

this time will be more appropriate at that time."

Mr. Steve Wynn, of Las Vegas, representing only himself and the company of which he is chairman, The Golden Nugget of Las Vegas, spoke in opposition. His verbatim testimony follows:

Thank you, Senator. Members of the committee, I am here to discuss S.J.R. 22 [of the 64th Session], and I want to make it clear that I represent only myself and my company, the Golden Nugget, which I am the chairman. I do not represent today the Nevada Resort Association.

I would like, for a moment, to put S.J.R. 22 [of the 64th Session] in perspective, at least as it is perceived by a number of us. And it is simple, not complicated, and it goes something like this. The mining industry, benefiting from some 'Comstock Lode' tradition, had a pass on taxes in Nevada, in spite of the fact that there has been a tremendous pressure in this state to meet the needs of accelerating growth. This tremendous pressure to provide goods and services for our rapidly expanding population has created several problems. The mining industry has traditionally sort of been given a pass for some reason or another. I guess it goes back to the days when they were the bosses and they were the big business in the state. That was a long, long, long time ago. I guess in those days, as we heard in the little history lesson we had earlier today, they were the people that supplied the jobs that paid most of the freight around here. That was a long, long, long time ago.

The way it works today is this state is tourism based and our economy is based on the health and vitality of the gaming industry. Plain and simple, that is the way it works here in the State of Nevada. I did not come up here to give anybody an economics or history lesson, but I think it is probably appropriate to touch upon those points for a minute, because things seem to have gotten a little out of focus around here. The mining industry, realizing that they were grossly, grossly underpaying their taxes, recommended a compromise, as it was told, or a deal with the legislature last year, on the very waning hours of the legislature. And S.J.R. 22 [of the 64th Session] came into existence with unanimous approval of both houses mysteriously, with no questions asked really, no serious debate. And it [resolution] said that the miners would increase, the handful of mining companies, would increase their tax share, but it would be capped, this net tax would be capped, at \$50 million. Which was a very interesting thing to see. Sure it was an increase,

but at a time when we had, just this very legislature, had just commissioned an overwhelming study to figure out how we were going to meet the needs of this growing state, and before that tax study could be digested and received by this body, zoom! - there goes S.J.R. 22 [of the 64th Session]. For some reason, there seemed to be a major emergency afoot to pass this legislation before we could absorb the benefits of the very study that you authorized, which seriously and on a high intellectual plane, sought to engage the problems of the fastest growing state in America.

The reason I am here and I have this sense of urgency in my voice, is because I have a fear, that like other things that have happened in the State of Nevada recently, this is an attempt for one sector of the economy to insulate itself against its fair share; and I know what happens when that happens up here because you fellows always look to us. And you cannot allow that to happen, if you take some time to study it. This sort of thing has got to come to a halt. You have to take an intelligent, close, careful look at how you are going to face the future.

In S.J.R 22 [of the 64th Session], one of the most pernicious aspects of it that I have heard, because our fine new governor says he needs that \$50 million over the next 2 years, is that in exchange for this quick \$50 million, which all of a sudden we cannot live without, we are going to make another mistake in legislation and not do the right thing. Which we should have done last year and which should be done immediately, is that we should remove mining from its special consideration to be treated like the rest of the businesses, like the rest of us in the State of Nevada.

S.J.R. 22 [of the 64th Session] as a constitutional amendment is a misguided piece of legislation. Students of government from one end of this country to the other have lectured time and time again and documented their cases, that the use of constitutional amendments for taxation is a mistake. The Constitution and its amendments are the fundamental ways we regulate government designed to protect the citizens and to balance the powers of the various parts of government.

But it is legislatures' responsibilities to make taxes, it is not constitutional amendment business to make taxes. So the forum of this change was mistaken. What we should be doing is taking the mining and the taxation issue out of the constitutional amendment area altogether. And S.J.R 22 [of the 64th Session], if it

was a well conceived piece of business, would have been something that says mining should be treated like other businesses and will not have constitutional protections with regard to its taxation.

You have reports that have been submitted to you that show the gross inequity in terms of how much tax is paid. Mining is very, very, very profitable here in this state. The small amount of companies, the handful of companies that do \$3 billion in business as you pointed out earlier, make almost \$500 or \$600 million. And that is very close to as much as the whole \$4 billion produces in profits for the gaming industry. The gaming industry is not nearly as profitable as mining, and yet we are paying five, six or seven times the tax.

And in terms of community support, it has been very fashionable now to talk about all the support for schools and charities from the mining industry. And I think it is wonderful and hope it continues. But the Golden Nugget alone spent \$1,300,000 on charity last year, and we did not make any kind of money like a mining company did -- \$1,300,000 from one gaming company on education. We have 250 kids from Nevada that we are putting through college. Seven graduating classes ready in universities all over America, but we do not publicize that, we do not come to talk about it, because it is not really the stuff that belongs in a room like this.

