QUESTION NO. 2

Amendment to the *Nevada Constitution*

Senate Joint Resolution No. 15 of the 76th Session

CONDENSATION (Ballot Question)

Shall the *Nevada Constitution* be amended to remove the cap on the taxation of minerals and other requirements and restrictions relating to the taxation of mines, mining claims, and minerals and the distribution of money collected from such taxation?

Yes ☐ No ☐

EXPLANATION & DIGEST

EXPLANATION—This ballot measure would repeal existing provisions of the *Nevada Constitution* that impose requirements and restrictions relating to the taxation of mines, mining claims, and minerals and the distribution of money collected from such taxation. If this ballot measure is approved by the voters, the Legislature, or the people through the initiative process, would be able to propose and enact laws to change existing methods of taxing mines, mining claims, and mineral extraction that are currently set forth in the *Nevada Constitution*.

The *Nevada Constitution* exempts mines and mining claims from the real property tax except for certain patented mines and mining claims. The *Nevada Constitution* also requires a tax upon the net proceeds of all minerals extracted in this State, including ores, metals, oil, gas, hydrocarbons, geothermal resources, and all other mineral substances. The tax rate must not exceed 5 percent of the net proceeds. Net proceeds are determined by calculating the gross value of all minerals extracted by a mining operation and then subtracting various deductions for certain operating costs incurred by the mining operation. The *Nevada Constitution* also prohibits any other type of tax upon a mineral or its proceeds, such as any mining tax upon gross value or upon the privilege of extracting minerals in Nevada. This ballot measure would remove these existing constitutional provisions.

Additionally, the *Nevada Constitution* requires a certain amount of the net proceeds tax to be distributed to each county and the local governmental units and districts, including the school district, within the county where minerals are extracted. This distribution must be made to these entities in the same proportion as they share in the local property tax. This ballot measure would remove these existing constitutional provisions.

Finally, the *Nevada Constitution* establishes special rules for taxing land owned as a patented mine or mining claim. A person who has a patented mine or mining claim has an ownership interest in all the land, including its surface and any minerals beneath the land, regardless of whether the minerals are being mined. By contrast, a person who has an unpatented mine or mining claim has an ownership interest only in any minerals beneath the land. The *Nevada Constitution* states that a patented mine or mining claim is subject to real property tax, except that no value may be attributed to: (1) any minerals beneath the land; and (2) the surface of the land if $100 of labor has been performed on the mine or mining claim during the preceding year. This ballot measure would remove these existing constitutional provisions.

A "Yes" vote would remove provisions of the *Nevada Constitution* that impose a cap on the taxation of minerals and would remove other constitutional requirements and restrictions on the taxation of mines, mining claims, and minerals and the distribution of money collected from such taxation.

A "No" vote would keep provisions of the *Nevada Constitution* that impose a cap on the taxation of minerals and would keep other constitutional requirements and restrictions on the taxation of mines, mining claims, and minerals and the distribution of money collected from such taxation.

DIGEST—This ballot measure would create, generate, or increase public revenue because it would remove existing provisions of Article 10 of the *Nevada Constitution* that exempt mines and mining claims from the real property tax, thereby making mines and mining claims subject to real property taxation. However, the Legislature passed Senate Bill No. 400 in 2013, which would become effective if this ballot measure is approved by the voters. The legislation would exempt unpatented mining claims from the real property tax and would provide that, in determining the taxable value of patented mining claims and other real property, the value of any mineral deposit in its natural state attached to the land must be excluded from the computation of the taxable value of the property.

The *Nevada Constitution* requires the Legislature to impose a tax upon the net proceeds of all minerals extracted in this State at a rate not to exceed 5 percent of the net proceeds. It also prohibits any other type of tax upon a mineral or its proceeds, such as any mining tax upon gross value or upon the privilege of extracting minerals in Nevada. Existing laws exempt certain extracted minerals from the personal property tax and impose a graduated tax rate upon the net proceeds of all minerals extracted in this State, with a minimum rate of 2 percent and a maximum rate of 5 percent. Existing laws also impose a mineral royalties tax of 5 percent.

Senate Bill No. 400, which would become effective if this ballot measure is approved by the voters, would replace the existing tax upon net proceeds and royalties with an excise tax upon mineral extraction and royalties for the privilege of mining in Nevada. The excise tax rates would be equivalent to existing tax rates. The legislation also would exempt extracted minerals and royalties from the personal property tax if they are subject to the excise tax.

