We do look at both.

CHAIR LESLIE:
Is there much difference?

MS. RUBALD:
It depends on the exact mine. In the shareholder reports, the mines are using summary statistics. We are looking at individual mines.

CHAIR LESLIE:
They may be reporting it differently than how you figure it with all the deductions.

MS. RUBALD:
Exactly.

MR. DICIANNO:
You have asked about the status of our audit function. We are reconstructing it. The two individuals who used to do these audits retired several years ago. We are struggling to train new auditors to do this kind of audit. Under the normal course of what we used to do, audits were under a three-year window. We have not been able to do that. We did conduct audits of Barrick and Newmont several years ago, but we have not done any further audits since that time. I am not trying to make apologies for this; we need to work on it. I have asked Ms. Rubald to look at our audit manual. I have asked our internal auditor to dust it off and redo the manual in order to get our training mode back on track to conduct this kind of audit on the mining industry.

CHAIR LESLIE:
Do we have two auditor positions that are not filled? Is that what you are saying?

MR. DICIANNO:
No. These were auditors who not only did the NPOMT audit, but they did other audits with the Department of Taxation. At the same time we conduct these NPOMT audits, we also conduct sales tax audits and Modified Business Tax audits. It does not make sense to send someone to do a NPOMT audit without doing the others.

CHAIR LESLIE:
The NPOMT audit is so different from other taxes. I can understand you need specially trained people for those, especially when you are talking about the gross income we saw in the presentation. Do you have anybody trained to do that now?

MR. DICIANNO:
Not at this time.

CHAIR LESLIE:
When do you think you will have somebody trained?

MR. DICIANNO:
I hope in the next year.

SENATOR HORSFORD:
I am going to have to start taking blood pressure medication. I thought we funded your Department for additional auditors in the FY 2009 Session, with the specific strategy to improve the collection process. We had the issue of $175 million of uncollected taxes, some of which are old and probably will never get collected. Did we fund additional positions last Session?

MR. DICIANNO:
That was not the case. During the request for the budget, I reclassified ten auditor positions to create a call center to correct another problem at the Department regarding unresponsiveness to taxpayer calls. That is part of it.

SENATOR HORSFORD:
We did not fund new positions?

MR. DICIANNO:
No.

SENATOR HORSFORD:
There are no trained auditors on NPOMT?

MR. DICIANNO:
No. Not at this time.

SENATOR HORSFORD:
How long has it been since we have had someone trained?

MR. DICIANNO:
A couple of years.

SENATOR HORSFORD:
Have you brought this to the attention of the Governor and the prior administration?

MR. DICIANNO:
No. I have not.

SENATOR HORSFORD:
Why not?

MR. DICIANNO:
That is my fault. Maybe I should have.

SENATOR HORSFORD:
We have a huge increase of NPOMT. You do not have an auditor with the necessary skills. You know the enormous challenge we are facing with the budget shortfall. In your course of developing your budget, it would seem that is something you would identify as a weakness within the Department of Taxation, and you would advocate to have addressed as part of the Governor's *Executive Budget*.

MR. DICIANNO:
I could not agree with you more, Senator.

SENATOR HORSFORD:
What would you propose to do now? We do not have trained auditors and we have these large increases in NPOMT. I am going to ask the mining companies and the Mining Association about the level of their deductions. The fact you have to do this as a desk review seems rather labor-intensive. What would you propose to do right now? Now that we know we need this and should have had it for two years?

MR. DICIANNO:
That is why I have asked the internal auditor to dust off the internal audit manual and work with Ms. Rubald and her staff to specifically assign several auditors to begin the training.

SENATOR HORSFORD:
We have auditors; they are not trained in this area?

MR. DICIANNO:
That is correct.

SENATOR HORSFORD:
I do want to ask about the counties. On your chart, page 25 has the NPOMT proportion to State General Fund, State Debt Fund and counties.

MS. RUBALD:
Yes, Senator Horsford.

