

NEVADA LEGISLATURE

Thirty-first Special Session, 2020

SENATE DAILY JOURNAL

THE ELEVENTH DAY

CARSON CITY (Saturday), July 18, 2020

Senate called to order at 6:07 p.m.

President pro Tempore Denis presiding.

Roll called.

All present.

Prayer by Senator Joseph Hardy.

Our Father in Heaven, this is an elected Body, and as such, we have opposition just like our body does with its muscular forces. There is extension and flexion in opposite directions. Yet, when these muscles oppose each other, that is how our body lifts, moves and gets things done. That is the normal way in this Body as well. We pray that Thou will have us use our God-given responsibilities, opportunities, talents and opposing viewpoints in such a way that we can find hope, happiness and enjoy each other's company, even at times when we disagree.

We pray in the Name of Jesus Christ.

AMEN.

Pledge of Allegiance to the Flag.

By previous order of the Senate, the reading of the Journal is dispensed with, and the President pro Tempore and Secretary are authorized to make the necessary corrections and additions.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Ratti moved that the action whereby Assembly Bill No. 4 was lost be rescinded.

Motion carried.

Senator Ratti moved that the bill be re-referred to the Committee of the Whole.

Motion carried.

Senator Cannizzaro moved that the following person be accepted as an accredited press representative, and that she be allowed the use of appropriate media facilities: KOLO-TV: Kelsey Marier.

Motion carried.

Senator Cannizzaro moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering an amendment for Assembly Bill

No. 4, with Senator Cannizzaro as Chair and Senator Ratti as Vice Chair.

Motion carried.

IN COMMITTEE OF THE WHOLE

At 6:14 p.m.

Senator Cannizzaro presiding.

Amendment No. 6 to Assembly Bill No. 4 considered.

The Committee of the Whole was addressed by Russell Guindon, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau; Senator Goicoechea; Senator Harris; Mark Krmpotic, Principal Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau; Senator Ratti; Senator Kieckhefer; Senator Settlemeyer; Senator Seevers Gansert; Senator Hansen; Senator Cannizzaro.

SENATOR CANNIZZARO:

We will open the hearing on Amendment No. 6 to Assembly Bill No. 4.

RUSSELL GUINDON (Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

I presented Assembly Bill No. 4 to the Senate on Thursday night, and I will not spend much time on the bill tonight. That bill capped the deductions mining operations can take at 60 percent of the statutorily authorized deductions in NRS 362.120. New section 1, subsection 4, of the bill restricts the provision of the 60-percent cap on deductions to those mining operations with gross proceeds greater than \$10 million for the calendar year in which they will be filing the return. The provisions of this bill would take the calendar year 2020 base on the taxes reported on the form in February 2021.

Senate Bill No. 3 changed the tax structure so payments are on an estimated, current calendar-year basis beginning with calendar year 2021. That payment will be made in Fiscal Year 2021. The provisions of Assembly Bill No. 4 would also apply to the estimated payment for calendar year 2021 in Fiscal Year 2021.

This bill was presented on Thursday, with the change being the 60-percent cap for the statutory deductions for mining operations with gross proceeds greater than \$10 million for the calendar year they file the return.

Senate Bill No. 3 and Assembly Bill No. 4 will affect the Net Proceeds of Minerals (NPM) tax. Senate Bill No. 3 requires the estimated payments be made for calendar years 2021, 2022 and 2023. This generates additional revenue in Fiscal Year 2021 of approximately \$54.5 million. Fiscal staff, the Budget Office and the Department of Taxation (DOT) determined this estimate in the consensus estimate from the Governor's proposal.

Based on the calendar year 2020, the current estimate for the collection of NPM tax for Fiscal Year 2021 is \$62,696,705. Assembly Bill No. 4, under the proposed amendment, would provide additional revenue in Fiscal Year 2021 of \$54,107,256 for calendar year 2020 and \$47,001,333 for calendar year 2021. It will be provided by the mining operations subject to the 60-percent cap on their deductions with gross proceeds greater than \$10 million. The calendar year 2021 money, \$47 million, will be due in Fiscal Year 2021 under Senate Bill No. 3.

The provisions of Assembly Bill No. 4 will expect to have an impact on the two tax payments made in Fiscal Year 2021. One payment will be for the actual preceding calendar year 2020, and then the estimated payment, for the current calendar year of 2021. This is estimated to be \$101.1 million.

The \$54.5 million expected from Senate Bill No. 3 is used as part of the budget-shortfall solutions. The changes to NPM for Fiscal Year 2021, according to the estimate of when the additional revenue from Assembly Bill No. 4 is added, is \$155.6 million. The increment attributable only to Assembly Bill No. 4 is approximately \$101.1 million.

SENATOR GOICOECHEA:

The report of gross revenue and deductions is due in early February of 2021. Is that correct?

MR. GUINDON:

That would be the next calendar year or next fiscal year. When a mine files their report for calendar year 2021, as the actual preceding calendar year, it will be filed on February 16, 2022. A comparison is then made with the estimate given on March 1, 2021. To help mines stay below the 90-percent threshold and avoid the 10-percent penalty, any quarterly true-ups that occurred after that March 1 deadline would be included. The easiest way to think about this is a mine files a return on March 1 of a calendar year, for a fiscal year, to report its estimate and pay the tax on it. In February of the next year, they are filing the return for that, as the actual preceding calendar year, and doing the true-up.

SENATOR GOICOCHEA:

That is where I am headed with this. As I look the numbers, I realize we are going under. We are not applying any of these taxes retroactively. The first payments and declarations would occur a year from now, next spring, correct?

MR. GUINDON:

That is correct. These are the estimates for the taxes to be paid in Fiscal Year 2021, based on the returns to be filed February 16, 2021, for calendar year 2020. They are required to file a report on March 1, 2021, for the estimated calendar year 2021, and pay the tax on that estimate.

SENATOR GOICOCHEA:

I am just wondering why we are pressing this so hard.

SENATOR HARRIS:

Based on this new amendment, where will the additional revenue we are anticipating go? Is it going back to the General Fund? Is there anything specifically requiring it to go to a particular purpose?

MARK KRMPOTIC (Principal Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

In two sections, this amendment addresses the distribution of additional proceeds generated by the amendment. Section 1.5, subsection 1(b)(1), calls for transfer to the Supplemental Support for Classroom Instruction account of the first \$50 million of the amount determined. Section 2.9 of the amendment provides another \$50 million to the New Nevada Education Plan. In total, the amendment would distribute \$100 million, \$50 million toward the Supplemental Support for Instruction account and, under an appropriation in section 2.9, \$50 million to the New Nevada Education Plan.

SENATOR RATTI:

Is it correct this revenue can be used in Fiscal Year 2021?

MR. GUINDON:

Yes. Under the statutory provisions of this bill, the February 16 tax return and the estimated payment based on the March 1 return are all taxes required to be paid, redistributed and reported as Fiscal Year 2021, General Fund revenue. As Mr. Krmpotic stated, some of the money will be used for other purposes.

SENATOR RATTI:

I want to clarify that this money can be used in this fiscal year to support education. If we do not act with urgency and pass this in this Special Session, we will run into the same issue in the next fiscal year. One of the challenges in this budget is trying to get certainty to school districts so they can do their budgeting and understand what is available to them. This is an ongoing source of funding. If we approve it now, the timing of when the funds come in, especially for the next school year, will be helpful as well.

MR. GUINDON:

That is a difficult question to answer; it is true for 2021. We are under current law concerning the 2020 calendar year we are in. It would be difficult, but not impossible, for the Legislature to

come in early and change the law so the estimated payment on March 1, 2021, would require the tax be paid at that time.

SENATOR RATTI:

This would create less certainty for the taxpayer as well. If we are going to do this, letting people know now is important. This applies to the businesses that will pay the tax and the school districts that would count on it. Certainty is helpful.

MR. GUINDON:

It would also allow DOT time to get set up to administer the tax versus finding out a month before things have to be implemented and taxpayers notified.

SENATOR KIECKHEFER:

The total new revenue due to the change in deductions is \$54,107,256 million. Is that correct?

MR. GUINDON:

That amount is approximately \$1 million less than the estimate discussed Thursday night. That is the effect of capping the 60-percent deductions on only those greater than \$10 million.

SENATOR KIECKHEFER:

The difference is about \$1 million when we exempt everyone under \$10 in gross. Do you know how many operations are included in that set-aside?

MR. GUINDON:

I am working off actual data reported by the mines to DOT for calendar year 2019. This data is the latest available to us and is from the Proceeds of Minerals Bulletin. I gathered the data from DOT and placed it into a spreadsheet for analysis. In that calendar year, there were 104 mining operations reporting. There are 38 that are over \$10 million, which means the remaining 66 are equal to or less than \$10 million in gross proceeds.

SENATOR SETTELMAYER:

How was the \$10 million determined? I was speaking to a mine starting out in Yerington. They are estimated to get \$20 million. How was the number picked?

MR. GUINDON:

As Legislative staff, I was asked to do analysis of potential thresholds. That information was provided to the requestor. Out of that came the amendment you have to utilize \$10 million as the threshold for those who would or would not be subject to the 60-percent cap on deductions.