The *Nevada Constitution* requires a certain amount of the existing net proceeds tax to be distributed to each county and the local governmental units and districts, including the school district, within the county where minerals are extracted. This distribution must be made to these entities in the same proportion as they share in the local property tax. Senate Bill No. 400, which would become effective if this ballot measure is approved by the voters, would require the same distribution to these entities from the excise tax upon mineral extraction and royalties.

ARGUMENTS FOR PASSAGE

The time has come to remove provisions in the *Nevada Constitution* that grant the mining industry special tax treatment. Mining has enjoyed constitutional protection from various taxes since Nevada became a state in 1864. More recently, in the 1980s, the mining industry campaigned for the passage of a constitutional amendment preventing Nevada from taxing the industry in the same way as most other states and imposing a cap on the mining tax rate. While these protections may have made sense in the past, times have changed and the State must have the flexibility to adopt tax policies that better reflect current conditions and meet the needs of all Nevadans.

Minerals, such as gold, silver, and lithium, are nonrenewable resources. When mineral resources are taken out of the ground, they are gone forever and the State is left with a scarred landscape. Given the eventual depletion of these resources, Nevada must be able to adjust its mining tax policies like other states do, and not be restricted by inflexible constitutional limits. Other states are able to tax mining in ways that better account for the industry's permanent removal of scarce and nonrenewable resources. Another factor to consider is that many of the major mines in the State are owned by companies headquartered outside of Nevada that are getting rich on our limited resources and taking the profits out of state.

As currently written, the *Nevada Constitution* limits taxes on mineral extraction to 5 percent of the net proceeds, which allows the mining companies to deduct numerous operating costs before paying the tax. Because of these deductions, the mining industry ends up paying taxes on mineral extraction that represent a mere 2 to 2.5 percent of its gross revenues. The mining industry's constitutional protections are not fair to other businesses and industries in our State and should be removed.

Nevada is rich in mineral resources—hence our nickname, the Silver State. We are the leading producer of gold in the United States and, in 2011, were the eighth largest producer in the world. Despite any claims to the contrary, mining companies will stay here as long as there are resources to mine.

A "yes" vote will remove the special constitutional protections for mining and give our State the ability to update its tax policies to fund schools, roads, and essential services appropriately.

ARGUMENTS AGAINST PASSAGE

Since 1864, the *Nevada Constitution* has required taxation of the mineral proceeds generated by Nevada's important mining industry. In 1989, to ensure that the mining industry paid a greater share of taxes, voters approved a constitutional amendment that permitted an increase in the tax rate on the net proceeds of minerals. Today, the mining industry pays hundreds of millions of dollars in taxes, provides high-paying jobs, and supports our communities in countless other ways. Now is not the time to change the *Constitution* and threaten this vital Nevada industry and the communities it supports.

In addition to paying the net proceeds tax, mining companies pay fees and taxes just like other Nevada businesses, such as license and permit fees, taxes on employee wages, and personal property and sales taxes on expensive equipment required for mining operations. This ballot question is unnecessary. The Legislature already has the power to raise revenues by increasing existing fees and taxes or creating new ones that would apply equally to mining and other Nevada businesses.

Mining provides more than 12,000 jobs in Nevada, and it pays an annual average wage of over $87,000, one of the highest averages in the State. By spending money in our communities, mining companies and their employees and families support our local businesses and help our economy thrive. Thousands of other jobs are created every year because the mining industry consumes goods and services provided by our local businesses. Without the mining industry's high-paying jobs, Nevada's economy would suffer and many of these jobs would be lost.

Mining is an expensive and speculative business requiring significant capital investment for exploration, extraction, transportation, processing, and environmental restoration, with no guarantee of finding minerals or making a profit. Mineral prices are unpredictable and can change rapidly, which leads to even greater uncertainty for the industry. Keeping the net proceeds tax in the *Nevada Constitution* retains our predictable tax structure and promotes the industry's vital investment in Nevada's economy.

A "no" vote will retain the constitutional provisions that help make Nevada a global leader in mining and ensure a strong mining industry which will continue to invest and create valuable jobs in our communities for many more years.