SENATOR HORSFORD:
There is a 54 percent allocation to the counties. In the estimated amount, it was 52 percent in 2010; to the State it is 48 percent and 46 percent in 2011. What is the reason for that? I know you explained it.

MS. RUBALD:
It is a difficult explanation because it is an interplay between the sliding scale tax rate, which varies between 2 percent and 5 percent, and whether a mine has reached the $4 million of NPOMT, which automatically brings in the 5 percent, and where the mine is located. If the mine was in Eureka County, where the combined tax rate is relatively low, 1.98 percent, and if the mine had a great production year, it means the State will have more of a share because the difference between the 5 percent and 1.98 percent would go to the State's General Fund. The next year, that same mine could be going through an expansion and have a lot of development costs or extraction costs, and the net might be less; therefore, the tax rate might change to 2 percent rather than 5 percent. That is why there is a variation from year to year. It depends how much the mine is producing, where it is located and what the relative interplay is between the county combined rate and the sliding scale tax rate for NPOMT.

SENATOR HORSFORD:
When was this put in place?

MS. RUBALD:
The sliding scale? About 30 or 40 years ago.

MR. DICIANNO:
There was a fundamental shift in the tax in 1989. That is where it started.

SENATOR HORSFORD:
This particular one?

MR. DICIANNO:
When we went to a 5 percent rate. Prior to that, there was no general fund rate with regard to NPOMT. That is what created the sliding scale. At that time, the policy was created so the smaller mining companies would not be overburdened. The sliding scale was created for these smaller companies so they could be taxed on what they were producing and what they could afford. That is why there is the floor, the $4 million. If they have $4 million of net proceeds, they automatically go to a 5 percent rate. Below that is a sliding scale.

SENATOR HORSFORD:
We have not had any fundamental changes since 1989. In 2009, it was $46 million of NPOMT to the counties. That is combined, correct?

MS. RUBALD:
Yes, $46 million to all the counties.

SENATOR HORSFORD:
Over the last few years, you have seen the corresponding increase to $79 million in 2010 and $86 million estimated in 2011. You show us the total county revenue—the property tax revenue, the NPOMT revenue, the consolidated tax and property tax—paid by the mines as well as any other property owners. That is the total amount, not the mining amount?

MS. RUBALD:
Right. That is everybody.

SENATOR HORSFORD:
In Eureka, NPOMT accounts for 32 percent of the county general fund revenue.

MS. RUBALD:
That is correct.

CHAIR LESLIE:
We are not trying to grill you, we are just trying to understand. We will move on to Mr. Crowley, and there will be some public testimony.

TIM CROWLEY (President, Nevada Mining Association):
I would like to begin by saying how tickled I am that you are addressing this topic. We do appreciate taking a look at this tax, which is technical in nature. Our comments are brief because we feel the Department of Taxation did a very good job of explaining a complex issue. We are grateful for having such experts in Nevada. I would like to highlight some of the key points. I have Jim Wadhams with me. He is a trusted advisor on this issue. I also have Mike Alastuey, who is one of the State's leading experts on disbursement and distribution of taxes and knows this issue well. I would like to start out by saying what Senator Horsford said a moment ago. The mining industry does pay all the conventional business taxes that are paid in this State, sales tax, property tax, payroll tax and the focus of today's hearing, the NPOMT, which is the property tax we pay on the minerals. Net Proceeds is the property tax on the minerals in the ground.

Because of the speculative nature of the value of the minerals in the ground, the tax is applied only to the mineral extracted, based upon a calculation that takes the end product and subtracts the cost it takes to extract it, process it and take it to market. Eighty-eight percent of the gross value of what we do in the State is gold. If you look at it in that context and you look at a dore bar, which is a bar that contains all the metals, or you look at bullion, which is the ultimate product we sell, we are not taxed on the bullion. That is our product. It is not an income tax, not a sales tax. We are taxed on that bullion when it was microscopic and came out of the ground. An easier way to look at it is to look at gypsum. We are not taxed on the wallboard we produce; we are taxed on the gypsum mineral out of the ground. To pinpoint the value of the gypsum or the lithium that made it into a battery or the gold that made it into a bullion bar, you have to subtract the cost it took to get it from Point A to Point B, which is what we have done. That value is what a willing buyer would pay a willing seller for that mineral while it is still in the ground. It is the assessed value.