And for a member of the mining industry, or anybody else, to suggest that we have a pass-through tax, and for that reason they should not be compared to it, is a preposterous and ridiculous misstatement of the facts. There is no pass-through aspect to a gaming tax. We have not changed the payoff on blackjack from three to two, ever. Nor have we changed the odds on a crap table. What we have been doing is lowering the percentages on slot machines so that our facilities become more and more popular and can compete with lotteries. But there is no pass-through for the gaming tax; the hundreds and millions of dollars in gaming taxes that are doing the most to pay the freight around here.

I don't want to throw a monkey wrench or even suggest to throw a monkey wrench into Governor Miller's budget planning, but I am frightened when I see government suggesting that we ought to grab this \$50 million while we can, and rush to vote one more time for S.J.R. 22 [of the 64th Session]. Senator Joerg is very concerned about meeting the deadlines for the vote, in May, for fear the

voters will not have a chance to approve S.J.R. 22 [of the 64th Session] fast enough. The process has gotten off the tracks somehow. And I suppose that if fellows like myself don't get excited, no one else will! But I am excited! I am sitting here and I am looking you right in the face. And I am a fellow that is just finishing .1 billion worth of capital expenditure in this state. One billion: \$250 [million] downtown, \$150 [million] in Laughlin, and \$600 million on the strip. And you have got to fix the tax system here. You cannot keep beating up on gaming, and you cannot give passes to other businesses, no matter how fine they are. I am for economic development. Shucks, we are fueling it with our own company. We create 4500 new jobs in Clark County in a few months. Not to mention the 2700 that we have downtown and the 800 in Laughlin. I wonder how many people these other industries employ.

I am not here to deprecate. But when rhetoric is used to confuse the process of government, then it is time to get into something of a public debate. So I am giving you the other side of the story. This was a lousy piece of legislation from the 'get go.' Yes, it was right to try and correct the inequity of the taxes with regard to the mining industry, but I do not think we have done a very good job of it. Now it would be nice if we could read the tax study that you all commissioned, and absorb that information, and maybe we can get the footing of taxes in this state in better shape. But this rush to approve this bill that caps their [mining industry] taxes at \$50 million when it should be closer to \$110 [million], if you wanted to compare gross, should be slowed down a bit. Or at least, if it is not going to be slowed down because we all of a sudden must have this \$50 million in the next biennium, that is assuming the public is going to approve this - and there are a number of us that think perhaps a very strong, spirited campaign to defeat this at the polls is the right thing too. So that maybe we can get a real honest look at what is going on, here, out in the public. But it is time to reconsider some of these things.

I tend to feel strongly about things, that is my nature. I am not apologizing for the things I am saying, I am just explaining it. I thank you for listening and I would be glad to answer any questions.

Chairman Joerg declared a 10 minute recess at 3:30 p.m. and reconvened at 3:45 p.m.

Mr. Zerga continued with the Nevada Mining Association's presentation.

Mr. Frank Daykin, former Legislative Counsel, explained how S.B. 61 carried out the purpose of S.J.R. 22 of the 64th Session. Mr. Daykin's verbatim testimony:

Mr. Chairman, for the record, my name is Frank Daykin and in times long gone I used to be the Legislative Counsel. My subject here is much less emotional than the last and more technical. It is simply to explain, I hope without repeating, as Mr. Chairman suggested, how Senate Bill 61 carries out the purpose of Senate Joint Resolution 22 [of the 64th Session].

First of all, and I will try to touch upon some of the particular concerns that were raised in the earlier questions. First of all, the reason for passing from the term 'net proceeds of mines' to 'net proceeds of minerals extracted' was, as Lorne [Malkiewich] observed, to avoid any forced use of the term 'mine.' The taxed oil wells, upon their net proceeds in this state, and the Supreme Court of Pennsylvania, back about 1864, really first that was where oil was discovered, actually referred to an oil mine. But we don't do that today. However, it is clear that oil is a mineral and, therefore, when we speak of the net proceeds of minerals extracted, that includes the net proceeds of oil, without any more strain upon the English language than it includes the net proceeds of cinnabar extracted from mercury or gold or silver extracted from the earth. So, that is the reason for that transition. And a number of the sections of the bill reflect that.

Next, the bill carries out the advance payment first enacted at the last session and extends it to all minerals extracted. Now, if you wish to abate Mr. Comeaux's problem with having advance payments upon royalties and do not think that this is monetarily significant, I don't have the figures before me, you can do it very easily and I will be glad to submit language to the committee by simply requiring the advance payments from those engaged in the extraction of the mineral. That would eliminate the royalty owners who are indeed treated in Section 9, mentioned separately from the extractors. That's a simply revision. It provides within the 5 percent, S.B. 61 provides within the 5 percent overall for a graduated rate of taxation