FISCAL NOTE

Financial Impact—No

This ballot measure would remove existing provisions of the *Nevada Constitution* that exempt mines and mining claims from the real property tax, thereby making mines and mining claims subject to real property taxation. However, Senate Bill No. 400 of the 2013 Legislative Session, which becomes effective if this ballot measure is approved by the voters, would provide similar exemptions from the real property tax. Thus, there are no anticipated financial effects on real property tax revenues received by State and local governments.

Additionally, this ballot measure would remove existing provisions of the *Nevada Constitution* that require the Legislature to impose a tax upon the net proceeds of all minerals extracted in this State at a rate not to exceed 5 percent of the net proceeds. However, Senate Bill No. 400 would replace the existing net proceeds tax with an excise tax upon mineral extraction and royalties. The tax rates under the excise tax would be equivalent to existing tax rates, so there will be no change in the formula for calculating the revenue generated by the excise tax for State and local governments. Senate Bill No. 400 also would use the same formula for distributing the excise tax to State and local governments that is currently used for the net proceeds tax. Thus, there are no anticipated financial effects on tax revenues from mineral extraction received by State and local governments.

Lastly, this ballot measure would remove existing provisions of the *Nevada Constitution* that exempt minerals and their proceeds from the personal property tax. However, Senate Bill No. 400 would exempt extracted minerals from the personal property tax if they are subject to the excise tax. Thus, there are no anticipated financial effects on personal property tax revenues received by State and local governments.

FULL TEXT OF MEASURE

Senate Joint Resolution No. 15–Committee on Revenue
FILE NUMBER..........
SENATE JOINT RESOLUTION—Proposing to amend the Nevada Constitution to repeal the provision establishing a separate tax rate and providing for assessing and disbursing the tax on the net proceeds of mines.

Legislative Counsel's Digest:
Section 5 of Article 10 of the Nevada Constitution provides for a tax upon the net proceeds of mines which is separate from the tax imposed on all other property. This resolution proposes to repeal the constitutional provision establishing a separate tax on the net proceeds of mines.

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

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That Section 1 of Article 10 of the Nevada Constitution be amended to read as follows:

Sec. 1. 1. The Legislature shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal and possessory***.*** **[**, except mines and mining claims, which shall be assessed and taxed only as provided in Section 5 of this Article.**]**

2. Shares of stock, bonds, mortgages, notes, bank deposits, book accounts and credits, and securities and choses in action of like character are deemed to represent interest in property already assessed and taxed, either in Nevada or elsewhere, and shall be exempt.

3. The Legislature may constitute agricultural and openspace real property having a greater value for another use than that for which it is being used, as a separate class for taxation purposes and may provide a separate uniform plan for appraisal and valuation of such property for assessment purposes. If such plan is provided, the Legislature shall also provide for retroactive assessment for a period of not less than 7 years when agricultural and open-space real property is converted to a higher use conforming to the use for which other nearby property is used.

4. Personal property which is moving in interstate commerce through or over the territory of the State of Nevada, or which was consigned to a warehouse, public or private, within the State of Nevada from outside the State of Nevada for storage in transit to a final destination outside the State of Nevada, whether specified when transportation begins or afterward, shall be deemed to have acquired no situs in Nevada for purposes of taxation and shall be exempt from taxation. Such property shall not be deprived of such exemption because while in the warehouse the property is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged.

5. The Legislature may exempt motor vehicles from the provisions of the tax required by this Section, and in lieu thereof, if such exemption is granted, shall provide for a uniform and equal rate of assessment and taxation of motor vehicles, which rate shall not exceed five cents on one dollar of assessed valuation.

6. The Legislature shall provide by law for a progressive reduction in the tax upon business inventories by 20 percent in each year following the adoption of this provision, and after the expiration of the 4th year such inventories are exempt from taxation. The Legislature may exempt any other personal property, including livestock.

7. No inheritance tax shall ever be levied.

8. The Legislature may exempt by law property used for municipal, educational, literary, scientific or other charitable purposes, or to encourage the conservation of energy or the substitution of other sources for fossil sources of energy.

9. No income tax shall be levied upon the wages or personal income of natural persons. Notwithstanding the foregoing provision, and except as otherwise provided in subsection 1 of this Section, taxes may be levied be conducted for profit in the State.

10. The Legislature may provide by law for an abatement of the tax upon or an exemption of part of the assessed value of a single-family residence occupied by the owner to the extent necessary to avoid severe economic hardship to the owner of the residence.

And be it further RESOLVED, That Section 5 of Article 10 of the Nevada Constitution is hereby repealed.