

SENATE BILL NO. 493—COMMITTEE ON REVENUE

MARCH 28, 2011

Referred to Committee on Revenue

SUMMARY—Creates the Mining Oversight and Accountability Commission. (BDR 32-1152)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to mining; creating the Mining Oversight and Accountability Commission and establishing its membership, powers and duties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law does not provide for a single administrative body to oversee the
2 activities of the various state agencies that have responsibility for the taxation,
3 operation, safety and environmental regulation of mines and mining in this State.
4 **Section 5** of this bill creates the Mining Oversight and Accountability Commission.
5 Three members of the Commission are appointed by the Governor. The Majority
6 Leader of the Senate and the Speaker of the Assembly each appoint two additional
7 members. **Section 7** of this bill requires the Commission to exercise plenary
8 oversight of the activities of each state agency or political subdivision in connection
9 with the taxation, operation, safety and environmental regulation of mines and
10 mining in this State. **Section 7** also identifies particular state entities that are subject
11 to its oversight in connection with their activities related to mines and mining: (1)
12 the Nevada Tax Commission and the Department of Taxation in the taxation of the
13 net proceeds of minerals; (2) the Division of Industrial Relations of the Department
14 of Business and Industry concerning the safe and healthful working conditions at
15 mines; (3) the Commission on Mineral Resources and the Division of Minerals of
16 the Commission; (4) the Bureau of Mines and Geology of the State of Nevada; and
17 (5) the Division of Environmental Protection of the State Department of
18 Conservation and Natural Resources in its activities concerning the reclamation of
19 land used in mining. **Sections 8 and 13-16** of this bill establish certain reports and
20 other information that those entities are required to provide to the Commission.
21 **Section 11** of this bill authorizes the Commission to request the Legislative
22 Commission to direct the Legislative Auditor to provide for a special audit or
23 investigation of the activities of any state agency, board, bureau, commission or
24 political subdivision in connection with the taxation, operation, safety and
25 environmental regulation of mines and mining in this State. **Section 12** of this bill



26 provides that certain regulations of the Nevada Tax Commission, Administrator of
27 the Division of Industrial Relations of the Department of Business and Industry,
28 Commission on Mineral Resources and the State Environmental Commission
29 concerning mines and mining are not effective unless they are approved by the
30 Commission.

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

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

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

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

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

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

14 (a) *Three members appointed by the Governor;*

15 (b) *Two members appointed by the Majority Leader of the*
16 *Senate; and*

17 (c) *Two members appointed by the Speaker of the Assembly.*

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

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

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

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

28 **4.** *A vacancy on the Commission must be filled by the*
29 *appointing authority in the same manner as the original*
30 *appointment.*

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

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



1 3. *A majority of the members of the Commission constitutes a*
2 *quorum for the transaction of business, and a majority of those*
3 *members present at any meeting is sufficient for any official*
4 *action taken by the Commission.*

5 4. *While engaged in the business of the Commission, each*
6 *member of the Commission is entitled to receive the per diem*
7 *allowance and travel expenses provided for state officers and*
8 *employees generally.*

9 5. *The Executive Director of the Department shall assign*
10 *employees of the Department to provide such technical, clerical*
11 *and operational assistance to the Commission as the functions and*
12 *operations of the Commission may require.*

13 **Sec. 7.** *Notwithstanding any other provision of law, the*
14 *Commission shall exercise plenary oversight of the activities of*
15 *each state agency, board, bureau, commission, department,*
16 *division or political subdivision in connection with the taxation,*
17 *operation, safety and environmental regulation of mines and*
18 *mining in this State, including, without limitation, the activities of:*

19 1. *The Nevada Tax Commission and the Department of*
20 *Taxation in the taxation of the net proceeds of minerals pursuant*
21 *to this chapter and Section 5 of Article 10 of the Nevada*
22 *Constitution.*

23 2. *The Division of Industrial Relations of the Department of*
24 *Business and Industry in administering the provisions of chapter*
25 *512 of NRS concerning the safe and healthful working conditions*
26 *at mines.*

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

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

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

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

43 1. *The Administrator of the Division of Industrial Relations*
44 *of the Department of Business and Industry shall submit to the*
45 *Commission at its first regular meeting in each calendar year the*



