

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R130-21

1. A clear and concise explanation of the need for the adopted regulation.

The need and purpose of the adopted regulation is to establish provisions for the administration, calculation and payment of the tax imposed on the Nevada gross revenue of certain entities engaged in the business of extracting gold or silver, or both, in this State; and providing other matters properly relating thereto.

2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

The Department of Taxation, as staff to the Nevada Tax Commission, solicited comment from the public by sending notice of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop/Hearing</u>	<u>Number Notified</u>
12/23/2021	Workshop	01/10/2022	201
12/23/2021	Adoption Hearing	01/24/2022	203

The mailing list included the interested parties list maintained by the Department. Notices were also posted at the Nevada State Library; LCB; various Department of Taxation locations throughout the state; and at the Main Public Libraries in counties where an office of the Department of Taxation is not located. Comments were also solicited by direct email to other interested parties list maintained by the Department.

See response to #5 for a summary of the public responses to the Regulation

A copy of the recorded comments, the record of proceedings, and/or the Small Business Impact Statement may be obtained by calling the Nevada Department of Taxation at (775) 684-2059 or by writing to the Department of Taxation, 1550 College Pkwy. Ste 115, Carson City, Nevada 89706, or by e-mailing the Department at sglazner@tax.state.nv.us.

3. **The number of persons who:**
(a) **Attended each hearing:**
(b) **Testified at each hearing:**
(c) **Submitted written comments:**

Workshop date: January 10, 2022

(a) Number in attendance: 25

(b) Number testifying: 1

(c) Written statements submitted: 1 - Sharon R. Byram, Esq., Nevada Tax Commissioner

Adoption Hearing date: January 24, 2022

(a) Number in attendance: 62

(b) Number testifying: 3

(c) Written statements submitted: 1 - Tyre L. Gray, Esq., Nevada Mining Association

4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**

Testified at Adoption Hearing:

Name: **Tyre L. Gray, Esq.**

Telephone number: **775-829-2121**

Business address: **201 W Liberty St. # 300, Reno NV, 89501**

Electronic mail address: Tyre@nevadaming.org

Name of entity or organization represented: **Nevada Mining Association**

Name: **John Vellardita**

Telephone number: **702-439-1578**

Business address: **4230 McLeod Drive, Las Vegas NV 89121**

Electronic mail address: jvellardita@ccea-nv.org

Name of entity or organization represented: **Clark County Education Association**

Name: **Christine Saunders**

Telephone number: **775-348-7557**

Business address: **1475 Terminal Way Suite C2, Reno NV 89502**

Electronic mail address: csaunders@planevada.org

Name of entity or organization represented: **Progressive Leadership Alliance of NV**

5. **A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**

See response to #2 for description of how comments were solicited from affected businesses and an explanation of how interested persons may obtain a copy of the summary.

Summary of public responses:

1. The single Small Business Impact Questionnaire received from Klondex Gold & Silver Mining Company:

Requested that the tax apply as of 7/1/21. Assembly Bill 495 was not passed until 7/1/21 and they did not expect the tax to be retroactive to the beginning of the calendar year for 2021.

2. Sharon R. Byram, Esq., Nevada Tax Commissioner:

Provided written comment regarding clarifying several sections of the regulation as well as deleting erroneous or superfluous sections.

3. Tyre L. Gray, Esq., Nevada Mining Association:

Provided written comment requesting the name of the tax be changed to the “Mining Education Tax” to indicate where the revenue will be used. They would also like to clarify the collection period for 2021 is effective 7/1/21 and thus any attempts to collect for the entire calendar year would be for revenue generated prior to the effective date and would not be consistent with the plain language of the bill. Lastly, to clarify who is subject to the tax and on what type of revenue. In order to be subject to this tax must satisfy a two-part rule: One must extract gold and silver within the state of NV AND must sell the gold and silver that was extracted.

Summary of workshop discussion:

The following summary was of the public comment discussions, presented at the Adoption Hearing.

The workshop was held on 1/10/22. The Department received 2 public comments. One written by Sharon R. Byram, Esq., Nevada Tax Commissioner and one verbal from Tyre L. Gray, Esq., Nevada Mining Association. Both comments are summarized in section #5 above. Those comments were taken into consideration and some revisions were made to the language. The draft containing those revisions was presented at the adoption hearing held on 1/24/22.

Summary of Public Comment at Adoption Hearing:

Tyre L. Gray, Esq., Nevada Mining Association:

Mr. Gray testified during the public hearing and reiterated his position and reasoning for the 3 changes requested in his written comments to the Department. His summary is listed under #5 above.

John Vellardita, Clark County Education Association:

Mr. Vellardita testified during the public hearing that he is in support of naming the tax the “Mining Education Tax” due to the clear intent that was behind passing this bill, which is to fund education, and pursuant to the context in the bill, is to go specifically through K through 12 public education starting in FY 2024.

Christine Saunders, Progressive Leadership Alliance of NV:

Ms. Saunders testified that they believe the regulation properly implements the intention of the legislation and feels the name should remain as the “Gold and Silver Excise tax” due to the other taxes being named based on what is taxed and where the revenue is distributed to. They also support maintaining the 2021 taxable year to include the entire calendar year as clearly stated in assembly bill 495, section 62.

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6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

Not Applicable

7. The estimated economic effect of the regulation on the business which it is to regulate and on the public. This must include adverse, beneficial, immediate and long-term effects.

(a) Estimated economic effect on the businesses which they are to regulate.

The adopted permanent regulations present no reasonably foreseeable or anticipated adverse economic effects to the mining industry beyond the impact of Assembly Bill 495. The benefits of these regulations are that the industry along with the Department will be provided more clarity in implementing NRS Chapter 363D.

(b) Estimated economic effect on the public which they are to regulate.

The adopted permanent regulations present no reasonably foreseeable or anticipated adverse economic effects to the public. The benefits of these regulations are that the public along with the Department will be provided more clarity in implementing NRS Chapter 363D.

8. The estimated cost to the agency for enforcement of the proposed regulation:

Enforcement of the adopted regulation presents no significant foreseeable or anticipated cost or decrease in costs.

9. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The adopted permanent regulation does not overlap or duplicate any regulation of other state or local governmental entities.

10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The Department is not aware of any similar federal regulations of the same activity in which the state regulations are more stringent.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The adopted permanent regulation does not include new fees or increase an existing fee.