This tax originated when Nevada only had property tax. The Net Proceeds of Minerals Tax is a mechanism for pinpointing assessed value of the mineral extracted. In 1989, the Constitution was changed. It was amended so that minerals were taxed at the maximum constitutional rate of 5 percent. When you are talking about facilities and improvements, all others are taxed at maximum rate of 3.64 percent or $3.64 per $100 of assessed valuation. There is an additional distinction that was created in 1989 between conventional property taxpayers and mining companies paying a property tax on their minerals. Once you determine the full assessed value, we pay 5 percent of that cost. There is no deduction once the assessed value is determined.

Other property taxpayers get a 65 percent deduction on assessed value. You have assessed value of your home or business and then you have taxable value, which is 35 percent of the value. In Washoe County, with a property tax rate of 3.64 percent, the effective rate is 1.274 percent compared to 5 percent rate on the value of the mineral. The example Ms. Rubald used was by taking an assessed value of $1 million and applying 5 percent to that in the mining industry, you have a tax bill of $50,000. If you have a building in Washoe County valued at $1 million, it would be assessed at $350,000, and the 3.64 percent tax would be $12,000 in tax. The difference is fourfold.

The value of the minerals in the ground is directly tied to the value of the end products. As the commodity of bullion or copper goes up, as drywall prices go up or down, so do the values of the minerals that went into those products. Consequently, NPOMT contributions have grown five times over the past ten years. I have a chart from our Economic Overview document we put out each year that highlights the trend and reflects the price of gold going up and price of NPOMT going up also (Exhibit E) page 2.

CHAIR LESLIE:
Does it show them going up equally or at what percentage? The price of gold is going way up and NPOMT is going up. What is the relationship between those two?

MR. CROWLEY:
It is parallel. There are little ripples in it, but they are tied directly to each other in the case of gold.

Gold values are up and we are pleased. Our contributions to Nevada are significant. We are employing 12,000 Nevadans in family-sustaining wage jobs. We are building infrastructure in rural Nevada that is valuable, and we pay taxes. Page 3 shows the mining industry is paying over $18,000 in taxes per year, per employee. This is the highest of any sector on average.

We are anxious to see the economy turn around. We are Nevadans. We feel the State is in a bad situation. We want the economy to recover. We want that, quite possibly at our detriment. A bad economy drives the value of gold up and we have seen that. We hope there will not be a downturn, but anticipate there could be a downturn as the economy improves. There is nothing more important than Nevada's economy improving.

CHAIR LESLIE:
Can you explain the Governor's press release saying there was $10 million more today?

MR. CROWLEY:
I did not see the press release. We are still aggregating. We have cut those checks. We have made our payment for 2011 taxes. We do not know the total aggregate, but we think we are going to outperform projections. We would like to give you our projected number. The difficult thing is that those taxes are based on the average gold price over the next 12 months. That is a difficult prediction to make. We are penalized if we underpay, so there is an incentive to be as accurate as possible, but there is not a desire to overpay. We want to hit the mark as close as possible. There are true-up periods each quarter. We do have significant confidence in the checks we have submitted for 2011. As soon as we have an aggregated number, we would like to sit down with Mr. Guindon and see the surplus.

CHAIR LESLIE:
That surplus is for 2010, not 2011.

MR. CROWLEY:
I apologize. I did not see the press release.

CHAIR LESLIE:
It sounds like there is all this extra money out there, and the Governor already said he was reserving it for education. It is for the year we are in. You are

paying the tax you owe and it goes into the State General Fund. Some taxes come in over projection and some taxes come in under projection. At the end of the year, we will see where we are with the reversion. For the Governor to say he is going to reserve this money for education in the next biennium is ridiculous. You cannot say that, I cannot say that, the Governor cannot say that. That is my point.