SENATOR SEEVERS GANSERT:

In the last two years, the price of gold has been between \$1,176 and \$1,812. In the last year, the price has been between \$1,400 and \$1,800. The swing has been between 25 to 35 percent. We want to make sure we have certainty for funding, especially since a significant amount is going into school accounts. What happens to these projections if the price of gold drops, and we do not have the projections? Could we be setting up a shortfall in the budget related to the accounts into which the money is to go?

MR. GUINDON:

Gold is averaging in the low-to-average \$1,700 range. Gold was in the high \$1,700s for most of July. It is a volatile tax. These are the estimates. We need to wait and see how the estimate compares to actual when calendar year 2021 ends for the mines who are preparing their estimates for calendar year 2021 and paying the tax on it. Their estimate could be different from the ones presented to you. This is the estimate done by Fiscal staff, the Budget Office and DOT. Taxation based on reviewing data for forecasting. The Fiscal Year 2021 estimate, based on calendar year 2020, is approximately \$63 million. What is happening is not sustainable so we expect it to fall some, back down to the \$55.4 million. Over the last 3 to 5 years, it has fluctuated in the \$50- to \$60-million range. We expect it to stay in this range. We know we will have a forecast error; hopefully, the order or magnitude will not be large. We understand it could potentially be larger in terms of falling outside or below the \$50- to \$60-million range.

SENATOR SEEVERS GANSERT:

The last time we did this, it fluctuated and we were down. We are doubling and tripling down on this because we are using the price of gold, and a forecast, for substantially more money. Last time, we did a pre-pay, but now we are adding to the equation. If there were an error or shortfall, would it be worse because we are looking at more dollars and counting on those dollars from the same source? This source can fluctuate between 25 to 35 percent.

MR. GUINDON:

That is a hard question to answer because it is a volatile tax. By nature, a forecast has uncertainty built into it. We do the estimates, put numbers on the sheet, and then create a budget based on that to move forward. When you work with a single tax like this, the risk could perhaps be greater. The risk is there when we create a forecast for the Economic Forum, and they set a number we use to build a budget. At least within that, we have more than one revenue source from which you can add pluses and minuses to offset. It would be hard for me to respond to the part of the question about impact on the budget.

SENATOR SEEVERS GANSERT:

This tax fluctuates with the price of gold, and it is volatile. We cannot control it. We have quite a bit put into this. If we do not hit the target, we will have a shortfall. It is not in the General Fund this time where we can smooth it out. It is in specific accounts with the education budget. This is riskier based on the volatility of the tax and potential to forecast.

SENATOR HANSEN:

Normally, when we have a work session on a bill, the sponsor is there so we can ask questions. I have not had anyone explain to me where the 60-percent number came from. The genesis of this bill is a 2011 bill that had 40 percent. The bill from 2 days ago had 60 percent, and we are now back to 60 percent with some changes. Can anyone explain to me where the 60 percent came from? Why is it not 75 percent or 30 percent or, like the original bill, at 40 percent? I would like to know the bill's sponsor so we can get that answer.

SENATOR CANNIZZARO:

I would like to remind the Committee of the Whole the answer about the number was given several times by staff both today and at the last hearing on this bill.

SENATOR HANSEN:

With all due respect, I do not recall that being answered other than Mr. Guindon saying he could not answer it because it was not part of his staff's responsibility. I am just trying to find out where this number, which seems arbitrary, came from.

SENATOR CANNIZZARO:

There would be an additional amount of \$50 million going to the New Nevada Funding formulation, typically referred to as Senate Bill 178 from the 79th Session. Is that a correct understanding of the bill?

MR. KRMPOTIC:

That is correct.

SENATOR CANNIZZARO:

The information we have been provided with today includes an additional amount that is notated as Assembly Bill No. 4, plus additional revenue based on estimates for calendar year 2021 from Senate Bill No. 3. There is an additional amount that would be collected as a part of this bill. Is that correct?

MR. GUINDON:

The \$54.5 million is the amount estimated to come from Senate Bill No. 3. That is the part in play during this Special Session referred to as "revenue on the sheets." It has been part of the deliberations by the Legislature. It is, in some sense, already subsumed into the budget deliberation process this Special Session. The additional incremental revenue coming from this bill, Assembly Bill No. 4, is the \$101.1 million.

SENATOR CANNIZZARO:

The additional amount over that would go into the Supplemental Support for Classroom Instruction account. It would go to schools and districts directly for utilization in classrooms and for instructional purposes. Is that the purpose of that particular account?

MR. KRMPOTIC:

That is correct as the amendment states.

SENATOR CANNIZZARO:

This appears to have that same amount, the appropriation, for the additional generated under the provisions of this bill, to be allocated to the Supplemental Support for Classroom Instruction account for future biennia. Is that also correct?

MR. KRMPOTIC:

That is correct. The transfer of \$50 million would continue under this bill.

SENATOR CANNIZZARO:

That additional \$50 million is for the same instructional purpose. Is that right?

MR. KRMPOTIC:

That is correct. The appropriation, found in section 2.9, is for Fiscal Year 2021 only. The \$50 million to Supplemental Support for Classroom Instruction account would be ongoing in the legislation under the amendment proposed to Assembly Bill No. 4.

Senator Brooks moved to amend and do pass as amended Assembly Bill No. 4.

Senator Dondero Loop seconded the motion.

Motion carried. Senators Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert and Settlemeyer voted no.

On the motion of Senator Woodhouse, seconded by Senator Parks, the Committee did rise and report back to the Senate.

SENATE IN SESSION

At 6:58 p.m.

President pro Tempore Denis presiding.

Quorum present.

REPORTS OF COMMITTEE

Mr. President pro Tempore:

Your Committee of the Whole, to which was re-referred Assembly Bill No. 4, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

NICOLE J. CANNIZZARO, *Chair*

GENERAL FILE AND THIRD READING

Assembly Bill No. 4.

Bill read third time.

The following amendment was proposed by the Committee of the Whole:

Amendment No. 6.

SUMMARY—Revises ~~the formula for determining~~ provisions relating to the tax on the net proceeds of minerals extracted ~~+~~ and the use thereof. (BDR 32-25)

AN ACT relating to ~~taxation;~~ governmental financial administration; revising the formula for determining the measure of the tax on the net proceeds of minerals; creating the Supplemental Support for Classroom Instruction Account; requiring the transfer of a portion of the tax on the net proceeds of minerals to the Account; providing for the use of money in the Account; making an appropriation; and providing other matters properly relating thereto. Legislative Counsel's Digest:

Existing law imposes a tax on the net proceeds of minerals extracted. (NRS 362.100-362.240) Under existing law, certain deductions are allowed from the gross yield of a mining operation for the purpose of determining the taxable net proceeds. (NRS 362.120) Section 1 of this bill reduces the amount of those deductions by 40 percent ~~for~~ for each extractive operation where the gross proceeds from minerals extracted exceeds \$10,000,000, except for the portion of the proceeds that are paid as royalties that are taxable to the recipient of the royalty. Section 4 of this bill provides that this reduction in the amount of these deductions applies to the taxes due for the calendar year 2020 and each calendar year thereafter. Thus, the reduction in the amount of these deductions would apply to the tax paid in fiscal year 2021 based on the net proceeds of the minerals extracted for calendar year 2020.

Existing law creates several accounts to be used for certain purposes relating to education. (NRS 387.1247, 387.1253, 387.129) Section 2.5 of this bill creates the Supplemental Support for Classroom Instruction Account. Section 2.7 of this bill provides that the money in the Supplemental Support for Classroom Instruction Account: (1) must be distributed on an equal, per pupil basis to the school districts, the governing body of the university school for profoundly gifted pupils and the State Public Charter School Authority for block grants in an equal, per pupil amount to the public schools of this State; and (2) may be used only for the purpose of providing classroom instruction to the pupils enrolled in the public schools of this State. Section 1.5 of this bill requires an annual transfer of the first \$50,000,000 of the State General Fund portion of the tax on the net proceed of minerals to the Supplemental Support for Classroom Instruction Account.

Section 2.9 of this bill appropriates \$50,000,000 to the Account for the New Nevada Education Funding Plan.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 362.120 is hereby amended to read as follows:

362.120 1. The Department shall, from the statement filed pursuant to NRS 362.110 and from all obtainable data, evidence and reports, compute in dollars and cents the gross yield and net proceeds of the calendar year immediately preceding the year in which the statement is filed.

2. The gross yield must include the value of any mineral extracted which was:

- (a) Sold;
- (b) Exchanged for any thing or service;

- (c) Removed from the State in a form ready for use or sale; or
- (d) Used in a manufacturing process or in providing a service,
↳ during that period.

3. The net proceeds are ascertained and determined by subtracting from the gross yield the following deductions for costs incurred during that period, and none other:

(a) ~~Sixty percent of the amount of.~~ Except as otherwise provided in subsection 4:

(1) The actual cost of extracting the mineral, which is limited to direct costs for activities performed in the State of Nevada.

~~(b)~~ (2) The actual cost of transporting the mineral to the place or places of reduction, refining and sale.

~~(c)~~ (3) The actual cost of reduction, refining and sale.

~~(d)~~ (4) The actual cost of delivering the mineral.

~~(e)~~ (5) The actual cost of maintenance and repairs of:

~~(1)~~ (I) All machinery, equipment, apparatus and facilities used in the mine.

~~(2)~~ (II) All milling, refining, smelting and reduction works, plants and facilities.

