SENATE TAXATION COMMITTEE

APRIL 18, 1973

PRESENT: Senator Mahlon Brown
Senator Carl Dodge
Senator Spike Wilson
Senator Melvin Close
Senator Eugene Echols
Senator Archie Pozzi

G U E S T S

Mr. Clark Guild
Mr. Paul Gemmil - Nevada Mining Association
Mr. Jack Sheehan, Nevada Tax Commission

The meeting convened at 4:40 p.m. Senator Brown was in the Chair.

AB 642: Clarifies taxation of rentals and royalties on mines.

Mr. Clark Guild stated that this bill is an attempt to tax the proceeds of a lease, and of an option to purchase. This concept is contrary to past procedures. Usually the tax comes out of production.

Senator Dodge spoke of a royalty situation being paid by the producer to an owner or prospector and the fact that this prospector should be able to get a better handle on it as far as reporting the royalties. Senator Dodge stated that this language also applies to rentals, leases, or leases with option. In many cases, a person is buying a mining property but not operating the mine. Should we be taxing, as under the net proceeds concept, payments which are being made where there is no production? The person may be being paid an installment on a purchase price but not a royalty.

Mr. Jack Sheehan stated that the original intent of the bill was that if a person leased a mine from someone and operates it, he would have to pay taxes on his net proceeds. He simply wanted to have the recipient of the royalty file a report with him so that he would know who received the royalties.

Mr. Paul Gemmil stated that this bill would not affect the large mining operations. The Tax Commission is already assessing payments made, some of which are property payments. The gray area is a typical lease and option in which property and royalty payments count toward the purchase of the property; so it might be argued that the purchase payments should be treated as royalty payments. However, if there has been no production, those payments which are reducing the enterprise of the property should be treated as property payments. Minimum royalty payments against production under a straight lease must be taxes even when there is no production.

Dodge - If you have a lease, for example, which provides for a minimum royalty of $1,000 per month; if you are not producing there is usually a provision stating that any royalties will apply on those minimums.

Senator Wilson stated if a pyament is credited, it should not be considered as a royalty and thereby taxable.

Mr. Gemmil stated that the Constitution of the State of Nevada and the Tax Commission as it now stands has the power to collect the net proceeds of mines.

Mr. Gemmil further testified that an agreement may be drawn up whereby the person makes payments for 2 or 3 years. Suppose the person pays $10,000 per year for three years and the money goes against the purchase price, the contract may state that if the person drops the property, he forfeits the payments. In these cases there has been no production and so the mining company would have no net proceeds returns.

Senator Dodge then stated there is no reason why the owner who leased the ground should make a return because those payments were not based on production.

Mr. Sheehan stated that royalties are taxable to the recipients.

Senator Brown suggested that in line 5 of the bill the words "rental, lease, lease with option to purchase" be struck and also be struck wherever they appear in the bill.

Senator Echols moved "Amend and do pass." Seconded by Senator Close; motion carried.

AB 106: Simplifies procedure for claiming tax exemptions.

Senator Pozzi moved "Do Pass." Seconded by Senator Close; motion carried.

The meeting adjourned at 5:15 p.m.

Respectfully Submitted,

Kathleen Johnson

Secretary Kathleen Johnson

APPROVED BY:

B. Mahlon Brown

Senator B. Mahlon Brown, Chairman