MR. CROWLEY:
I do have one comment. A little over a year ago, we sat down with Russell Guindon and found we were paying $56 million above and beyond what was projected in 2010. The numbers are there and the true-up did occur at this time last year.

JAMES L. WADHAMS (Newmont Gold Company):
I would like to add to Mr. Crowley's testimony and compliment the Chair. You took away my first comment. While Mr. Crowley called this a contribution, it is a tax. This is a property tax and what is owed. I also want to compliment the Department of Taxation. I am unaware the Department is not currently auditing. Over the course of my tenure and being a tax lawyer, the staff has done very thorough and rigorous audits. This is appropriate for any tax owed to the State. It is also appropriate to identify, as the Department of Taxation did, that this is a property tax. There have been suggestions that it should be an income tax—maybe it could be an income tax and maybe it ought to be an income tax, but it is not. It was contrived, developed and set up as a property tax.

There are pages of decisions out of the Nevada Supreme Court affirming that. I want to make it clear, in support of Mr. Crowley's testimony, in Nevada, no income tax is paid by mining companies, just as no income tax is paid by any other company. That distinction is very important. The value of the property is also an important question. The central purpose of all our property tax valuations, such as houses and businesses, is what a willing buyer would pay a willing seller for that property. It gets confusing when we talk about mining, particularly the way the Legislature and the Constitution set it up. We wait until it is sold to figure out what one miner would pay another miner for an acre of dirt that might contain an ounce of gold. Whether it is perfect or not, that is the concept this statute is designed to address: what somebody would pay a person who owned property for an acre of land that had an ounce of gold 500 feet under the ground. Someone will not pay $1,400 to spend $500 or $600 to get the gold and turn around and sell it for $1,400. That is not what a willing buyer would pay a willing seller for that property. That notion underlies the concept discussed by Ms. Rubald and Mr. DiCianno. It is important to point out that any comparison of this to an income tax is not going to hold up.

CHAIR LESLIE:
That did not come up today. Nobody has suggested that.

MICHAEL ALASTUEY, (Director of Public Policy and Analysis, Applied Analysis):
I am here on behalf of the Nevada Mining Association solely in the capacity of an analyst. We do not support or oppose any legislation on any occasion. I would echo the comments of Mr. DiCianno, Ms. Rubald and my two colleagues here as to the accuracy of everything they have said.

We have a property tax with a much higher effective rate on NPOMT than regular real or personal property. Its distribution is as a property tax. If you go back to one of the charts Ms. Rubald presented, Senator Horsford asked why is the distribution for county and State respectively 48 percent and 52 percent one year or 54 percent and 46 percent in another. For example, if NPOMT were to occur in White Pine County, where the tax rate of all local jurisdictions and State jurisdictions is $3.66, it is the maximum plus 2 cents for capital improvements. That leaves an equivalent for the State General Fund share of $1.34. In Eureka County, where the total tax rate is under $2, that leaves the equivalent of $3 out of the $5 maximum rate assessed against NPOMT from Eureka net proceeds. The rates that are prevalent in the mix of counties from which NPOMT arise will tilt that percentage a couple of points one way or the other from year to year. That is the genesis of that difference.

The 52 percent-48 percent split, which was in the last completed report—we expect in the coming weeks yet another report for the last operating year—reflects the point at which the Department of Taxation takes the distribution and puts part of it in a State debt fund, part of it in the State General Fund and remits the remainder to the county treasurer. Now comes the remainder of the distribution, not necessarily reflected in the Department of Taxation report. A significant portion of the local contribution goes to public schools operating in the equivalent of $.75 out of $5, or 15 percent. In effect, 15 percent out of the 48 percent given to the county treasurer comes back into the State budgeting system as part of the 75-cent school operating levy.