~~(3)~~ (III) All facilities and equipment for transportation except those that are under the jurisdiction of the Public Utilities Commission of Nevada or the Nevada Transportation Authority.

~~(4)~~ (6) Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants and facilities mentioned in ~~paragraph (e)~~ subparagraph (5). The annual depreciation charge consists of amortization of the original cost in a manner prescribed by regulation of the Nevada Tax Commission. The probable life of the property represented by the original cost must be considered in computing the depreciation charge.

~~(5)~~ (7) All money expended for premiums for industrial insurance, and the actual cost of hospital and medical attention and accident benefits and group insurance for employees actually engaged in mining operations within the State of Nevada.

~~(6)~~ (8) All money paid as contributions or payments under the unemployment compensation law of the State of Nevada, as contained in chapter 612 of NRS, all money paid as contributions under the Social Security Act of the Federal Government, and all money paid to either the State of Nevada or the Federal Government under any amendment to either or both of the statutes mentioned in this ~~paragraph.~~

~~(i)~~ subparagraph.

(9) The costs of employee travel which occurs within the State of Nevada and which is directly related to mining operations within the State of Nevada.

~~(j)~~ (10) The costs of Nevada-based corporate services relating to ~~paragraphs (c)~~ subparagraphs (5) to ~~(i)~~ (9), inclusive.

~~[(4)]~~ (11) The actual cost of developmental work in or about the mine or upon a group of mines when operated as a unit, which is limited to work that is necessary to the operation of the mine or group of mines.

~~[(4)]~~ (12) The costs of reclamation work in the years the reclamation work occurred, including, without limitation, costs associated with the remediation of a site.

~~[(m)]~~ (b) All money paid as royalties by a lessee or sublessee of a mine or well, or by both, in determining the net proceeds of the lessee or sublessee, or both.

4. If the gross proceeds of a geographically separate extractive operation in a calendar year exceed \$10,000,000, the amount of any deduction set forth in paragraph (a) of subsection 3 for that operation may not exceed 60 percent of the amount of that deduction as determined pursuant to the applicable subparagraph of that paragraph.

5. Royalties deducted by a lessee or sublessee constitute part of the net proceeds of the minerals extracted, upon which a tax must be levied against the person to whom the royalty has been paid.

~~[(5)]~~ 6. Every person acquiring property in the State of Nevada to engage in the extraction of minerals and who incurs any of the expenses mentioned in subsection 3 shall report those expenses and the recipient of any royalty to the Department on forms provided by the Department. The Department shall report annually to the Mining Oversight and Accountability Commission the expenses and deductions of each mining operation in the State of Nevada.

~~[(6)]~~ 7. The several deductions mentioned in subsection 3 do not include any expenditures for salaries, or any portion of salaries, of any person not actually engaged in:

- (a) The working of the mine;
- (b) The operating of the mill, smelter or reduction works;
- (c) The operating of the facilities or equipment for transportation;
- (d) Superintending the management of any of those operations;
- (e) The State of Nevada, in office, clerical or engineering work necessary or proper in connection with any of those operations; or
- (f) Nevada-based corporate services.

~~[(7)]~~ 8. The following expenses are specifically excluded from any deductions from the gross yield:

- (a) The costs of employee housing.
- (b) Except as otherwise provided in *subparagraph (9) of paragraph [(i)]* (a) of subsection 3, the costs of employee travel.
- (c) The costs of severing the employment of any employees.
- (d) Any dues paid to a third-party organization or trade association to promote or advertise a product.
- (e) Expenses relating to governmental relations or to compensate a natural person or entity to influence legislative decisions.
- (f) The costs of mineral exploration.
- (g) Any federal, state or local taxes.

~~§~~ 9. As used in this section, “Nevada-based corporate services” means corporate services which are performed in the State of Nevada from an office located in this State and which directly support mining operations in this State, including, without limitation, accounting functions relating to mining operations at a mine site in this State such as payroll, accounts payable, production reporting, cost reporting, state and local tax reporting and recordkeeping concerning property.

Sec. 1.5. NRS 362.170 is hereby amended to read as follows:

362.170 1. There is hereby appropriated to each county the total of the amounts obtained by multiplying, for each extractive operation situated within the county, the net proceeds of that operation and any royalties paid by that operation, by the combined rate of tax ad valorem, excluding any rate levied by the State of Nevada, for property at that site, plus a pro rata share of any penalties and interest collected by the Department for the late payment of taxes distributed to the county. The Department shall report to the State Controller on or before May 25 of each year ~~(the)~~ :

(a) The amount appropriated to each county, as calculated for each operation from the final statement made in February of that year for the preceding calendar year. The State Controller shall distribute all money due to a county on or before May 30 of each year.

(b) The total amount of the tax collected by the Department pursuant to NRS 362.100 to 362.240, inclusive, that is not appropriated to the counties pursuant to this subsection, plus the amount of any penalties and interest collected by the Department that is not appropriated to the counties pursuant to this subsection. On or before May 30 of each year, the State Controller shall:

(1) Transfer the first \$50,000,000 of the amount determined pursuant to this paragraph to the Supplemental Support for Classroom Instruction Account created by section 2.5 of this act for use in accordance with section 2.7 of this act; and

(2) Allocate the remaining amount determined pursuant to this paragraph to the State General Fund.

2. The county treasurer shall apportion to each local government or other local entity an amount calculated by:

(a) Determining the total of the amounts obtained by multiplying, for each extractive operation situated within its jurisdiction, the net proceeds of that operation and any royalty payments paid by that operation, by the rate levied on behalf of that local government or other local entity;

(b) Adding to the amount determined pursuant to paragraph (a) a pro rata share of any penalties and interest collected by the Department for the late payment of taxes distributed to that local government or local entity; and

(c) Subtracting from the amount determined pursuant to paragraph (b) a commission of 5 percent, of which 3 percent must be deposited in the county general fund and 2 percent must be accounted for separately in the account for

the acquisition and improvement of technology in the office of the county assessor created pursuant to NRS 250.085.

3. The amounts apportioned pursuant to subsection 2, including, without limitation, the amount retained by the county and excluding the percentage commission, must be applied to the uses for which each levy was authorized in the same proportion as the rate of each levy bears to the total rate.

4. The Department shall report to the State Controller on or before May 25 of each year the amount received as tax upon the net proceeds of geothermal resources which equals the product of those net proceeds multiplied by the rate of tax levied ad valorem by the State of Nevada.

Sec. 2. (Deleted by amendment.)

Sec. 2.3. Chapter 387 of NRS is hereby amended by adding thereto the provisions set forth as sections 2.5 and 2.7 of this act.

Sec. 2.5. 1. The Supplemental Support for Classroom Instruction Account is hereby created in the State General Fund, to be administered by the Superintendent of Public Instruction.

2. The money in the Account must be invested as other money of the State is invested. All interest and income earned on the money in the Account must be credited to the Account.

3. The money in the Account must be used only for the purposes specified in section 2.7 of this act.

4. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward.

Sec. 2.7. 1. Using the method described in subsection 2, the Superintendent of Public Instruction shall transfer the balance of the money in the Supplemental Support for Classroom Instruction Account created by section 2.5 of this act to school districts, the governing bodies of university schools for profoundly gifted pupils and the State Public Charter School Authority for block grants to each public school in this State for the purposes described in subsection 3. The money must not be used for administrative expenditures of the Department of Education, the State Public Charter School Authority, the governing body of a university school for profoundly gifted pupils or a school district.

2. On or before July 1 of each year, the Superintendent of Public Instruction shall determine the amount of money per pupil to be transferred pursuant to subsection 1 by dividing the total amount of money available in the Supplemental Support for Classroom Instruction Account by the most recently reported number of pupils enrolled in the public schools of this State. The Superintendent of Public Instruction shall then determine the amount to be transferred to:

(a) Each school district by multiplying the amount of money per pupil by the number of pupils enrolled in the public schools of the school district;

(b) The governing body of each university school for profoundly gifted pupils by multiplying the amount of money per pupil by the number of pupils enrolled in the university school for profoundly gifted pupils; and

(c) The State Public Charter School Authority by multiplying the amount of money per pupil by the number of pupils enrolled in charter schools sponsored by the State Public Charter School Authority.

3. The money received by each school district and the State Public Charter School Authority pursuant to subsection 1:

(a) Must be distributed by:

(1) Each school district by dividing the amount of money transferred by the Superintendent for Public Instruction to the school district pursuant to subsection 1 by the number of pupils enrolled in the school district to determine a per pupil amount, then multiplying the per pupil amount by the number of pupils enrolled in each public school in the school district to determine the amount of the block grant to be transferred to each such public school;

(2) The governing body of each university school for profoundly gifted pupils by transferring the money received to the university school for profoundly gifted pupils as a block grant; and

(3) The State Public Charter School Authority by dividing the amount of money transferred by the Superintendent for Public Instruction to the State Public Charter School Authority pursuant to subsection 1 by the number of pupils enrolled in charter schools sponsored by the State Public Charter School Authority to determine a per pupil amount, then multiplying the per pupil amount by the number of pupils enrolled in each charter school sponsored by the State Public Charter School Authority to determine the amount of the block grant to be transferred to each such charter school; and

(b) May be used only for the purpose of providing classroom instruction to the pupils enrolled in the public school receiving the block grant.

