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.