In the final analysis, after all the payments are made, after all the transactions are done and the years are closed, the State versus local contribution is in the neighborhood of 65 percent. We studied this a few years ago. It varies depending on what counties the NPOMT occurs. In NRS 387, that 75 cents does include NPOMT.

SENATOR HORSFORD:
First, I want to say I appreciate your leadership as Chair, having these hearings based on the Governor's revenue plan for us to understand what he is proposing. Over the last few weeks, between the capital reserve funds, securitization of Insurance Premium Tax and these other elements—and now today on NPOMT, we are being informed about what the Governor is proposing with his plan for $1.1 billion worth of new revenues.

Today, the focus is on the mining industry. We have a lot of constituents contacting us saying the mining industry is profitable. Mining has $8 billion worth of revenue being generated. Mining just had the record price per ounce in gold and they think you need to pay more. We have to understand the limitations based on the constitutional cap of 5 percent on NPOMT that we are bound by until the voters change it. Our constituents cannot listen to a two-hour presentation about this allocation formula that was created decades ago that makes absolutely no sense in some regard.

I do not support singling out any one industry as we move forward to find revenue solutions. We need to be careful to protect our small businesses, but all other major industries need to be part of a discussion ultimately. Gaming and mining always come up because those are our two larger industries in this State. Gaming is not doing very well, but people still think they can pay. Mining is doing very well, and so people want you to pay.

My question on these deductions is when you get down into this, some red flags come up for me. In 2009, the statewide gross proceeds of minerals were $5.81 billion and NPOMT was $1.7 billion. In 2008, the statewide gross proceeds were $5.68 billion and the NPOMT was $1.85 billion. How do the gross proceeds go up in 2009 by $122 million, but the NPOMT goes down by $82 million, which is more than $200 million? This is all about the deduction issue. Help us as a Committee and the public understand what contributes as an industry to those variables.

MR. CROWLEY:
I can answer that question, in general. Mining varies from mine to mine. There is not a normal process for mining gold. Each mine is not the exact same as the other. What you have to factor in is the age of the mine and the grade of the mine. In 2009, we had one of our larger mining companies, Barrick, reaching the end of life, not the complete end of life, but generally, mining older mines while developing a new mine. That new mine is the one being talked about today. This mine, Cortez Hills, has sent its net proceeds high. During the development of that mine, there was no production coming out. While most of Barrick's mines were coming to an end, it was developing a new mine, and now we are feeling the benefits of that new mine. You are going see that kind of fluctuation as older mines go into closure and new mines come into production.

SENATOR HORSFORD:
As an industry, do you have a process where you monitor that? Is there a review of what you submit and whether or not it is appropriate? Mr. Wadhams was commending the Department of Taxation. I do not know how he can commend the Department when they have not had an auditor for two years to review your industry. That is not commendable. We have to rely on the industry itself to report that information. Your big companies have large financial and legal departments and entities that do this for a living. How well can you provide us with assurance these deductions have not been compromised?

MR. WADHAMS:
I would like to help Mr. Crowley with that answer. In my private practice I work on similar audits, and I was unaware the Department did not have any active auditors in this process. I can assure you there have been audits in the past and historically, that process has been extremely rigorous and carefully vetted. It is important to point out the company I represent is a publicly traded company. It is fully open to audit, either by the State for these returns and, of course, the federal government. That means there are reports that have to be adjusted when they are scrutinized; those audits are welcome, and we anticipate them as being a normal part of the process.

There is more I would like to add to what Mr. Crowley pointed out. It often has been said the mines have to stay here because the gold is here. The gold has always been here. Part of the reason it continues to be mined is because it is evermore in microscopic form. When I first started representing the mining industry, it may have been an ounce or two per ton, now it is one ounce for

15 to 25 tons. The cost for a willing buyer to come and say I am going to extract that and sell it is greater. Part of the reason the chart shows there has been a relatively flat ratio between the gross and the net is because of the efficiencies of the companies as that mineral has become more diffuse. I cannot speak to the lack of an audit in the last two years, but I can assure you I have participated in some very rigorous audits prior to that.