4. The money received by each school district, governing body of a university school for profoundly gifted pupils and the State Public Charter School Authority pursuant to subsection 1:

(a) May not be used to settle or arbitrate disputes between a recognized organization representing employees of a school district or public school and the school district or public school, or to settle any negotiations;

(b) May not be used to adjust the district-wide schedule of salaries and benefits of the employees of a school district or the school-wide schedule of salaries and benefits of the employees of a charter school;

(c) Must not be budgeted by a school district, university school for profoundly gifted pupils or charter school in a manner that creates any obligation or deficit for funding in any fiscal year after the fiscal years for which the money was received; and

(d) Must not supplant money that the school district, governing body of a university school for profoundly gifted pupils, State Public Charter School Authority or public school would otherwise spend on classroom instruction.

5. The money transferred pursuant to subsection 1 must be accounted for separately by each school district, governing body of a university school for profoundly gifted pupils and the State Public Charter School Authority. On or before November 1 of each year, each school district, governing body of a university school for profoundly gifted pupils and the State Public Charter School Authority shall prepare a report detailing how all money received pursuant to subsection 1 was spent during the immediately preceding fiscal year and submit the report to the Director of the Legislative Counsel Bureau for transmission to the next session of the Legislature, if the report is submitted in an even-numbered year, or to the Legislative Commission, if the report is submitted in an odd-numbered year.

6. Any remaining balance of the transfer made pursuant to subsection 1 at the end of the fiscal year must be used for the purposes identified in subsection 3, does not revert to the State General Fund and the balance must be carried forward to the next fiscal year.

Sec. 2.9. There is hereby appropriated from the State General Fund to the Account for the New Nevada Education Funding Plan created by NRS 387.129 the sum of \$50,000,000.

Sec. 3. Notwithstanding the provisions of NRS 218D.430, a committee may vote on this act before the expiration of the period prescribed for the return of a fiscal note in NRS 218D.475. This section applies retroactively from and after July 16, 2020.

Sec. 3.5. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 4. The amendatory provisions of section 1 of this act apply to taxes due for each taxable period beginning on or after January 1, 2020.

Sec. 5. (Deleted by amendment.)

Sec. 6. 1. This section and sections 1 and 2.9 to 4, inclusive, of this act ~~become~~ become effective upon passage and approval.

2. Sections 1.5 to 2.7, inclusive, of this act become effective on January 1, 2021.

Senator Cannizzaro moved the adoption of the amendment.

Amendment adopted.

Senator Cannizzaro moved that all necessary rules be suspended, that the reprinting of Assembly Bill No. 4 be dispensed with, that the Secretary be authorized to insert Amendment No. 6 adopted by the Senate, and that the bill be placed on the General File and considered next.

Motion carried.

Bill read third time.

Remarks by Senators Pickard, Settlemeyer, Scheible, Harris, Ratti, Kieckhefer, Cancela, Ohrenschall, Hansen, Seevers Gansert, Dondero Loop, Brooks, Spearman, Hardy and Cannizzaro.

SENATOR PICKARD:

The past 48 hours have been a whirlwind of discussion on issues ranging from education and taxation, to jobs and transparency. It is obvious, at this point, we have all struggled in taking the steps necessary to improve the quality of education for the children of Nevada, particularly those who are most at-risk of falling behind. In the past 24 hours, I worked to find a compromise that I believed would help bolster education funding, directing it to the classroom in support of students and teachers. After many hours of investigation and discussion, I have concluded the deal I worked on overnight falls woefully short of meeting our primary goal of proper and adequate funding for K-12 education in Nevada; it was seriously flawed. It has become clear, with the combined effort of all of the stakeholders through an open and transparent process, we can do more for the children of our State. The proposal on the table did not meet that goal. We must think bigger for our kids, and we must do better for our kids.

We came to this building to address the budget shortfall caused by the COVID-19 pandemic. Under the call from the Governor, members of this Body worked collaborative to identify sources that could be used to support education. It is now clear to everyone the money is there to restore the cuts to K-12 education without a tax increase during this Special Session. All we have to do is prioritize our kids, and we should do so. The process that brought Assembly Bill No. 4 to the Floor was flawed, as I stated several nights ago. It did not provide notice to all of the stakeholders, and it did not adequately consider all of its ramifications. We heard the word "arbitrary," as well as the phrase "I do not have that information at this time," several times. Many assumptions underlying the decisions were guesses because the true experts were not involved in the conversation. As it turns out, some of those assumptions were mistaken.

I was the requestor of the \$10-million threshold. It was my inquiry to see if we could determine where the \$10-million threshold should come from without the input of mining, because they were unavailable to provide the information. In looking at the red book and trying to divine from the data where the threshold should be, the conservative guess was \$10 million. It became painfully clear to me that, with a broader perspective and a little more time, there is much more we can learn and do. We should not limit ourselves to small solutions to big problems. The needle will not move, in the long term, with \$100 million for education.

Now that this discussion has started in earnest, in the light of day, we finally have the attention of all of the stakeholders who expressed an interest in being part of the solution rather than part of the problem, better late to the table than absent all together. We unfortunately did not have the opportunity to hear from them today.

As we use the next eight months as a bridge to the next Legislative Session, I am determined to find a solution for our entire education-funding shortfall. Mining will be a significant piece of the solution to the problem in a way the industry will not like. Looking to a single industry will not generate enough revenue to solve the problem. We need everyone at the table and expect them to be there.

This may feel like a setback, but it is a temporary one. I challenge my colleagues to join me in doing the hard work of finding real solutions to our long-term problems. I will be there, and I hope you are as well.

SENATOR SETTELMEYER:

Copper mines are different from other precious metal mines. The ones in Lyon County and Ely will be above the \$10-million threshold. They exist on such a small margin, this will literally put them out of business. I, therefore, cannot support this bill. We should be having a taxation debate in sunshine, with transparency, during the light of day. Not having public comments is a mistake. When we had the work sessions, there were many people on both sides of the aisle whose lights were lit to speak, and they did not have the opportunity to do so.

SENATOR SCHEIBLE:

The comments I am hearing on the Floor today baffle me. I am at a loss for words to comprehend why, if we want to fund our schools and have the opportunity to invest \$100 million in them today, we would flinch at voting to do so. Why would we even question whether we should tax a handful of mines that make billions of dollars every year in order to provide \$100 million to students and schools with teacher-student ratios above 30 students per teacher? It is baffling. We have students who do not meet the objective of reading by the third grade. We have students who

do not graduate from high school on time. We have the opportunity to provide them with \$100 million towards programing. We are debating it and questioning whether this is the right thing to do. We are questioning whether we should keep pressing forward to find solutions and not take the ones already in front of us on the table. Why would we not vote for a \$100-million investment in schools today, just because we can make a better investment tomorrow? The way to start making progress is by making that progress. Is not the first step necessary? Do you not make the first decision? Do you not start down the path in order to get better as you go on only to grow as you evolve? I cannot comprehend why there is any question as to whether this is the right thing to do for Nevadans. It is the right thing to do for our schools and our kids.

This bill is well written and clear, and the choice before us is an easy one. If we cannot take the easy votes, how can we expect to tackle hard problems like education deficits, budget shortfalls and a public-health crisis? If we are unable to do that, we are not fit to lead. I expect better from the members of this Body and hope we will make the right choice to vote to pass this bill as amended today.

SENATOR HARRIS:

I rise in support of Assembly Bill No. 4. This bill creates additional revenue for the State without affecting the least among us. When this bill was brought to a vote, my colleagues expressed concerns for small mines and the effect this bill would have on them. Assembly Bill No. 4 exempts small mines. My colleagues expressed concern the additional revenue would not go to education. Assembly Bill No. 4 explicitly states the additional revenue generated by this bill will go to education. My colleagues expressed the view this was an industry-specific tax. Word has it, the newest reason to not vote for this bill is because we can just tax another industry, specifically renewable resources.

When COVID-19 hit our State, every member of this Body knew tough choices were ahead of us. We knew that along with our suits and computers, we were going to have to bring a strong constitution with us to Carson City. I am sad to see there are some members of this Body who seem to have left that constitution at home. After last Session, where there were many disagreements on policy, I left with the sense every member of this Body was willing to make tough votes to do what was right for our State. If this vote fails today, I can no longer say that is true. It is unfortunate. Nevada has a history of rising above politics and coming together when needed to by our State. We have long been a model of how to work across the aisle for the benefit our State. Today's vote demonstrates some of our colleagues have given in to partisan pressure over the interest of our students.

We will all have to live with this vote. We can make the choice right now to ask a little more of our mining industry to fund education programs for those who need it most, or we can grandstand for political purposes and claim these cuts to education have to happen because the amount we are proposing to limit deductions is "arbitrary." The mining industry has not suffered the same loss in operations as other industries in our State during the pandemic.

This looming vote to cut education is what keeps me up at night, not the vote to limit mining reductions to provide additional funding to education. With this vote, we are making our priorities clear, cut education for the most vulnerable populations or a little more from an industry that has taken much from our State. The choice is yours, but this time, I will remind my colleagues there will not be a chance to reconsider.