1 *report that is required pursuant to NRS 512.140 concerning the*
2 *functions of the Administrator under chapter 512 of NRS*
3 *concerning the creation and maintenance of safe and healthful*
4 *working conditions at mines in this State during the immediately*
5 *preceding calendar year.*

6 *2. The Department of Taxation shall submit to the*
7 *Commission at the second regular meeting of the Commission in*
8 *each calendar year:*

9 *(a) An audit program identifying each mining operator or*
10 *other person who is required to file a statement concerning the*
11 *extraction of minerals in this State pursuant to NRS 362.100 to*
12 *362.240, inclusive, that the Department intends to audit during the*
13 *immediately following calendar year;*

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

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

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

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

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

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

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

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

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

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



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

5 *↳ and asking for an order of the court compelling the witness to*
6 *attend and testify or produce the books and papers before the*
7 *Commission.*

8 3. *Upon such a petition, the court shall enter an order*
9 *directing the witness to appear before the court at a time and place*
10 *to be fixed by the court in its order, the time to be not more than*
11 *10 days after the date of the order, and to show cause why the*
12 *witness has not attended or testified or produced the books or*
13 *papers before the Commission. A certified copy of the order must*
14 *be served upon the witness.*

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

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

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

28 **Sec. 11.** 1. *The Commission may submit a request to the*
29 *Legislative Commission that the Legislative Auditor be directed to*
30 *undertake, or to contract with a qualified accounting firm to*
31 *undertake, a special audit or investigation of the activities of any*
32 *state agency, board, bureau, commission or political subdivision in*
33 *connection with the taxation, operation, safety and environmental*
34 *regulation of mines and mining in this State.*

35 2. *The request submitted pursuant to subsection 1 must be*
36 *accompanied by an explanation of the circumstances that give rise to*
37 *the request.*

38 **Sec. 12.** *A regulation adopted by the:*

39 1. *Nevada Tax Commission, pursuant to NRS 360.090,*
40 *concerning any taxation related to the extraction of any mineral in*
41 *this State, including, without limitation, the taxation of the net*
42 *proceeds pursuant to this chapter and Section 5 of Article 10 of*
43 *the Nevada Constitution;*



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

4 3. *Commission on Mineral Resources pursuant to 513.063,*
5 *513.094 or 519A.290; and*

6 4. *State Environmental Commission pursuant to*
7 *NRS 519A.160,*

8 ↳ *is not effective unless it is approved by the Mining Oversight*
9 *and Accountability Commission.*

10 **Sec. 13.** NRS 512.140 is hereby amended to read as follows:
11 512.140 The Administrator shall submit annually to the
12 Governor, *and to the Mining Oversight and Accountability*
13 *Commission created by section 5 of this act*, as soon as practicable
14 after the beginning of each calendar year, a full report of the
15 administration of the Administrator's functions under this chapter
16 during the preceding calendar year. The report must include, either
17 in summary or detailed form, the information obtained by the
18 Administrator under this chapter together with such findings and
19 comments thereon and such recommendations as the Administrator
20 may deem proper.

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

22 513.063 The Commission shall:

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

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

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

34 4. Formulate the administrative policies of the Division.

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

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

38 513.093 The Administrator:

39 1. Shall coordinate the activities of the Division.

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

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



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

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

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

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

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

18 *The Director of the Bureau of Mines and Geology shall attend*
19 *each regular meeting of the Mining Oversight and Accountability*
20 *Commission created by section 5 of this act and each special*
21 *meeting if requested by the Chair of the Commission and:*

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

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

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

37 **Sec. 18.** Notwithstanding the provisions of section 5 of this
38 act, and as soon as practicable after the effective date of this act:

39 1. The Governor shall appoint:

40 (a) One member whose term expires on June 30, 2012; and

41 (b) Two members whose terms expire on June 30, 2013;

42 2. The Majority Leader of the Senate shall appoint:

43 (a) One member whose term expires on June 30, 2012; and

44 (b) One member whose term expires on June 30, 2013; and

45 3. The Speaker of the Assembly shall appoint:



- 1 (a) One member whose term expires on June 30, 2012; and
- 2 (b) One member whose term expires on June 30, 2013.
- 3 **Sec. 19.** This act becomes effective upon passage and
- 4 approval.

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