SENATOR HORSFORD:
I appreciate that response, although it is the last two years you have had record prices, and there is the increase in revenues. We need regulatory oversight. This is not a condemnation on the industry; it is our own State Department of Taxation's inadequacy in this area. The issue of the deductions is for the two companies, Barrick and Newmont. According to the information the Department provided for 2011 estimated taxes, Newmont deducted 73 percent of its cost and Barrick deducted 46 percent. Barrick may have two more mines than Newmont? You are telling me a large part of this variation is because of the age, location and manner of extraction. That seems like a large difference between the two of the top ten mining companies.

MR. WADHAMS:
I will do the best I can, and I may have to reserve the opportunity to go and get a more precise answer. In the simplest sense, it is the things described by the Department of Taxation and Mr. Crowley. It is the concentration of that mineral, the acquisition cost of being on that land and the fact that some of the Newmont land is privately owned. Barrick owns the TS Ranch, which is privately owned. There are different cost factors that may have a relationship in there and a different concentration of that mineral; beyond that, you have asked a question of far more detail than I am prepared to answer, but I am happy to look into that. That is precisely the verification that will come out of an audit process. I will try to obtain as precise an answer to that differential as I can.

CHAIR LESLIE:
We may ask you to come back. Please work with our staff for the next two years. The Economic Forum is coming up in May.

SENATOR HORSFORD:
We need to know for the budget, not the next two years, but the next five. You are large, publicly traded companies. I know you have to know what your anticipated revenues are over a longer period than the next two. The manner in

which we did the NPOMT prepayment last time has created a hole for us in the upcoming biennium. The Governor wants to extend that another two years. Ultimately, we have to true this up, and the true-up is going to create a huge hole for whatever Legislature will have to pay for it. For the purposes and benefit of our budget process, I ask you to provide our staff with some revenue projections over a five-year period and what you believe the anticipated NPOMT payment will be so we can factor in when we true up that number. It is hard, but your companies cannot live off two-year projections, and they have that information somewhere.

MR. CROWLEY:
We are going to work with you in any way we can. We are highly conservative as we move out into the future. We have learned to live with a very volatile commodity. The gold industry can change rapidly. When there is prosperity in the industry, we reinvest it as best we can. We build new mines, buy more efficient machinery and make those expenditures now while we have cash. You cannot take that prosperity for granted. We make flat projections, and if we are wrong, there is gravy, and that goes back into the ground so we are better prepared for when the price of gold goes down.

CHAIR LESLIE:
We need some of that gravy. We spent the morning listening to the needs of our most vulnerable population. We need it.

BOB FULKERSON (Executive Director, Progressive Leadership Alliance of Nevada):
I have prepared testimony (Exhibit F).

JAN GILBERT (Northern Nevada Coordinator, Progressive Leadership Alliance of Nevada):
I have been showing people the General Fund budget. The NPOMT is not on the revenue chart. It is so small it does not show up on the chart. I am pleased to see these deductions listed. We have never been able to find this list of deductions, and I want to thank the Department of Taxation. When I see sales and use tax and consulting fees, those are huge deductions, and I hope this Committee will begin to look at those deductions. Mr. Wadhams was the architect of these deductions in 1989. These deductions changed the way mining pays in Nevada, and it needs to be evaluated.

CHAIR LESLIE:
This meeting is adjourned at 3:08 p.m.

RESPECTFULLY SUBMITTED:

Gayle Rankin,
Committee Secretary

APPROVED BY:

Senator Sheila Leslie, Chair

DATE:

EXHIBITS			
Bill	**Exhibit**	**Witness / Agency**	**Description**
	A		Agenda
	B		Attendance Roster
	C	Department of Taxation	2009-10 Bulletin, Net Proceeds of Minerals
	D	Terry Rubald	Presentation – Net Proceeds of Minerals Tax
	E	Tim Crowley	Presentation - Nevada Mining Association
	F	Bob Fulkerson	Testimony