SENATOR RATTI:

I listened carefully to the comments from my colleague from District 20. The last 2 days have been an emotional rollercoaster for all of us. We thought as we went through the process, there would be some hope to get to the place where we would do the right thing and get funding to kids and the education system. Primarily through the media, we would learn this was not going to happen or maybe it would happen if we just added specific language. We added the language, and it has still has not happened. I would like to understand my colleague's comments that this does not need to be done now because the money is available.

I have a sense of urgency. Children, teachers, nurses, janitors and school psychologists are all going back to the classroom in a few weeks as school starts. If we wait until the next Session, we will lose another year to be able to educate our children because school districts would absorb devastating cuts in the midst of a pandemic. They are under immense pressure, more pressure than

educators have been in during my lifetime. They are trying to make sure they are educating children, taking care of their emotional and social health and keeping them safe. If there are dollars we can find to do this today, which is what I believe my colleague from District 20 said, where are they? I have spent my time over the last 11 days looking for every dollar that could be applied to this \$1.2-billion shortfall. Every dollar matters, so I ask we be honest. Please tell me where these dollars are. If we can leave this Chamber and still take care of our kids, I would like to know how.

SENATOR KIECKHEFER:

I would love to talk about where those dollars are. Through an enhanced Medicaid match, \$30 million will be returned to the State. The administrator of the federal Centers for Medicare and Medicaid Services (CMS) told our Medicaid Director this will be coming directly to this State. It is not on these sheets, and we are not accounting for it. The deputy administrator for the federal Department of Health and Human Services (DHHS) says it is coming, as does the Director of CMS, yet we are going to make cuts to kids instead? That is a choice. There are a couple of million dollars of CARES Act money we can use to do a block grant, similar to what is in this bill.

Students who are most at risk are disproportionately impacted by distance education. We saw this last semester and will see it again next semester. We can use federal CARES Act dollars to support those students. Most importantly, we know what our priorities are because they are laid out in front of us. It was very clear where they wanted to spend their money, stated in black and white, in the plan put forth by the majority party in both Chambers. They put forth proposals to restore \$138.6 million to replace some of the cuts proposed by the Governor. They cut more from K-12 than they added back. Instead of restoring, they cut more from K-12 education. At the same time, they replaced massive amounts of dollars to support fully employed, fully insured, fully pensioned adults. We will let everyone determine why he or she made that choice. I hear impassioned pleas about needing to fund children and say you have to put your money where your mouth is. The majority party in this Chamber and the one down the hall certainly did not.

SENATOR CANCELA:

I rise in support of Assembly Bill No. 4. I would like to talk about someone who worked tirelessly on this issue before many of us were even in this Chamber, certainly before I was, and that is former Assemblywoman Peggy Pierce. When introducing a similar proposal in 2011 she said, "I am proposing rejection of the extremism of the last 30 years. I am proposing moderation. I am proposing a middle course, a middle course where the mining industry pays its fair share for being a part of our State. Something you will hear is that the mining industry does not want to be singled out. The mining industry was the only industry around when our State was founded. The mining industry wrote the *Nevada Constitution*. The Nevada mining industry put itself into the Constitution. It has had about 130 years to get itself out of the Constitution, but has not chosen to do so."

Her point was this is not a new argument. It was not a new industry being focused on as related to a tax debate. Here, we are today looking at the same issue with the same opposition as we did nearly a decade ago. Our needs have not grown smaller; instead, they have grown exponentially larger. This is because not only has our State grown but also because of the needs the COVID-19 pandemic has placed on our students and families.

I ask this Body, if not now, when? When would it be more appropriate to do the right thing? I ask all of us to reflect and determine whether punting this down the road is an appropriate decision. I specifically ask my colleague from Senate District 20 how I can accept the offer to work on other solutions seriously and what I can do to join in on discussions about broader taxes or proposals. We have a responsibility to our students. If this bill fails, we will leave here with over \$100 million on the table. I am not sure we will feel great about that tomorrow.

SENATOR OHRENSCHALL:

I rise in support of Assembly Bill No. 4. My colleague from Eureka, for whom I have tremendous respect, was concerned about how Assembly Bill No. 4 would affect small operations and new mines just starting, and the amendment was developed. We heard testimony by Russell Guindon of our Fiscal Division that of the 104 mining operations in the State, 66 would not be affected and would still enjoy 100-percent deductions. That means over 63 percent of the

mining operations in the State would not be affected because of the \$10-million threshold in growth proceeds. We addressed the concern of my colleague from Eureka. My colleagues from Henderson, Las Vegas and Washoe County were concerned about the funds going to education versus being spent elsewhere. The amendment addresses those concerns.

Nevada is blessed. Our land has precious ore, minerals and natural resources we export around the world. I have heard Nevada is nationally number one in gold production, and possibly the world, with the exception of Australia and South Africa. That is wonderful. For so long, however, we have been at the bottom of the list regarding funding for education and vital services.

I work in the juvenile courts and see children who must be sent out of State for certain treatments. Nevada does not have the kind of treatment facilities here to help them. Supporting this bill can turn that around and make this Session the one of investing in our future, investing in our constituents, investing in our children and investing in those who need a hand up. If this fails, it could be just another pass-the-buck Session; it does not need to be that. We need bipartisan support. This will help our constituents and will invest in their future. We have addressed the concerns of our colleagues from across the aisle. I urge passage of Assembly Bill No. 4.

SENATOR HANSEN:

With due respect to my colleagues, we have not addressed the concerns of the school districts. At the beginning of this Special Session, we were fortunate to have the superintendents of the school districts tell us what the problems were. In Nevada, we currently have 490,638 kids enrolled in public schools. Almost none of them will be able to go back unless we listen to what the superintendents said was essential this Special Session, and that was giving them liability protection. They need to be held harmless. We hear talk about doing the right thing, and urgency, yet we ignore the most critical need they stated.

They did not ask for another \$100 million. If you look at our current K-12 budget for the biennium, it is \$10,244,000 billion. Doing math a different way, \$10 billion is ten-thousand million dollars. If you think the big problem is \$100 million, you had better do the math because it is not even a drop in the bucket. The real problem is our schools will not reopen unless we, as a Legislative Body, give them the legal protection they begged us to give. We can pass all the money we want, but none of our kids, half-a-million, will not go back to school. From that number, at least 200,000 parents will be anxious to get their kids back in school.

Health metrics for our children are now on the decline. If we are worried about the health of our children, we need to get them back in school. Schoolchildren are being harmed by not reopening schools. The people in charge of the schools made it clear that they cannot reopen schools if the Nevada Legislature does not give them legal protection. Schoolteachers are afraid they may personally be sued. We need to ensure we not only cover the districts but also protect individual teachers. In this Special Session, we have failed miserably at that. There may be another Special Session, and I hope the leadership will do what the superintendents begged us to do. In the absence of that, this money talk means nothing because the kids will not be going back to school.

SENATOR RATTI:

I have to circle around to the money one more time. We have often been accused of doing magic math. I want to be clear; there have been many conversations and public hearings as we discussed how to do this \$30 million in enhanced Federal Medical Assistance Percentages (FMAP). We have heard it is coming, but that is a promise from the federal government related to CMS. Working in the Medicaid world, I know CMS takes its time. We have State plan amendments that have been sitting for years waiting for an answer from CMS. Even with the urgency of this pandemic, where they have been dangling that out there for us for a while, we still have not received official verification that money is coming. I am hopeful they will reach that conclusion quickly and get that money flowing in our direction. It is a Medicaid match for healthcare services, not funding for education. It is not the job of Medicaid to fund education. It is our job to fund education. We have an opportunity to do that today. Having spent a lot of time looking at the money, without this bill passing today, we will not fund dollars specifically targeted to help underachieving children catch up and stay with their peers. During a pandemic, those are the children who need our attention the most. This bill is important, and there is urgency.

SENATOR SEEVERS GANSERT:

We agree we need to fund education and do a better job of it. We heard testimony from parents pleading for money for education. Some parents talked about their children's inability to read and expressed how important it is to be able to read. Reading is fundamental to everything we do and helps a person's path throughout their life.

Assembly Bill No. 4 presents a false choice. The narrative is if we do not vote for Assembly Bill No. 4, we are not supporting education or our children. Our citizens need to know the truth. The Senate Republicans put out a plan several days ago and shared priorities last Monday. We shared priorities on July 13 and published a plan 2 days ago. In that plan, we prioritized DHHS and K-12 education. We added \$43 million to K-12 and another \$50 million in CARES Act money for teacher hazard pay. These reflect the values of Nevadans; we want to fund education, which is our priority. We are presented with a false choice. We added money and prioritized it with the reserves we found. When we talk about something like Medicaid reserves and hear from DHHS that they will fund another in possibly two more quarters, we think that money should be available. This works by putting the reserves on the books because they can supplement the General Fund. We have been receiving an enhanced FMAP for some period of time. At the same time, utilization of these services has been down. Our information shows we have \$46.5 million already. That money is what is helping back-fill some other accounts.

We all agree we want to fund public education; it is not an either/or choice. There is money available. We have demonstrated it in our proposal where we prioritized education. We did not prioritize funding for other things except DHHS. When you have a choice, and can use funds for backfilling or reducing furloughs, or can put the money towards education, we chose education. The \$43 million plus the \$50 million in CARES Act funds total almost \$1 million.

I want you to understand we agree with you. We believe this bill is a false choice because the money is there. If you prioritize how we believe Nevadans prioritize, you would be reallocating that money to K-12, not defunding K-12. The proposal put out by our colleagues on the other side of the aisle defunded K-12 education, which set up this bill. This bill is not needed. When we are in a crisis like now with high unemployment rates, the last thing we need to do is raise taxes. We need to work together and prioritize. We believe education is right there.

SENATOR DONDERO LOOP:

I want to clarify the record. My colleague from Senate District 20 said "we" are struggling. I have not struggled about this one bit. I do not often talk on the Floor, but I am a mother; I am a grandmother; I am a community member, and I am also a teacher. I know firsthand what happens in a school. I have been in almost every school in this State. I know firsthand, from my father and my being involved, that we have been talking about this same subject for over 70 years. In my office, there is a 1947 article from the *Reno-Gazette Journal*—that may have had a different name at that time—about the upcoming Legislature discussing money for education. When do we start acting? Our superintendents need funding. I have spoken to them, and they all could use more funding for not only curriculum needs but also for upcoming health needs, which will be required to allow our children to return to school safely in this pandemic. Today could be that day. I ask all of you to take care of Nevada's children.

SENATOR BROOKS:

I support Assembly Bill No. 4. I, like many of my colleagues, realize we are in an extraordinary situation. Children and those who need healthcare and assistance from the State need our help the most. That has been consistent with many of my peers from the first day of this Special Session.

The opposition to Assembly Bill No. 4 and to raising money from the mining industry has been all over the map. I am thoroughly confused. It started out with, "we cannot do this under the cover of darkness." It is light outside. Then it went to, "now is not the time to raise taxes," yet I see my colleagues say we should raise even more taxes. I hear the argument "this is not enough tax." At the same time, I hear we should not now raise taxes. I am now hearing, "we have plenty of money and do not need anymore." I heard "we should not take federal dollars," but now I am hearing "we need to use more federal dollars." I am confused as to what the objection is to raising revenue from the mining industry. The latest statements from my colleagues is that they have their own tax plan that would raise more money than this because this is a pittance.

My colleague from Senate District 20 asked us to come back and change this bill so it included education and ensured that funds went directly to education. That is what we did. My colleague from Senate District 20 wanted to protect mines making under \$10 million, so we changed that in this bill. My colleague from Senate District 20 stated that we need to raise \$600 million in taxes. I ask my colleague from Senate District 20, how do we do this? How do we raise the taxes, and why is that the solution when just yesterday, it was a different solution?

SENATOR PICKARD:

I would like to respond to previous comments. First, the \$600 million is not a tax. Second, I did not set the \$10-million threshold. I asked staff members to see if we could determine an appropriate level that would not put thousands out of a job. When do we stop talking about funding education? Never. We should never stop talking about adequately funding education, and I am shocked anyone would suggest we should ever stop talking about that. I have been asked why the change, why the flip-flop? All of us recognize that if we get an incorrect bill in the mail, we do not just pay it, particularly if it demands more out of our checking account than exists.

Did the mining industry drop the ball? Probably, because they were not at the table in advance. In the original discussion, we heard they knew what the language was or what was coming. This is a canard. They had no clue what the language was. We did not know what the language was until 11:30 at night. We had a 4- or 5-hour period where we heard it, and then we voted. Comments were limited to 2 minutes per person, and there was no debate on the details. What I learned after I wrongfully committed to the bill, it would put dozens of mines out of business and thousands of people out of work. This is particularly true for subcontractors who serve the mines and the suppliers. It would have devastated the industry, at least for those who work in it.

We talk about how we own the materials and deserve to get all the money out of it that we can. That is a capitalist approach, and I do not necessarily disagree. The suggestion we find money from them is a falsehood. It is embarrassing we call taking money from someone without consent or input is "finding money." If I find money in your wallet, does it make it okay to take? In my discussions this morning, I have learned the assumptions in the bill will kill businesses. They are mistaken. The \$10 million is a fraction of what the threshold should be. How did we find that out? Mining woke up and let us know.

I am not going to support a bill full of flaws, full of errors, and call it good simply because we need the money. That is not fair to anyone. It would be criminal if we were to do it to an individual. I am sorry, but I cannot support the bill even though I am as desperate to fund education as anyone is. If this experience has taught me anything, never go in unless I am comfortable I have all of the information.

Did I make a mistake? You bet I did, and there is a bee in my bonnet that suggests I will make another one. At the end of the day, we have to do the right thing for the right reasons, and that includes the mining industry, businesses, education and our children. To do this in the dark of night, which is the only time there was an opportunity for input—there was none today during the daylight—is wrong. We did not notify them of the language. There are many lawyers in this room, and that is a due process violation if there ever was one. Notice, and an opportunity to be heard, is the definition of "due process." Mining did not get it. If we want to right this State, we need to do the right thing. Taking money out of someone else's wallet, without their participation in the discussion, is wrong.

As much as I desperately wanted to, I am not supporting Assembly Bill No. 4. I hope that answers the questions before us.

SENATOR SPEARMAN:

Last night, we lost one of the icons of the Civil Rights Movement, and earlier this week we lost another one. I will frame my response in the light of longitudinal progress of civil rights, equality and equity. In 1954, *Brown v. Board of Education of Topeka* said schools should be desegregated with all deliberate speed. The March on Washington was in 1963. Dr. King and others, including Congressman John Lewis, were there. The march was for fair wages, voting rights and equality. In 1964, Bloody Sunday occurred on the Edmund Pettis Bridge. In 1965, President Lyndon B. Johnson signed the Voting Rights Act.

In 1969, I and 14 other African-Americans integrated into a high school in Alabama. There are probably no colleagues in this Chamber or this building who have lived that experience. It was

difficult. We asked ourselves at the time, if in 1954, this was supposed to happen with all deliberate speed. Why here we are, 15 years later, just now integrating this school. What happened? There was a process of "let's do it later." It was a process of kicking the can down the road saying it could not be afforded and on and on. We integrated that school in 1969. This was the first time many of the students with me on that day had real books to read. Some of the people who walked through those doors that day were the grandchildren of sharecroppers. Some of them came to school the first and second week, but were out of school a week later because they had to go pick cotton on their family farms.

You may ask what this has to do with us funding education. The common thread is equality and thinking about the least of us. Am I accusing anyone of not doing that? No, I am not. I am saying the arguments I have heard against this bill today sound much like the same ones we heard regarding why we could not integrate schools with all deliberate speed, only with different words and people. Those arguments are things like not having enough money, not knowing where the money would come from, not taxing people in the community and needing to move slowly.

John Lewis said, "If not us, then who? If not now, then when?" Unfortunately, there have been statements made that are radically incompatible with facts and beg for the test of veracity. I am not sure where we have gone wrong in terms of funding education now. If it is only \$100 million, some person, parent or student will be glad to learn with equity. I guarantee someone will be glad we did it now as opposed to later. If you want to tax energy, 16 percent of low-income families have energy consumption that uses almost 20 percent of their income. This can drive families into homelessness.

Parallels in history today strike me as we remember John Lewis and hear the same arguments I heard in my youth. It was a matter of making a decision to integrate schools with all deliberate speed. That was a painful process for me. Listening to many of the arguments today has brought back those memories. The arguments are similar to the arguments I heard then. I was called the n-word, threatened to be expelled and sent to the principal's office. I watched a teacher throw an eraser at a young black woman because she had a migraine headache and put her head on the desk. We endured these injustices 15 years after *Brown v. Board of Education of Topeka*.

Do not think I am saying you are the equivalent of the people who made those arguments; that is not true. Based on my experience, what I am saying is there is an unmistakable parallel to some of the same arguments made. This is about equality and equity. I heard nothing in the amendment that suggested the conversation with mining would be over with a vote in favor of the bill. I can only presume the conversation will continue, but while we are talking, we have funded education.

Dr. King said, "We are tied together in the single garment of destiny, caught in an inescapable network of mutuality. And whatever affects one directly affects all indirectly. For some strange reason, I can never be what I ought to be until you are what you ought to be. And you can never be what you ought to be until I am what I ought to be. This is the way God's universe is made; this is the way it is structured."

I will share one last quote from one of my icons, Shirley Chisholm, "America has the laws and the material resources it takes to ensure justice for all of its people. What it lacks is the heart, the humanity, the Christian love that it would take."

Some of the statements made here use different words. The same people who made the statements in the 60s did not make them here. The Ku Klux Klan was there the first day we showed up on the bus to integrate an all-white high school in the heart of Alabama. They surrounded the building, fully robed and dared us to get off the bus. Based upon my experience of going through that pain, this bill is about equality and equity now. If not now my brothers and sisters, then when? If not us, then who?

SENATOR HARDY:

This tax, and the Session we are in, has not been organized or prepared. We have not had bipartisanship and have not been transparent. The tax is not necessary, and the stakeholders have not been involved, hence we see a lot of rancor. I am concerned. When we pass a tax, we have to have a level of scrutiny as to where we are, what we are doing and where we are putting our priorities. We all have constituencies who have trusted us, elected us and even donated to us, so we feel a kinship to be with them. We all used to be a child. We need to be deliberate in what we do with our responsibility. We need to be deliberate about opportunities to use CARES Act money.

Nevada has never benefited like other states from federal income tax coming back into the State. We have a responsibility to protect the home budget of Nevadans. We have a responsibility to protect the jobs held by Nevadans so they can buy their kids school clothes, books, Kindles or whatever else they need to learn. I have voted for taxes before. This is the wrong one at the wrong time. I appreciate the healthy debate we are having, but we need to ask where we can find the money and admit we have money the federal government has generously put in place for us. We need to use that and then see where we are.

SENATOR CANNIZZARO:

In his book *Great Expectations*, Charles Dickens wrote, "In a word, I was too cowardly to do what I knew to be right, as I had been too cowardly to avoid doing what I knew to be wrong." Here in this Body, we all face choices. Let us be clear about why we are on the Floor of the Senate having this debate. It is because of choices made by members of this Body with respect to this bill. Some of the choices we have to make in this Legislature are hard, and we have heard a lot about those. Some choices are easy. What should never be hard, what should always be an easy choice, is to stay true to our word, especially when that word relates to the future of this State.

I have shared this story before, but it is important. It speaks to many Nevadans, and it certainly speaks to how I come to be sitting on the Floor of the Nevada State Senate. I am the daughter of a bartender and a waitress who had no high school education. The promise of greater things for our children is a promise in which I believe. I believe in it because it happened for me. So many who have sat in this Chamber before us have stayed true to their word to fight for Nevadans and families like mine. I had the promise and the word that going to school and getting a public education here in Nevada would empower me, and it did. I had the promise and the word that a scholarship would open up doors to a college education and a law school, and it did. We must keep our word when it comes to our jobs as Legislators. Why? Because it matters.

Tonight, I find myself reminded of a comment made by the Senator from District 20 on Thursday evening saying, "If history is any indication, past is prologue." Yet, I find myself here, again, discussing education funding. I would be remiss if I did not note that what this Body should not tolerate, and what I do not appreciate, is a disingenuous agreement to keep the promise of education for students. What is more intolerable, is that the history in this Body of proclaiming a vote to fund education if only there was a way to do it. If there was a way to talk about properly funding education, and if we could just do a little bit, that would be fine. If it made sense, that would be fine, yet we never seem to find a way to do so.

I have only been in this Legislature for three Sessions—two regular and this Special Session—yet, I have seen this play more than once. In the 79th Session, this Body considered an excise tax on marijuana designed to go to education. This was a funding mechanism for an industry being brought into this economy and a way to support students and teachers. When the vote came, some members of this Body not only did not vote for the tax but also they subsequently walked off the Senate Floor and refused to do the job of a Senator by taking a vote on the education budget.

In the 80th Session, it was stated, again, that if funds were only going to education, and if we could only find a way to get some money to education, we could talk about funding. The promise was the same; the proposal was different. This time, it was an offer to keep taxes the same for businesses supporting this State. These were taxes many of those businesses did not object to continuing to pay and that many had supported in the past. Why? To support teacher salaries and put money into our classrooms. The vote, yet again, was "no."

We are now on the precipice of a pandemic with monumental economic loss, and the plea is the same, if only it were for education. We are sitting here tonight because my colleague from District 20 proclaimed he "... would have been a strong 'yes' if this were to go to education." We have heard many things this evening about CARES Act money going to education. The Governor's plan for using those funds, released in the last week, includes money to support students. I take that commitment seriously, and I know our Governor does as well. It will help our educators as they prepare to go back into the classroom.

What is more interesting, the partisan vote before the Interim Finance Committee to not take those funds when CARES Act money was requested to help this State. It is interesting we are talking about CARES Act dollars and how they can help this problem. In the budget, the

Distributive School Account and per-pupil amounts remain the same. That was something the superintendents said would be helpful in addressing educational needs moving forward.

We keep talking about education funding, yet that is the exact reason we are here. People state they would be a strong "yes" if they knew the money was going to education, yet tonight, there are new reasons to vote against the bill. Some have said the numbers are arbitrary, we do not know where they come from or we need answers. They have said assumptions were made that cannot be answered and that we need more time. They have said things such as it cannot be limited; it is not enough long-term; we cannot talk about a single industry; this is just a temporary setback in discussing education, and we need to talk about it long-term.

What is before us in this Special Session is an immediate need. The dollars proposed in this amendment will go to things such as certified teaching tutors, as in my district at Richard Bryon Elementary. They will go to certified teaching tutors and afterschool computer labs that allow kids access to computers and a space to do homework where that did not exist before. The bill supports reading and literacy centers at other sites, early childhood education, academic intervention strategies and support, college and career readiness and parental engagement. I bring this up because this is exactly why we are talking about education. More importantly, it is a choice to have brought this bill back for a vote.

On Thursday evening, I implored this Body to find a way to say "yes" to education. That vote fell short because it was not specifically designated for education. We heard it said, "I would have been a strong 'yes' if this were to go to education," the same promise. This bill was the specific option. This was the bill. It was the vote and the plan, and, yet again, the vote for education failed. As they say, "If history is any indication, past is prologue."

It was then my colleague from Senate District 20 publically and to the press, again, proclaimed the promise to education was not a lost cause. If the money were going to education, there would be 14 votes for the same revenue plan. We can debate all night about whether this is the right revenue plan, who should be exempted and whether there was input. The fact remains that it was stated if the money were going to education, there would be 14 votes, for this same revenue plan, not another plan, this plan. This vote was requested. This is the vote agreed to, and this is the vote before us now.

The idea there was a long period of time in which to gain education and information from which to make a better decision was a concept discussed at length yesterday with other leadership and our staff. They implored us to determine how we could exempt smaller mines or make a change so money would go to education. This was a conversation that went on and on. As of 8:00 a.m. this morning, there was the indication this would be a "yes" vote, that there would 14 votes for education. The period in which to ask for information was at 11:11 a.m. when it was determined this would have to be a "no" vote. It is beyond my comprehension how we can proclaim there was a lack of information. This vote was asked for; the vote was agreed to, and the vote is before us now.

Let us be clear about where we are. History will not repeat itself; the choice is clear. The other night I said—and my colleagues are free to disagree—it is corporations or kids. This should be a strong "yes." The vote was taken, and this bill was done until there was a request to bring it back for a vote with the new parameter of funds going to education. Under the New Nevada Funding formula, \$50 million is going to Senate Bill 178 from the 79th Session. This was a commitment to continuing revenue for education, specifically for classroom instruction. That is exactly what this bill does.

Let us not be too cowardly to do what we know to be right. Let us not be too cowardly to do what we know to be wrong. The time for disingenuous promises is over. What was asked for has been given. We should all vote "yes."

SENATOR KIECKHEFER:

It may be time to take a deep breath and think about how we will move forward. We know what will happen shortly. I want to make sure the record is clear about where sides line up on this, whether it is revisionist history or selective memory, one party always appears to get the blame for not wanting to fund education in Nevada.

A Republican Governor led the 2003 Legislative Session. It was a Republican Senate and a Democratic Assembly who created the second-largest General Fund tax source for our State, the

Modified Business Tax. When there was a consensus we, again, needed to raise funds for education under the leadership of a Republican Governor, a Republican Senate and a Republican Assembly. That is now the fifth-largest General Fund revenue stream in our State. When our new Governor took office, he pledged there would be no new taxes. We did not get any when we were talking about education funding in the 2019 Legislative Session; the opportunities were unavailable. My colleague from Senate District 13 spent many hours working on the plan to revamp what is a broken property-tax system. Some of my colleagues may not agree with me, but we needed to pass that in 2019 to get it on the ballot and try to convince people we need to fix broken tax structures. This Body killed that bill. We have a tax structure focused on sales of goods when the focus of our economy is the provision of services. We have multiple tax structures locked in the *Nevada Constitution* that make it difficult to change. We need to think more broadly about how we tackle the problems we are facing. I hope, as we move forward, we are able to tackle the big issues, solve the structural problems and come together to do what we all agree needs to be done.

SENATOR HANSEN:

We have heard passionate speeches but have still not addressed the question I would like to have the Majority answer tonight: are we going to deal with the issue the superintendents say is critical? It does not matter how much money we raise if the kids cannot go back to school because of liability issues. All of this debate tonight is superfluous and pointless. Are we going to address what they specifically said was critical to get those 492,000 kids back to school this fall? They need this now from this Special Session.

Are you not going to be afraid of the trial lawyers? We have talked about cowardice. It is disingenuous and wrong to say because someone changes his mind, he is a coward. What is cowardly is to talk for hours about funding, when the most critical thing superintendents said they needed was not funding but protection from trial lawyers. Before we close the hearing on Assembly Bill No. 4, I hope one of my colleagues from the Majority party will say to the public listening that we will deal with that, if not tonight, if not in this Special Session, then in another one that could be called. I would like to assure superintendents, parents and the 492,000 kids that their needs will be met as it relates to liability. This would also apply to teachers, who can personally be sued now, as they get back into the classrooms. I ask the Majority Leader and the Majority party, again, tonight, when will we address the hold-harmless liability issue critical to allow our students to return to school?

Senators Cannizzaro, Scheible and Harris moved the previous question.

Motion carried.

The question being on the passage of Assembly Bill No. 4.

Roll call on Assembly Bill No. 4:

YEAS—13.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.

Assembly Bill No. 4 having failed to receive a two-thirds majority, Mr. President pro Tempore declared it lost.

REMARKS FROM THE FLOOR

Remarks by Senators Settelmeyer, Pickard, Hansen and Harris.

SENATOR SETTELMEYER:

Many of the comments made earlier may have been more appropriate under Order of Business 16 as they did not necessarily relate to the bill. My light to speak was lit. Unfortunately, the discussion was shut off which is something I never enjoy. We should always listen to each other's viewpoints, but maybe we should have directed them toward the bill. "I am open to anything, but some of this is more appropriately addressed during the regular Session come February." I did not say that; it was Governor Sisolak on July 8. I guess he is allowed to change his mind.

SENATOR PICKARD:

The Clark County Education Association (CCEA) requested I directly address their members as to why I changed my mind. When my colleague from Senate District 6 implies I am a coward, I might be, but at least I admit when I make a mistake. In the rush to find dollars for education, I omitted a fundamental right of other residents of this State. When that was brought to my attention, and found that there were mistakes and flaws in the calculations and estimations that would have put thousands of people out of work simply to take money out of their pockets to fund education, I felt it was wrong; I was wrong.

We have heard a lot about members keeping their word. I try my best to keep my word. My integrity is the only thing I have that I get to keep and choose to keep. Everything else can be taken from me. My integrity lies first to my God, second to my wife, and third to my obligation as a sworn member of the Nevada State bar; it is to uphold the law. My oath to this Body is to do the same. I made a mistake; I miscalculated in the rush to get this right. I cannot agree to it knowing there are mistakes in the process and the substance.

I wonder if there are any District Attorneys in this Body, or this State, who gave their word to victims of crime, and, after finding out the defendant was innocent, continued to keep their word to the victim and, instead, got the conviction even though the party was innocent. Is keeping our word sacrosanct to the destruction of another life? I do not believe it is.

To my friends at CCEA, I am truly sorry. I wanted to find money, but I just could not take it out of someone's pocket without his or her consent. We talk about high ideals here, and we talk about the need to fund education. I ran on education. Maybe this Body has forgotten the many times I have mentioned I was once a schoolteacher. I loved that job, but I left it because I could not afford it. I know what it is like to have a hard time as a single parent and teacher and pay my bills. Nobody can tell me what that is like; I have lived it. People question my integrity and my duty because I did not give them what they wanted simply because it is inconvenient. I am sorry. I do not work that way. To my friends at CCEA and every other educational entity in this State, I am sorry. I could not do it at the expense of others.

There is a process in this, and we should adhere to it. The process was not followed in this Session, but it will be in the next. I commit to every teacher, and more importantly to every student in this State, to rectify my mistakes and make sure we have a thorough, open and inclusive conversation involving both parties and all of the stakeholders. Nevada deserves that.

SENATOR HANSEN:

This Special Session is based around COVID-19, yet during this Session, we have not discussed COVID or the facts behind it at all. We are going into our fifth month of the pandemic. Stanford University has been watching this closely. They learned the survival rate for people between the ages of 5 and 19, if they even get it, is 99.999 percent. For those ages 20 to 64, the survival rate is 99.95 percent. The only high-risk category is those over 65 years and that survival rate is 94 percent.

By initially shutting things down during this pandemic, we caused immense collateral damage to our business community. We need to liberate the age categories and people least likely to be affected. Let us focus our resources on those who are at the highest risk. That is not something a Governor can do with a one-size-fits-all policy at the State level. In this Special Session, we have failed to empower local communities, city councils, county commissioners and the business community to come up with meaningful solutions and ideas for dealing correctly with COVID-19. If we want to deal with the budget problem we are facing in the long run, the best way is to get our business community running and strong. By being left out of the discussion, and fearing with the stroke of a pen the Governor can shut them down, the business community is kept from being healthy and producing the tax revenues we anticipated. We need to reform the power the Governor has during an emergency. This is not a criticism of the Governor, but a statement that we are the lawmaking Body, and we have failed in that area.

It is critical we get the power back in the hands of those on the ground. Comments were made that the Governor cares. No one in my hometown of Sparks cares more for the citizens of Sparks than the Sparks City Council and the Mayor of Sparks. That holds true for every community in this State. They are on the ground. If they make a decision and it is in error, they have the ability

and flexibility to change it overnight and not have to wait weeks on a possible edict from the Governor. We have failed to address this.

The Governor clearly said he expects us to follow the experts' opinions related to opening schools. If you have been following the national discussions in the last couple of weeks, experts overwhelmingly are clear that kids need to get back in school. Children want to go back to school, but the superintendents said this is not possible because schools will be sued. We shut down the discussion here the moment I brought up the question, how convenient. In other words, they were telling me they did not want to address the issue. The trial lawyers will not be challenged, and we are going to leave almost half-a-million kids at risk of not going to school this fall. Do you not think there will be ramifications when at least 200,000 parents who want to get their kids back in the public schools? They will point out the fact all of the experts want children to go back to school. They are losing a year of their academic life through our failure to address this. There will be ramifications to that, and rightfully so. We have failed.

I pray I am wrong, and we will have another Special Session to address these things. Meanwhile, we need to liberate the segments of our populations least at risk. COVID-19 is getting better known; the people who are at risk are well known. To date, there have been 594 COVID-19 deaths in Nevada. In Nevada, 2017, the last year for which we have statistics, there were 6,417 deaths from heart disease; 5,283 from cancer; 1,633 from lower lung disease; 1,496 from accidents; 1,137 from strokes; 779 from Alzheimer's Disease; 676 from drug overdoses, and 636 from the flu. At 596 deaths, COVID-19 is not even in the top 10.

We need to look at the reality of COVID-19 and address this as a lawmaking body. We need to free up our business community. We should give the Governor 30 days to have carte blanche. After that, input from local communities should be required. We need to get our half-million school kids back in school. We need to put reasonable restrictions on what trial lawyers can do, and provide the liability protection our schools and teachers need. That is a job we should do this Special Session. That is the job we have disgracefully not done. We can argue about mining taxes and other things, but until those things are in place, we will not see a financial recovery in this State. We will not see our business community put people back to work. We will not see tax revenues climb immediately. We will not see 500,000 kids go back to public schools. When people ask why, we can look at ourselves, as we sit in this room, and tell them we failed them, and we failed Nevada. We failed to do our job.

I am in the minority on this, and I wish I were not. If none of these issues are addressed, perhaps that will change. While I am proud to be a member of this Body, I am somewhat ashamed we have not tackled the big problems. Instead, we have spent 3 days arguing over a \$100-million mining tax and a half-million kids are not going back to school. I pray my colleagues will change and the next Special Session will address the critical needs of this State.

SENATOR HARRIS:

I am glad this issue has been brought up. I agree that we have not discussed this issue enough in this Special Session. We have been called here to address a budget shortfall, and that has rightfully been our focus. As the Legislative Body, it is our duty to balance the budget, and we have come here to do so.

As I look at the COVID-19 numbers, I see a different story. As an update, deaths in Nevada are up to 646. That is the nature of this virus. The numbers change every day and are only going in one direction. Our daily positivity rate is 22.2 percent. That does not make me feel good about sending children back to school. It does not make me feel good about opening everything in the State safely. The cumulative positive rate is 9.1 percent. The World Health Organization says if the rate is above 5 percent, things should close down. We are already trying to balance the positivity rate and possible dangers of COVID-19 with needing to keep our businesses open.

Most of us do not have to worry about this virus affecting us. This situation requires our capacity to worry about others. I do not wear a mask to protect myself. I wear a mask to protect each of you. I understand this idea we would do something, not because we are harmed, but for others, something we are not used to, something different. We do it because of others we may not see or may not know who could be harmed. As a leader in this State, I ask the rest of our citizens to do this.

A lot is happening. We have a budget shortfall and a disease that is running rampant. This is a great time to talk about the difference between real choices and false ones. Live or die? We are learning that is not what this virus is. We know there are those alive, not in the hospital, who will be operating at 70 percent of their lung capacity for the rest of their lives. We know there are people who have survived but have had strokes that will hamper their ability to work, make money or be a productive member of society.

I agree, "health disease" is a problem; car accidents are a problem, and we have addressed those issues. That is something we decided we would not accept, so we put forth ideas to try to minimize the amount of deaths. We do not use it as an excuse as to why we should not act on some other threat to our populous. I hope this Body does what it can to mitigate the damage to our society and get us back up and running as soon as possible, but only if we do so safely. That is our number one calling. Our number one calling is not to make money, not to make sure others are making money, but to make sure we are safe and people are healthy. If we want to provide free healthcare to Nevadans so we can limit deaths by "health disease," and people can visit doctors more frequently without feeling the pressure to pay a high deductible if they get a test, I will vote for that, too. We need to be real about the dangers in front of us and give the best advice we can. We do not need to reinvent the wheel. The entire world is dealing with this virus. In fact, they are all doing it better than we are. I hope the State of Nevada can choose to do better than the rest of our partners in the Country. That is what we should endeavor to do.

Senator Cannizzaro moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 8:31 p.m.

SENATE IN SESSION

At 12:11 a.m.

President pro Tempore Denis presiding.

Quorum present.

UNFINISHED BUSINESS SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President pro Tempore and Secretary signed Senate Bill No. 3.

Senator Cannizzaro moved that the Senate adjourn until Sunday, July 19, 2020, at 1:00 p.m.

Motion carried.

Senate adjourned at 12:11 a.m.

Approved:

MOISES DENIS
President pro Tempore of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate