

NEVADA LEGISLATURE
Thirty-second Special Session, 2020

SENATE DAILY JOURNAL

THE FIRST DAY

CARSON CITY (Friday), July 31, 2020

Senate called to order at 10:28 a.m.

President Marshall presiding.

Roll called.

All Senators present.

Prayer by Senator Heidi Seevers Gansert.

Let us bow our heads today and give thanks for being here, for being safe. Thank You for the staff, and let us all think about Nevadans as we enter this process, once again; Nevadans who are struggling; Nevadans who are ill; Nevadans who are facing uncertainty and many other challenges. Let us be thoughtful in our approach and consideration and listen to our constituents. Let us listen to Nevadans so we understand their needs, and we can respond to those needs.

Please bless all of us. Bless our great State and all of our families, constituents and everyone here, today.

AMEN.

Pledge of Allegiance to the Flag.

Madam President requested Mrs. Claire J. Clift to serve as temporary Secretary of the Senate and Mr. Steven E. Brummer to serve as temporary Sergeant at Arms.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Cannizzaro moved that the organization of the Senate of the Thirty-first Special Session of the Nevada Legislature be designated as the organization for the Thirty-second Special Session of the Nevada Legislature.

Motion carried.

Senator Cannizzaro moved that the Secretary of the Senate be instructed to insert the Thirty-second Special Session organization in the Journal of the Senate as outlined in the Agenda booklet located on each Senator's desk.

Motion carried.

PRESIDENT PRO TEMPORE OF THE SENATE—

SENATOR MOISES DENIS

MAJORITY FLOOR LEADER—

SENATOR NICOLE J. CANNIZZARO

ASSISTANT MAJORITY FLOOR LEADER—
 SENATOR JULIA RATTI
 CHIEF MAJORITY WHIP—
 SENATOR JOYCE WOODHOUSE
 MAJORITY CO-WHIPS—
 SENATOR YVANNA CANCELA
 SENATOR PAT SPEARMAN
 MINORITY FLOOR LEADER—
 SENATOR JAMES A. SETTELMAYER
 ASSISTANT MINORITY FLOOR LEADER—
 SENATOR JOSEPH P. HARDY
 MINORITY CO-WHIPS—
 SENATOR SCOTT T. HAMMOND
 SENATOR HEIDI SEEVERS GANSERT
 SECRETARY OF THE SENATE—
 CLAIRE J. CLIFT

Madam President appointed Senator Brooks as a Committee to inform the Assembly that the Senate is organized and ready for business.

Madam President appointed Senator Cancela as a Committee to inform the Governor that the Senate is organized and ready for business.

Senator Cannizzaro moved that the following persons be accepted as accredited press representatives, and that they be allowed the use of appropriate media facilities: ASSOCIATED PRESS: Sam Metz; KKO: Samantha Stone; KLAS-TV: Orco Manna, Mark Mutchlet; KNPR: Bert Johnson; KOLO-TV: Wade Barnett, Michael Cooper, Kelsey Marier, Ed Pearce, Terri Russell, Gurajpal Sangha, Kurt Schroeder; KRN: Shah Ahmad, Miles Buergin, Karsen Buschjost, Ben Margiott, Ty O'Neil; KTNV-TV: Joe Bartels, Clay Conover, Mark Cronon, Rudy Garcia, Tricia Kean, Paul Nelson, Kris Oman; KUNR-FM: Paul Boger, Lucia Starbuck; LAS VEGAS REVIEW JOURNAL: William Dentzer, Colton Lochhead; LAS VEGAS SUN: John Sadler; NEVADA APPEAL: Geoff Dorman; NEVADA CURRENT: April Corbin Girmus; RENO GAZETTE JOURNAL: Anjeanette Damon, James Dehaven; SIERRA VALLEY ALLY: Brian Bahouth; THE NEVADA INDEPENDENT: Trevor Bexon, David Calvert, Jon Ralston, Michelle Rindels, Riley Snyder; THIS IS RENO: Jeri Davis, Don Dike-Anukam, Lucia Starbuck.

Motion carried.

Madam President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 10:34 a.m.

SENATE IN SESSION

At 10:46 a.m.

President Marshall presiding.

Quorum present.

A Committee from the Assembly composed of Assemblywoman Benitez-Thompson appeared before the bar of the Senate and announced that the Assembly is organized and ready for business.

Senator Brooks reported that his Committee has informed the Assembly that the Senate is organized and ready for business.

Senator Cancela reported that her Committee has informed the Governor that the Senate is organized and ready for business.

MESSAGES FROM THE GOVERNOR
STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA 89701

July 30, 2020

THE HONORABLE NICOLE CANNIZZARO, *Senate Majority Leader*, Nevada State Senate
401 South Carson Street, Carson City, NV 89701

TO THE HONORABLE MEMBERS OF THE NEVADA STATE SENATE:

We are living in historically trying times. Over the past few months, Nevada has been faced with three major crises, including a crisis of faith in our criminal and social justice system. We are challenged now with an intensity and acuity most of us have never before experienced.

I am grateful to the Honorable Members of the Nevada State Senate for doing their part to help battle the first two crises, including the diligent and thoughtful work during the 31st Special Session to address the State's historic budget shortfall.

Now, it is time we look toward the third crisis and take appropriate and meaningful measures on a number of critical policy issues including addressing criminal and social justice policy reform; working to ensure Nevadans, businesses, workers and the unemployed have the support and protections they need as they battle COVID-19; ensuring Nevadans can exercise their fundamental right to vote in a way that does not dangerously expose them to increased risk of COVID-19 infection; helping stabilize Nevada businesses so they do not suffer continued economic hardship and establishing safety standards for the workers who are keeping our economy afloat; removing statutory barriers impeding the work of Nevada's unemployment insurance program; and providing authority for the Judicial Branch to implement alternative dispute resolution measures in cases of rental evictions.

Article 5, Section 9, Subsection 1 of the Nevada Constitution provides that the Governor may, on extraordinary occasions, convene a Special Session of the Nevada State Legislature by Proclamation. I have issued a Proclamation calling the Legislature into a Special Session. In that Proclamation, I identify a number of items to consider.

Thank you,
STEVE SISOLAK
Governor

OFFICE OF THE GOVERNOR
EXECUTIVE ORDER
A PROCLAMATION BY THE GOVERNOR

WHEREAS, Section 9 of Article V of the Constitution of the State of Nevada provides that, "[T]he Governor may, on extraordinary occasions, convene the Legislature by Proclamation and shall state to both houses, when organized, the business for which they have been specially convened;" and

WHEREAS, an extraordinary occasion exists, resulting from the global COVID-19 pandemic and its associated economic consequences, requiring immediate action by the Nevada State Legislature; and

WHEREAS, the people's right to vote is among their most important rights in a representative democracy, requiring accommodation to election laws, processes, and procedures to accommodate

social distancing, limited in-person gathering, and protecting individuals who are most susceptible to contracting COVID-19 and suffering the most acute effects of the illness; and

WHEREAS, as a result of historical inequities and disparate treatment of socially and economically disadvantaged groups within the United States and within the State of Nevada by some of those entrusted by the citizenry with police powers, which are, paradoxically, limited by the same citizenry according to the dictate that such extraordinary powers be used to protect and defend the country's and the State of Nevada's residents; and

WHEREAS, recent events have made clear the need for Nevada leaders to better ensure that police powers are wielded by peace officers entrusted with them with greater responsibility and accountability to the people who granted such peace officers access to these extraordinary powers and that they are used only for the public good, while protecting and holding sacrosanct all rights, privileges, and immunities secured or protected by the Constitution or laws of the United States or of the State of Nevada; and

WHEREAS, the current COVID-19 caused economic crisis, experienced around the world and in the State of Nevada, has caused an unprecedented number of residents to file for unemployment benefits, under various programs, creating a backlog of unprocessed claims and the need for flexibility to be granted to the Department of Employment, Training, and Rehabilitation, Employment Security Division, which is tasked with processing and adjudicating unemployment claims in order to meet this emergent and monumental demand for State processing of claims; and

WHEREAS, the current COVID-19 pandemic has created significant potential liability for the spread of COVID-19, which, in the case of businesses; not for profits; schools, both K-12 and institutions of higher education; and state and local governments that make good faith attempts to follow Controlling Health Standards, should be provided reasonable liability relief for their adherence to these health standards and in order that Nevada may emerge from the pandemic with both the health and safety of its people and their jobs protected to the degree possible; and

WHEREAS, the current COVID-19 pandemic has created a health and safety threat to Nevada's hotel, motel, casino resort, and lodging employees, among many others, who, in order to maintain the continuity of Nevada's tourism-driven economic engine, have returned to work in these public-facing positions at potential risk to themselves and to their families. Consequently, to protect many hundreds of thousands of Nevada residents, Nevada government should take action to mandate health, safety, and sanitation standards to safeguard both these employees, guests and to protect and promote the good reputation of Nevada's tourism industry, which is a proxy for many other industries within the State and, as the most public of the State's economic segments, for the State's general reputation in the minds of many; and

WHEREAS, the COVID-19 recession has and will continue to result in eviction actions against the most vulnerable Nevadans, who require the Judicial Branch to possess the flexibility in their use of methods of alternative dispute resolution in cases of eviction to prevent those enduring eviction actions from the trauma and cost associated with court proceedings; and

WHEREAS, the Nevada Legislature, to ensure participation from members who are predisposed to acute illness resulting from the existing COVID-19 pandemic and in order to encourage and foster participation in committee meetings, is obligated to enable individuals to attend, participate, vote or take action using secure remote technologies; and

WHEREAS, the Nevada Legislature has a duty to ensure that potential amendments to the Nevada Constitution are processed and published during sessions of the Nevada Legislature in a timely and orderly manner to allow the people of the State to decide whether and how to amend their State Constitution—the fundamental State document that governs them—by voting during a general election; and

WHEREAS, pursuant to the Separation of Powers doctrine, the Legislature must also organize its internal staff, the Legislative Counsel Bureau, in a manner ensuring the people's business accomplished in and out of sessions of the Nevada Legislature, including special sessions, in a manner the Legislative Branch of government determines best; and

WHEREAS, Article 5, Section 1 of the Nevada Constitution provides: "The supreme executive power of this State, shall be vested in a Chief Magistrate who shall be Governor of the State of Nevada;" and

WHEREAS, under such an extraordinary set of circumstances, the Nevada Constitution provides authority for the Governor to convene the Legislature by Proclamation; and

NOW, THEREFORE, I, STEVE SISOLAK, GOVERNOR OF THE STATE OF NEVADA, by the authority vested in me by the Constitution and laws of the State of Nevada, do hereby convene the Nevada State Legislature into a special session to begin at 10:00 a.m. on Friday, July 31, 2020, to consider the following initiatives:

1. Legislation, as requested by the Legislative Counsel Bureau of the Nevada Legislature, to correct clerical, typographical, and other related errors in S.B. 151, A.B. 431, and S.B. 161 passed during the 80th Session of the Nevada Legislature.
2. Legislation to revise Chapter 612 and other appropriate chapters of Nevada Revised Statutes governing unemployment insurance and related matters to allow the Employment Security Division to contact applicants and unemployment benefit recipients by electronic mail and to expedite payment of benefits with good cause, among other potential flexibility enhancing mechanisms.
3. Social justice reform legislation, including revisions to Senate Bill 242 (2019) at the request of the bill's primary sponsor, amending peace officer conduct standards regarding the use of force; liability for misuse of force; protecting the public right to film and otherwise record police activity as a means of ensuring accountability of peace officers; and other items related thereto.
4. Legislation to revise Chapter 293 and other appropriate chapters of the Nevada Revised Statutes governing elections to ensure Nevadans can exercise their fundamental right to vote during a state of emergency and in a way that does not dangerously expose them to increased risk of COVID-19 infection by guaranteeing every active registered voter receive a mail ballot while ensuring a sufficient number of in-person polling locations to vote in person for the 2020 General Election.
5. Legislation, as requested herein by the Governor, to effectuate liability protections to certain persons, not for profit entities, state government and its subdivisions, schools, including elementary, middle, and high schools and institutions of higher education, and businesses substantially complying with Controlling Health and Safety Standards from claims and liabilities related to COVID-19 and to amend Title 40 and, potentially, Title 41 of Nevada Revised Statutes to ensure the protection of the health and safety of hotel, motel, casino-resort, and other employees during the current COVID-19 pandemic.
6. Legislation, as requested by the Nevada Legislative Counsel Bureau, to ensure participations from members who are predisposed to acute illness resulting from the existing COVID-19 pandemic and in order to encourage and foster participation in committee meetings by enabling individuals to attend, participate, vote or take action using secure remote technologies.
This legislation should also provide that if the Legislature passes any proposed constitutional amendments for a first time during a special session, the Director of the Legislative Counsel Bureau shall immediately cause the full text of the proposed amendment in the form approved to be published in a separate printed volume of statutes.
Finally, this Legislation shall provide the Nevada Legislature with authority necessary to effectuate any restructuring of the Legislative Counsel Bureau the Nevada Legislature deems necessary to the effective and efficient conduct of its duties.
7. Legislation to provide authority for the Judicial Branch to implement alternative dispute resolution measures for evictions actions to mitigate the harm resulting from the COVID-19 recession and the dramatic unemployment resulting from it.

The Legislature may introduce, consider, and pass bills related to the business for which it has been convened in this Special Session, outlined above, and it may provide for necessary expenses of the Special Session. The Special Session shall begin by 10:00 a.m. on Friday, July 31, 2020 and should not end later than 11:59 p.m., Friday, August 7, 2020.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State

Capitol in Carson City, this 31st day of July,
in the year two thousand twenty.

STEVE SISOLAK
Governor
BARBARA K. CEGAVSKI
Secretary of State
SCOTT ANDERSON
Deputy Secretary of State

MOTIONS, RESOLUTIONS AND NOTICES

By Senator Cannizzaro:

Senate Resolution No. 1—Adopting the Rules of the Senate for the 32nd Special Session of the Nevada Legislature.

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That the following Rules of the Senate for the 32nd Special Session of the Legislature are hereby adopted:

I. APPLICABILITY

Rule No. 1. Generally.

The Rules of the Senate for the 32nd Special Session of the Legislature are applicable only during the 32nd Special Session of the Legislature.

II. OFFICERS AND EMPLOYEES

DUTIES OF OFFICERS

Rule No. 2. President.

The President shall take the chair and call the Senate to order precisely at the hour appointed for meeting. The President shall preserve order and decorum, and in case of any disturbance or disorderly conduct within the Senate Chamber, shall order the Sergeant at Arms to suppress it, and may order the arrest of any person creating any disturbance within the Senate Chamber. The President may speak to points of order in preference to members, rising from the President's seat for that purpose, and shall decide questions of order without debate, subject to an appeal to the Senate by two members, on which appeal no member may speak more than once without leave of the Senate. The President shall sign all acts, addresses and joint resolutions, and all writs, warrants and subpoenas issued by order of the Senate; all of which must be attested by the Secretary. The President has general direction of the Senate Chamber.

Rule No. 3. President pro Tempore and Other Presiding Officers.

1. Except as otherwise provided in subsection 2:

(a) *The President pro Tempore has all the power and shall discharge all the duties of the President during his or her absence or inability to discharge the duties of his or her office.*

(b) *If the President is unwilling to discharge the duties of his or her office, the Senate may, by majority vote of the Senate, call upon the President pro Tempore to serve as the President. Upon such call, the President pro Tempore has all the power and shall discharge all the duties of the President during his or her unwillingness to discharge the duties of his or her office.*

(c) *In the absence or inability of the President pro Tempore to discharge the duties of the President's office, the Senate shall elect one of its members as the presiding officer for that occasion. A member who is serving as the presiding officer has all the power and shall discharge all the duties of the President until the absence or inability which resulted in the member serving as the presiding officer has ended.*

2. *When the President pro Tempore or another member is serving as the presiding officer, the President pro Tempore or other member may vote on any question for which he or she is otherwise qualified to vote as a member. If the Senate is equally divided on the question, the President pro Tempore or other member may not give an additional deciding vote or casting vote pursuant to Senate Rule No. 14 of the 32nd Special Session or Section 17 of Article 5 of the Nevada Constitution.*

Rule No. 4. Secretary.

1. *The Secretary of the Senate is elected by the Senate, and shall:*

(a) *Recruit, interview, select, train and supervise all staff employed to assist with the work of the Senate.*

(b) See that these employees perform their respective duties.

(c) Administer the daily business of the Senate, including the provision of staff as needed.

(d) Adopt such administrative policies as the Secretary deems necessary to carry out the business of the Senate.

(e) Unless otherwise ordered by the Senate, transmit as soon as practicable those bills and resolutions upon which the next action is to be taken by the Assembly.

2. The Secretary is responsible to the Majority Leader.

3. The President and the Secretary are authorized to make any necessary corrections and additions to the final Journal, Daily History and committee minutes of the Senate.

4. In the absence of the Secretary and subject to the direction of the Majority Leader, the Assistant Secretary shall attest all writs, warrants and subpoenas issued by order of the Senate and certify as to the passage of Senate bills and resolutions; and in the absence of both officers, the Majority Leader shall designate a signatory.

Rule No. 5. Sergeant at Arms.

The Sergeant at Arms shall:

1. Attend the Senate during its sittings, and execute its commands and all process issued by its authority.

2. Keep the secrets of the Senate.

3. Superintend the upkeep of the Senate's Chamber, private lounge and meeting rooms for committees.

Rule No. 6. Deputy Sergeant at Arms and Assistant Sergeants at Arms.

The Deputy Sergeant at Arms and Assistant Sergeants at Arms shall serve as doorkeepers and shall preserve order in the Senate Chamber and shall assist the Sergeant at Arms. The Deputy Sergeant at Arms and Assistant Sergeants at Arms shall keep the secrets of the Senate. In the event that the Sergeant at Arms is incapacitated or absent for any reason, the Deputy Sergeant at Arms shall serve as the Sergeant at Arms until the incapacity or absence has ended.

III. SESSIONS AND MEETINGS

Rule No. 7. Call of Senate—Moved by Three Members.

1. A Call of the Senate may be moved by three Senators, and if carried by a majority of all present, the Secretary shall call the roll and note the absentees, after which the names of the absentees shall again be called over. The doors shall then be closed and the Sergeant at Arms directed to take into custody all who may be absent without leave, and all Senators so taken into custody shall be presented at the bar of the Senate for such action as the Senate may deem proper.

2. In the event an emergency occurs during a special session of the Legislature which requires a meeting of the Senate, the Majority Leader shall call the members back to order before the hour to which the Senate has adjourned.

Rule No. 8. Absence—Leave Required.

No Senator shall absent himself or herself from the service of the Senate without leave, except in case of accident or sickness, and if any Senator or officer shall so absent himself or herself, his or her per diem shall not be allowed.

Rule No. 9. Open Meetings.

1. Except as otherwise provided in the Constitution of the State of Nevada and in subsection 2, all meetings of the Senate and the Committee of the Whole or a standing committee must be open to the public.

2. A meeting may be closed to consider the character, alleged misconduct, professional competence, or physical or mental health of a person.

IV. DECORUM AND DEBATE

Rule No. 10. Points of Order.

1. If any Senator, in speaking or otherwise, transgresses the Rules of the Senate, the President shall, or any Senator may, call him or her to order. If a Senator is so called to order, he or she shall not proceed without leave of the Senate. If such leave is granted, it must be upon the motion, "That he or she be allowed to proceed in order," and the Senator shall confine himself or herself to the question under consideration and avoid personality.

2. Every decision of points of order made by the President is subject to appeal, and a discussion of a question of order may be allowed only upon the appeal of two Senators. In all

cases of appeal, the question must be, “Shall the decision of the Chair stand as the judgment of the Senate?”

Rule No. 11. Breaches of Decorum.

1. In cases of breaches of decorum or propriety, any Senator, officer or other person is liable to such censure or punishment as the Senate may deem proper.

2. If any Senator is called to order for offensive or indecorous language or conduct, the person calling the Senator to order shall report the offensive or indecorous language or conduct to the presiding officer. No member may be held to answer for any language used on the floor of the Senate if business has intervened before exception to the language was taken.

3. Indecorous conduct or boisterous or unbecoming language is not permitted in the Senate Chamber.

Rule No. 11.5. Legislative Ethics.

1. Each Legislator is subject, at all times, to the Legislative Code of Ethical Standards in the Joint Standing Rules and, in addition, must determine whether he or she has a conflict of interest upon any matter in question before the Legislator. In determining whether the Legislator has such a conflict of interest, the Legislator should consider whether the independence of judgment of a reasonable person in his or her situation upon the matter in question would be materially affected by the Legislator's:

- (a) Acceptance of a gift or loan;
- (b) Private economic interest; or
- (c) Commitment to a member of his or her household or his or her immediate family.

➤ In interpreting and applying the provisions of this subsection, it must be presumed that the independence of judgment of a reasonable person in the Legislator's situation would not be materially affected by the Legislator's private economic interest or the Legislator's commitment to a member of his or her household or immediate family where the resulting benefit or detriment accruing to the Legislator, or if the Legislator has a commitment to a member of his or her household or immediate family, accruing to those other persons, is not greater than that accruing to any other member of the general business, profession, occupation or group that is affected by the matter.

2. Except as otherwise provided in subsection 3, if a Legislator knows he or she has a conflict of interest pursuant to subsection 1, the Legislator shall make a general disclosure of the conflict of interest on the record in a meeting of a committee or on the floor of the Senate, as applicable. Such a disclosure must be entered:

(a) If the Legislator makes the disclosure in a meeting of a committee, in the minutes for that meeting.

(b) If the Legislator makes the disclosure on the floor of the Senate, in the Journal.

3. If, on one or more prior occasions during the current session of the Legislature, a Legislator has made a general disclosure of a conflict of interest on the record in a meeting of a committee or on the floor of the Senate, the Legislator is not required to make that general disclosure at length again regarding the same conflict of interest if, when the matter in question arises on subsequent occasions, the Legislator makes a reference on the record to the previous disclosure.

4. In determining whether to abstain from voting upon, advocating or opposing a matter concerning which a Legislator has a conflict of interest pursuant to subsection 1, the Legislator should consider whether:

- (a) The conflict impedes his or her independence of judgment; and
- (b) His or her interest is greater than the interests of an entire class of persons similarly situated.

5. The provisions of this Rule do not under any circumstances and regardless of any conflict of interest:

- (a) Prohibit a Legislator from requesting or introducing a legislative measure; or
- (b) Require a Legislator to take any particular action before or while requesting or introducing a legislative measure.

6. If a Legislator who is a member of a committee declares on the record when a vote is to be taken by the committee that he or she will abstain from voting because of the requirements of this

Rule the necessary quorum to act upon and the number of votes necessary to act upon the matter is reduced as though the Legislator abstaining were not a member of the committee.

7. The standards and procedures set forth in this Rule which govern whether and to what extent a Senator has a conflict of interest, should disclose a conflict of interest or should abstain from voting upon, advocating or opposing a matter concerning which the Senator has a conflict of interest pursuant to subsection 1:

(a) Are exclusive and are the only standards and procedures that apply to Senators with regard to such matters; and

(b) Supersede and preempt all other standards and procedures with regard to such matters, except that this subsection does not exempt any Senators from the Legislative Code of Ethical Standards in the Joint Standing Rules.

8. For purposes of this Rule, "immediate family" means a person who is related to the Legislator by blood, adoption or marriage within the first degree of consanguinity or affinity.

V. QUORUM, VOTING, ELECTIONS

Rule No. 12. Action Required to Be Taken in Senate Chamber.

Any action taken by the Senate must be taken in the Senate Chamber.

Rule No. 13. Recorded Vote—Three Required to Call For.

1. A recorded vote must be taken upon final passage of a bill or joint resolution, and in any other case when called for by three members. Every Senator within the bar of the Senate shall vote "yea" or "nay" or record himself or herself as "not voting," unless excused by unanimous vote of the Senate.

2. The votes and names of those absent or recorded as "not voting" and the names of Senators demanding the recorded vote must be entered in the Journal.

Rule No. 14. President to Decide—Tie Vote.

A question is lost by a tie vote, but when the Senate is equally divided on any question except the passage of a bill or joint resolution, the President may give the deciding vote.

Rule No. 15. Manner of Election—Voting.

1. In all cases of election by the Senate, the vote must be taken viva voce. In other cases, if a vote is to be recorded, it may be taken by oral roll-call or by electronic recording.

2. When a recorded vote is taken, no Senator may:

(a) Vote except when at his or her seat;

(b) Explain his or her vote or discuss the question while the voting is in progress; or

(c) Change his or her vote after the result is announced.

3. The announcement of the result of any vote must not be postponed.

VI. LEGISLATIVE BODIES

Rule No. 16. Committee of the Whole.

1. All bills and resolutions may be referred only to the Committee of the Whole or to such standing committee as may be appointed pursuant to Senate Rule No. 16.5 of the 32nd Special Session of the Legislature.

2. The Majority Leader shall preside as Chair of the Committee of the Whole or name a Chair to preside.

3. Any meeting of the Committee of the Whole may be conducted outside the Senate Chamber, as designated by the Chair of the Committee.

4. A member of the Committee of the Whole may speak on an item listed on the Committee's agenda, for a period of not more than 10 minutes, unless he or she is granted leave of the Chair to speak for a longer period. If a member is granted leave to speak for a longer period, the Chair may limit the length of additional time that the member may speak.

5. The Chair may require any vote of the Committee of the Whole to be recorded in the manner designated by the Chair.

6. All amendments proposed by the Committee of the Whole:

(a) Must first be approved by the Committee.

(b) Must be reported by the Chair to the Senate.

7. The minutes of the Committee's meetings must be entered in the final Journal.

Rule No. 16.5. Standing Committees.

In addition to the Committee of the Whole, such standing committees may be appointed by the Majority Leader as may be deemed necessary.

Rule No. 17. Rules Applicable to Standing Committees and Committee of the Whole.

The Rules of the Senate shall apply to proceedings in the Committee of the Whole and such standing committees as may be appointed, except that the previous question shall not be ordered nor the yeas and nays demanded, but the Chair may limit the number of times that any member may speak, at any stage of proceedings, during its sitting. Messages may be received by the President while the Committee is sitting; in which case the President shall resume the chair and receive the message. After receiving the message, the President shall vacate the chair in favor of the Chair of the Committee. The rules of parliamentary practice contained in Mason's Manual of Legislative Procedure shall govern such committees in all cases in which they are applicable and in which they are not inconsistent with the rules and orders of the Senate.

Rule No. 18. Motion to Rise Committee of the Whole.

A motion that the Committee of the Whole rise shall always be in order, and shall be decided without debate.

VII. RULES GOVERNING MOTIONS

A. MOTIONS GENERALLY

Rule No. 19. Entertaining.

- 1. No motion may be debated until it is announced by the President.*
- 2. By consent of the Senate, a motion may be withdrawn before amendment or decision.*

Rule No. 20. Precedence of Motions.

When a question is under debate, no motion shall be received but the following, which shall have precedence in the order named:

- 1. To adjourn.*
- 2. For a call of the Senate.*
- 3. To recess.*
- 4. To lay on the table.*
- 5. For the previous question.*
- 6. To postpone to a day certain.*
- 7. To refer to committee.*
- 8. To amend.*
- 9. To postpone indefinitely.*

↳ The first three motions shall be decided without debate and a motion to lay on the table without question or debate.

Rule No. 21. When Not Entertained.

- 1. When a motion to postpone indefinitely has been decided, it must not be again entertained on the same day.*
- 2. When a question has been postponed indefinitely, it must not again be introduced during the Special Session unless this Rule is suspended by a majority vote of the Senate.*
- 3. There must be no reconsideration or rescission of a vote on a motion to postpone indefinitely.*

B. PARTICULAR MOTIONS

Rule No. 22. To Adjourn.

A motion to adjourn shall always be in order unless a motion to reconsider a final vote on a bill or resolution or any other action is pending. The name of the Senator moving to adjourn, and the time when the motion was decided, shall be entered in the Journal.

Rule No. 23. Lay on the Table.

A motion to lay on or take from the table shall be carried by a majority vote.

Rule No. 24. To Strike Enacting Clause.

A motion to strike out the enacting clause of a bill has precedence over a motion to refer to committee or to amend. If a motion to strike out the enacting clause of a bill is carried, the bill is rejected.

Rule No. 25. Division of Question.

- 1. Any Senator may call for a division of a question.*
- 2. A question must be divided if the Senate determines it embraces subjects so distinct that if one subject is taken away, a substantive proposition remains for the decision of the Senate.*
- 3. A motion to strike out and insert must not be divided.*

Rule No. 26. Explanation of Motion.

Whenever a Senator moves to change the usual disposition of a bill or resolution, he or she shall describe the subject of the bill or resolution and state the reasons for requesting the change in the processing of the bill or resolution.

VIII. DEBATE

Rule No. 27. *Speaking on Question.*

1. Every Senator who speaks shall, seated in his or her place, address "Mr. or Madam President," in a courteous manner, and shall confine himself or herself to the question before the Senate.

2. Except as otherwise provided in Senate Rules Nos. 10 and 45 of the 32nd Special Session, a Senator may speak only once on a question before the Senate, for a period of not more than 10 minutes, unless he or she is granted leave of the President to speak for a longer period or more than once. If a Senator is granted leave to speak for a longer period or more than once, the President may limit the length of additional time that the member may speak.

3. Incidental and subsidiary questions arising during debate shall not be considered the same question.

Rule No. 28. *Previous Question.*

The previous question shall not be put unless demanded by three Senators, and it shall be in this form: "Shall the main question be put?" When sustained by a majority of Senators present, it shall put an end to all debate and bring the Senate to a vote on the question or questions before it, and all incidental questions arising after the motion was made shall be decided without debate. A person who is speaking on a question shall not while he or she has the floor move to put that question.

IX. CONDUCT OF BUSINESS

A. GENERALLY

Rule No. 29. *Mason's Manual.*

The rules of parliamentary practice contained in Mason's Manual of Legislative Procedure shall govern the Senate in all cases in which they are applicable and in which they are not inconsistent with the rules and orders of the Senate for the 32nd Special Session of the Legislature, and the Joint Rules of the Senate and Assembly for the 32nd Special Session of the Legislature.

Rule No. 30. *Suspension, Rescission or Change of Rule.*

No rule or order of the Senate for the 32nd Special Session of the Legislature shall be suspended, rescinded or changed without a majority vote of the Senate.

Rule No. 31. *Protest.*

Any Senator, or Senators, may protest against the action of the Senate upon any question, and have such protest entered in the Journal.

Rule No. 32. *Privilege of the Floor.*

1. To preserve decorum and facilitate the business of the Senate, only the following persons may be present on the floor of the Senate during formal sessions:

- (a) State officers;
- (b) Officers and members of the Senate;
- (c) Employees of the Legislative Counsel Bureau;
- (d) Staff of the Senate; and
- (e) Members of the Assembly whose presence is required for the transaction of business.

2. A majority of Senators may authorize the President to have the Senate Chamber cleared of all persons except Senators and officers of the Senate.

3. The Senate Chamber may not be used for any business other than legislative business during a legislative session.

Rule No. 33. *Material Placed on Legislators' Desks.*

1. Only the Sergeant at Arms and officers and employees of the Senate may place papers, letters, notes, pamphlets and other written material upon a Senator's desk. Such material must contain the name of the Legislator requesting the placement of the material on the desk or a designation of the origin of the material.

2. This Rule does not apply to books containing the legislative bills and resolutions, the daily histories and daily journals of the Senate or Assembly, or Legislative Counsel Bureau material.

Rule No. 34. *Petitions.*

The contents of any petition shall be briefly stated by the President or any Senator presenting it. It shall then lie on the table or be referred, as the President or Senate may direct.

Rule No. 35. Objection to Reading of Paper.

Where the reading of any paper is called for, and is objected to by any Senator, it shall be determined by a vote of the Senate, and without debate.

Rule No. 36. Questions Relating to Priority of Business.

All questions relating to the priority of business shall be decided without debate.

B. BILLS AND RESOLUTIONS

Rule No. 37. Requests for the Drafting of Bills, Resolutions and Amendments.

Except as otherwise provided in this Rule, the Legislative Counsel shall not honor a request for the drafting of a bill, resolution or amendment to be introduced in the Senate unless it is submitted by the Committee of the Whole, a standing committee or a Conference Committee. The Majority Leader may:

1. Request the drafting of five legislative measures for the 32nd Special Session of the Legislature; and

2. Request the drafting of an amendment,

without seeking the approval of the Committee of the Whole or any other committee that may be appointed for the 32nd Special Session.

Rule No. 38. Skeleton Bill Prohibited.

Skeleton bills may not be introduced.

Rule No. 39. Reading of Bills.

1. Every bill must receive three readings before its passage, unless, in case of emergency, this Rule is suspended by a two-thirds vote of the Senate. The reading of a bill is by number, sponsor and summary.

2. The first reading of a bill is for information, and if there is opposition to the bill, the question must be, "Shall this bill be rejected?" If there is no opposition to the bill, or if the question to reject is defeated, the bill must then take the usual course.

3. No bill may be referred to committee until once read, nor amended until twice read.

4. The third reading of every bill must be by sections.

Rule No. 40. Second Reading File—Consent Calendar.

1. All bills reported by the Committee of the Whole or a standing committee must be placed on a Second Reading File unless recommended for placement on the Consent Calendar.

2. All joint resolutions reported by the Committee of the Whole or a standing committee must be placed on the Second Reading File or other appropriate reading file unless recommended for placement on the Consent Calendar.

3. The Committee of the Whole or a standing committee shall not recommend a bill or joint resolution for placement on the Consent Calendar if:

(a) An amendment of the bill or joint resolution is recommended;

(b) It contains an appropriation;

(c) It requires a two-thirds vote of the Senate; or

(d) It is controversial in nature.

4. A bill must be removed from the Consent Calendar at the request of any Senator, without question or debate. A bill so removed must be immediately placed on the Second Reading File for consideration in the usual order of business.

5. A joint resolution must be removed from the Consent Calendar at the request of any Senator, without question or debate. A joint resolution so removed must be immediately placed on the Second Reading File or other appropriate reading file for consideration in the usual order of business.

6. When the Consent Calendar is called:

(a) The bills remaining on the Consent Calendar must be read by number and summary, and the vote must be taken on their final passage as a group.

(b) No remarks or questions are in order and the bills remaining on the Consent Calendar must be voted upon without debate.

Rule No. 41. Reading of Bills—General File.

1. Upon reading of bills on the Second Reading File, Senate and Assembly bills reported without amendments must be placed on the General File.

2. Only amendments proposed by the Majority Leader, Committee of the Whole, a standing committee or a conference committee may be considered.

3. Amendments proposed by the Committee of the Whole or a standing committee and reported with bills, or proposed by the Majority Leader, may be adopted by a majority vote of the members present. Bills so amended must be reprinted, engrossed or reengrossed, and placed on the General File. The File must be made available to members of the public each day by the Secretary.

Rule No. 42. Reconsideration of Vote on Bill.

No motion to reconsider a vote is in order.

Rule No. 42.5. Vetoed Bills.

Bills which have passed the Legislature, and forwarded by letter, to the Senate by the Governor and which are accompanied by a message of the Governor's disapproval, or veto of the same, shall become a special order and, at which time, the said message shall be read, together with the bill or bills so disposed or vetoed; and the message and the bill shall be read without interruption, consecutively, one following the other, and not upon separate occasions; and no such bill or message shall be referred to any committee, or otherwise acted upon, save as provided by rule, custom and law; that is to say, that immediately following such reading the only question (except as hereinafter stated) which shall be put by the Chair is, "Shall the bill pass, notwithstanding the objections of the Governor?" It shall not be in order, at any time, to vote upon such vetoed bill without the same having first been read; the merits of the bill itself may be debated and the only motion entertained after the Chair has stated the question are a motion for "The previous question," or a motion for "No further consideration" of the vetoed bill.

C. RESOLUTIONS

Rule No. 43. Certain Resolutions Treated as Bills.

Joint resolutions addressed to Congress, or to either House thereof, or to the President of the United States, or the heads of any of the national departments, or proposing amendments to the State Constitution are subject, in all respects, to the foregoing rules governing the course of bills except that such joint resolutions may require only two readings and both readings may occur on the same day. A joint resolution proposing an amendment to the Constitution must be entered in the Journal in its entirety.

Rule No. 43.3. Memorial Resolutions.

Once the sponsor has moved for the adoption of a memorial resolution, not more than one member from each caucus, and, upon request of a member of the body and the approval of the Majority Leader, one additional member may speak on the resolution.

Rule No. 44. Certain Resolutions Treated as Motions.

Resolutions, other than those referred to in Senate Rules Nos. 43 and 43.3 of the 32nd Special Session of the Legislature, must be treated as motions in all proceedings of the Senate.

Rule No. 44.5. Return From the Secretary of State.

A Senate resolution may be used to request the return from the Secretary of State of an enrolled Senate resolution for further consideration.

Rule No. 45. Order of Business, Special Orders and Other Matters.

1. Roll Call.
2. Prayer and Pledge of Allegiance to the Flag.
3. Reading and Approval of the Journal.
4. Reports of Committees.
5. Messages from the Governor.
6. Messages from the Assembly.
7. Communications.
8. [Reserved.]
9. Motions, Resolutions and Notices.
10. Introduction, First Reading and Reference.
11. Consent Calendar.
12. Second Reading and Amendment.
13. General File and Third Reading.
14. Unfinished Business.
15. Special Orders of the Day.

16. *Remarks from the Floor; Introduction of Guests. A Senator may speak under this order of business for a period of not more than 5 minutes each day.*

Rule No. 46. *Privilege.*

Any Senator may explain a matter personal to himself or herself by leave of the President, but the Senator shall not discuss any pending question in such explanation.

Rule No. 47. *Preference to Speak.*

When two or more Senators request to speak at the same time, the President shall name the one who may first speak—giving preference, when practicable, to the mover or introducer of the subject under consideration.

Rule No. 48. *Special Order.*

The President shall call the Senate to order on the arrival of the time fixed for the consideration of a special order, and announce that the special order is before the Senate, which shall be considered, unless it be postponed by a majority vote of the Senate, and any business before the Senate at the time of the announcement of the special order shall go to Unfinished Business.

The next rule is 50.

D. REMOTE-TECHNOLOGY SYSTEMS

Rule No. 50. *Short Title; Precedence of Rules; Applicability of Rules During the Interim Between Sessions.*

1. *Rules Nos. 50 to 54, inclusive, may be cited as the Remote-Technology Rules.*

2. *The Remote-Technology Rules supersede, take precedence and control over any other rule, provision or principle of law to the extent of any conflict with the Remote-Technology Rules.*

3. *The Remote-Technology Rules remain in full force and effect throughout the interim between regular sessions of the Legislature and until new Standing Rules are adopted as part of the organization of a newly-constituted Senate at the commencement of a session.*

Rule No. 51. *Public Purposes and Construction of Rules.*

1. *The Remote-Technology Rules are intended to serve the following public purposes:*

(a) *To protect the health, safety and welfare of Legislators, members of legislative staff and others who participate in the legislative process amid the ongoing and widespread public-health crisis caused by the COVID-19 pandemic, the Remote-Technology Rules are intended to authorize necessary protective and safety measures intended to keep the legislative process as safe and free as reasonably possible from the extraordinary danger, risk, harm, injury and peril posed by the COVID-19 pandemic.*

(b) *To enable the members of the Senate to represent their constituents and carry out their official powers, functions, duties and responsibilities in the legislative process amid the ongoing and widespread public-health crisis caused by the COVID-19 pandemic, the Remote-Technology Rules are intended to authorize members of the Senate, under certain circumstances, to use remote-technology systems to attend, participate, vote and take any other action in legislative proceedings when determined to be necessary as a protective or safety measure to keep the legislative process as safe and free as reasonably possible from the extraordinary danger, risk, harm, injury and peril posed by the COVID-19 pandemic.*

(c) *To safeguard the workings of the Legislative Department of Nevada's State Government and preserve and protect the continuity and efficacy of its legislative operations amid the ongoing and widespread public-health crisis caused by the COVID-19 pandemic, the Remote-Technology Rules are intended to ensure that the Senate may efficiently and effectively carry out its official powers, functions, duties and responsibilities which are expressly and exclusively assigned to the Senate by the Nevada Constitution and which cannot be exercised or performed by any other body or branch of Nevada's State Government.*

2. *Because of the extraordinary danger, risk, harm, injury and peril posed by the COVID-19 pandemic, the Remote-Technology Rules must be liberally construed to achieve their intended public purposes, and if there is any uncertainty or doubt regarding the interpretation or application of the Remote-Technology Rules, that uncertainty or doubt must be resolved in favor of carrying out the intended public purposes of the Remote-Technology Rules.*

Rule No. 52. *Definitions.*

As used in the Remote-Technology Rules, unless the context otherwise requires, "remote-technology system" means any system or other means of communication that is:

1. Approved by the Majority Leader and uses any electronic, digital or other similar technology to enable a member of the Senate from a remote location to attend, participate, vote and take any other action in any proceedings of the Senate or the Committee of the Whole even though the member is not physically present within the Senate Chambers or at a meeting of the Committee of the Whole.

2. Approved by the chair of a committee, other than the Committee of the Whole, and uses any electronic, digital or other similar technology to enable a member of the Senate from a remote location to attend, participate, vote and take any other action in any proceedings of the committee even though the member is not physically present at a meeting of the committee.

Rule No. 53. Authorized Use of Remote-Technology Systems to Carry Out Public Purposes.

1. Upon request by a member of the Senate:

(a) The Majority Leader may authorize the member to use a remote-technology system to attend, participate, vote and take any other action in any proceedings of the Senate or the Committee of the Whole if the Majority Leader determines that such use by the member is necessary as a protective or safety measure to carry out the public purposes of the Remote-Technology Rules. If the Majority Leader grants such authorization, it must be entered in the Journal of the Senate.

(b) The chair of a committee, other than the Committee of the Whole, may authorize the member to use a remote-technology system to attend, participate, vote and take any other action in any proceedings of the committee if the chair determines that such use by the member is necessary as a protective or safety measure to carry out the public purposes of the Remote-Technology Rules. If the chair grants such authorization, it must be entered in the records of the committee.

2. If a member of the Senate uses a remote-technology system to attend, participate, vote and take any other action in any proceedings pursuant to the Remote-Technology Rules, the member shall be deemed to be present and in attendance at the proceedings for all purposes.

3. For the purposes of voting in proceedings of:

(a) The Senate or the Committee of the Whole, the Secretary of the Senate, or an authorized assistant, shall call the roll of each member who is authorized to use a remote-technology system for the proceedings and, in accordance with the procedures of the Senate, cause the member's vote to be entered into the record for the purposes of the Journal of the Senate or the records of the Committee of the Whole, as applicable.

(b) A committee, other than the Committee of the Whole, the committee secretary shall call the roll of each member who is authorized to use a remote-technology system for the proceedings and, in accordance with the procedures of the committee, cause the member's vote to be entered into the record for the purposes of the records of the committee.

Rule No. 54. Authority to Adopt Rules.

1. The Senate hereby finds and declares that:

(a) The Nevada Constitution invests each House of the Legislature with certain plenary and exclusive constitutional powers which may be exercised only by that House and which cannot be usurped, infringed or impaired by the other House or by any other branch of Nevada's State Government. (*Heller v. Legislature*, 120 Nev. 456 (2004); *Commission on Ethics v. Hardy*, 125 Nev. 285 (2009); *Mason's Manual of Legislative Procedure* §§ 2-3 & 560-564 (2010) (*Mason's Manual*))

(b) Section 6 of Article 4 of the Nevada Constitution invests each House with plenary and exclusive constitutional powers to determine the rules of its proceedings and to govern, control and regulate its membership and its internal organization, affairs and management, expressly providing that: "Each House shall judge of the qualifications, elections and returns of its own members, choose its own officers (except the President of the Senate), determine the rules of its proceedings and may punish its members for disorderly conduct, and with the concurrence of two thirds of all the members elected, expel a member."

(c) In addition to its plenary and exclusive constitutional powers, each House possesses certain inherent powers of institutional self-protection and self-preservation to govern, control and regulate its membership and its internal organization, affairs and management. (*In re Chapman*, 166 U.S. 661, 668 (1897); *Mason's Manual* § 2; *Luther S. Cushing, Elements of the Law & Practice of Legislative Assemblies* § 533 (1856) (*Cushing's Legislative Assemblies*))

(d) *The inherent powers of each House are considered “so essential to the authority of a legislative assembly, that it cannot well exist without them; and they are consequently entitled to be regarded as belonging to every such assembly as a necessary incident.” (Cushing’s Legislative Assemblies § 533)*

(e) *The inherent powers of each House authorize it to take all necessary and proper institutional actions that are “recognized by the common parliamentary law.” (Cushing’s Legislative Assemblies § 684)*

(f) *Thus, it is well established that each House is “vested with all the powers and privileges which are necessary and incidental to a free and unobstructed exercise of its appropriate functions. These powers and privileges are derived not from the Constitution; on the contrary, they arise from the very creation of a legislative body, and are founded upon the principle of self-preservation.” (Ex parte McCarthy, 29 Cal. 395, 403 (1866))*

(g) *Under the Nevada Constitution, there are no constitutional provisions establishing a particular method for determining whether a member of either House is present at legislative proceedings.*

(h) *The United States Supreme Court has held that when there are no constitutional provisions establishing a particular method for determining whether a member of a legislative house is present at legislative proceedings, “it is therefore within the competency of the house to prescribe any method which shall be reasonably certain to ascertain the fact.” (United States v. Ballin, 144 U.S. 1, 6 (1892))*

(i) *The United States Supreme Court has also held that when a legislative house adopts a rule establishing a reasonable method for determining whether a member is present at legislative proceedings, that rule must be given great deference by the courts because:*

Neither do the advantages or disadvantages, the wisdom or folly, of such a rule present any matters for judicial consideration. With the courts the question is only one of power. The constitution empowers each house to determine its rules of proceedings. It may not by its rules ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained. But within these limitations all matters of method are open to the determination of the house, and it is no impeachment of the rule to say that some other way would be better, more accurate, or even more just. It is no objection to the validity of a rule that a different one has been prescribed and in force for a length of time. The power to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the house, and, within the limitations suggested, absolute and beyond the challenge of any other body or tribunal.

(United States v. Ballin, 144 U.S. 1, 5 (1892))

2. *The Senate hereby exercises its constitutional and inherent powers and privileges and adopts the Remote-Technology Rules to:*

(a) *Govern, control and regulate its membership and its internal organization, affairs and management;*

(b) *Ensure its institutional self-protection and self-preservation; and*

(c) *Establish a reasonable method for determining whether a member of the Senate is present at legislative proceedings amid the ongoing and widespread public-health crisis caused by the COVID-19 pandemic in order to keep the legislative process as safe and free as reasonably possible from the extraordinary danger, risk, harm, injury and peril posed by the COVID-19 pandemic.*

And be it further

RESOLVED, That this resolution becomes effective upon adoption.

Senator Cannizzaro moved the adoption of the resolution.

Remarks by Senators Cannizzaro, Settlemeyer and Hansen.

SENATOR CANNIZZARO:

The Senate Standing Rules for the 32nd Special Session are identical to the Standing Rules adopted for the 31st Special Session with the following additions:

Rule No. 16.5 is revised to reflect the practice of the Senate that the Majority Leader may appoint such standing committees as may be deemed necessary.

Rule Nos. 37 and 41 are revised to authorize the Majority Leader to request the drafting of amendments without seeking the approval of the Committee of the Whole or any other Committee that may be appointed for the Special Session.

Rule No. 39 is revised to reflect the practice of the Senate that the reading of a bill is by number, sponsor and summary.

Rule No. 40 is revised to accommodate this exception by providing that joint resolutions must be placed on Second Reading File "or other appropriate reading file."

Rule No. 43 is revised to provide an exception to the requirement that joint resolutions are subject in all respects to the rules governing the course of bills. The exception is that joint resolutions may require only two readings and both readings may occur on the same day.

Rule Nos. 50 to 54, inclusive, are added to authorize the use of remote-technology systems and to prescribe the procedure for the use of such technology. These Rules are identical to the Special Rules adopted by the Senate for remote-technology systems for the 31st Special Session by Senate Resolution No. 4. The only change is to the terminology since these are no longer "special rules" but rather are incorporated into the Special Session Senate Standing Rules.

SENATOR SETTELMAYER:

In relation to Rule No. 9, will the building be open to the public to testify on bills and participate in this process? Rule No. 15 states you need to be "seated" to vote. For clarification, is that a seat on the Floor of the Senate or just any seat in general? Rule No. 41 indicates the Majority Leader will be the individual proposing amendments. Does this mean as the Minority Leader, I will not have the ability to request drafting of an amendment without permission?

The concept of eliminating the two-reading rule for resolutions, this is a departure from our tradition and custom. I also do not agree with remote voting.

SENATOR CANNIZZARO:

The rules of the building will remain the same, but the meetings will be open to the public as shared online for public participation where we will invite public comments.

The substance of these rules for which those questions were directed are the same as those were for the 31st Special Session, as is with the voting. Remote voting remains the same as it was in the 31st Special Session.

The request for amendments may come from the Committee of the Whole as well. There is, however, a change to allow the Majority Leader to request those amendments.

SENATOR HANSEN:

Under Rule 41, the drafting amendments request, can we as individual Legislators request the drafting of amendments from the Legislative Counsel Bureau?

SENATOR CANNIZZARO:

I would refer to the language of the rule and the prior response.

Senators Settelmeyer, Hammond and Seevers Gansert requested a roll call vote on Senator Cannizzaro's motion.

Roll call on Senator Cannizzaro's motion:

YEAS—13.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Seevers Gansert, Settelmeyer— 7.

ABSENT—Pickard.

Resolution adopted.

By Senators Cannizzaro and Settlemeyer:

Senate Resolution No. 2—Providing that no allowances will be paid for the 32nd Special Session of the Nevada Legislature for periodicals, stamps, stationery or communications.

Senator Cannizzaro moved the adoption of the resolution.

Remarks by Senator Cannizzaro.

Madam President, it is the tradition of the Senate that no allowances will be paid for periodicals, stamps, stationery, et cetera, during the 32nd Special Session.

Resolution adopted unanimously.

By Senators Cannizzaro and Settlemeyer:

Senate Resolution No. 3—Recognizing the appointment of the Senate staff.

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That the following persons are recognized as the duly-appointed staff of the Senate for the 32nd Special Session of the Legislature of the State of Nevada: Annette M. Biamonte, Steve E. Brummer, Terry A. Horvat, Diana R. Jones, Erich T. Kolbe, Terri L. Miller, Juliet W. Newman, Sherry L. Rodriguez, Susan S. Whitford and Jeanine M. Wittenberg; and be it further

RESOLVED, That this resolution becomes effective upon adoption.

Senator Cannizzaro moved the adoption of the resolution.

Remarks by Senator Cannizzaro.

Madam President, we are fortunate, once again, to have an exceptional legislative staff work with us during this Special Session.

Resolution adopted unanimously.

MESSAGES FROM ASSEMBLY

ASSEMBLY CHAMBER, Carson City, July 31, 2020

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 1.

CAROL AIELLO-SALA

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 1—Adopting the Joint Rules of the Senate and Assembly for the 32nd Special Session of the Nevada Legislature.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the following Joint Rules of the Senate and Assembly for the 32nd Special Session of the Legislature are hereby adopted:

APPLICABILITY OF JOINT RULES

Rule No. 1. Generally.

The Joint Rules for the 32nd Special Session of the Legislature are applicable only during the 32nd Special Session of the Legislature.

CONFERENCE COMMITTEES

Rule No. 2. Procedure Concerning.

1. In every case of an amendment of a bill, or joint or concurrent resolution, agreed to in one House, dissented from in the other, and not receded from by the one making the amendment, each House may appoint a committee to confer with a like committee to be appointed by the other; and, if appointed, the committee shall meet publicly at a convenient hour to be agreed upon by their respective chairs and announced publicly, and shall confer upon the differences between the two Houses as indicated by the amendments made in one and rejected in the other and report as early as convenient the result of their conference to their respective Houses.

2. *The report shall be made available to all members of both Houses. The whole subject matter embraced in the bill or resolution shall be considered by the committee, and it may recommend recession by either House, new amendments, new bills or resolutions, or other changes as it sees fit. New bills or resolutions so reported shall be treated as amendments unless the bills or resolutions are composed entirely of original matter, in which case they shall receive the treatment required in the respective Houses for original bills, or resolutions, as the case may be. A conference committee shall not recommend any action which would cause the creation of more than one reprint or more than one bill or resolution.*

3. *The report of a conference committee may be adopted by acclamation. The report is not subject to amendment.*

4. *There shall be but one conference committee on any bill or resolution. A majority of the members of a conference committee from each House must be members who voted for the passage of the bill or resolution.*

MESSAGES

Rule No. 3. *Procedure Concerning.*

1. *Proclamations by the Governor convening the Legislature in special session must be filed and entered in the Journal of proceedings.*

2. *Whenever a message from the Governor is received, it shall be entered in full in the Journal of proceedings.*

3. *Messages from the Senate to the Assembly shall be delivered by the Secretary of the Senate or a person designated by the Secretary and messages from the Assembly to the Senate shall be delivered by the Chief Clerk of the Assembly or a person designated by the Chief Clerk.*

NOTICE OF FINAL ACTION

Rule No. 4. *Communications.*

Each House shall communicate its final action on any bill or resolution, or matter in which the other may be interested, by written notice. Each such notice sent by the Senate must be signed by the Secretary of the Senate, or a person designated by the Secretary. Each such notice sent by the Assembly must be signed by the Chief Clerk of the Assembly, or a person designated by the Chief Clerk.

BILLS AND JOINT RESOLUTIONS

Rule No. 5. *Signature.*

Each enrolled bill or joint resolution shall be presented to the presiding officers of both Houses for signature. The presiding officer of the Senate shall sign the bill or joint resolution and the presiding officer of the Assembly, after an announcement of his or her intention to do so is made in open session, shall sign the bill or joint resolution. Their signatures shall be followed by those of the Secretary of the Senate and Chief Clerk of the Assembly.

Rule No. 6. *Joint Sponsorship.*

1. *A bill or resolution introduced by a committee of the Senate or Assembly may, at the direction of the chair of the committee, set forth the name of a committee of the other House as a joint sponsor, if a majority of all members appointed to the committee of the other House votes in favor of becoming a joint sponsor of the bill or resolution. The name of the committee joint sponsor must be set forth on the face of the bill or resolution immediately below the date on which the bill or resolution is introduced.*

2. *The Legislative Counsel shall not cause to be printed the name of a committee as a joint sponsor on the face of a bill or resolution unless the chair of the committee has signed his or her name next to the name of the committee on the colored back of the introductory copy of the bill or resolution that was submitted to the front desk of the House of origin or the statement required by subsection 4.*

3. *Upon introduction, any bill or resolution that sets forth the names of primary joint sponsors must be numbered in the same numerical sequence as other bills and resolutions of the same House of origin are numbered.*

4. *Once a bill or resolution has been introduced, a primary joint sponsor or nonprimary joint sponsor may only be added or removed by amendment of the bill or resolution. An amendment which proposes to add or remove a primary joint sponsor must not be considered by the House of origin of the amendment unless a statement requesting the addition or removal is attached to the copy of the amendment submitted to the front desk of the House of origin of the amendment. If the*

amendment proposes to add or remove a committee as a primary joint sponsor, the statement must be signed by the chair of the committee. A copy of the statement must be transmitted to the Legislative Counsel if the amendment is adopted.

5. An amendment that proposes to add or remove a primary joint sponsor may include additional proposals to change the substantive provisions of the bill or resolution or may be limited only to the proposal to add or remove a primary joint sponsor.

PUBLICATIONS

Rule No. 7. Ordering and Distribution.

1. The bills, resolutions, journals and histories will be provided electronically to the officers and members of the Senate and Assembly, the staff of the Legislative Counsel Bureau, the press and the general public on the Nevada Legislature's Internet website.

2. Each House may order the printing of bills introduced, reports of its own committees, and other matters pertaining to that House only; but no other printing may be ordered except by a concurrent resolution passed by both Houses. Each Senator is entitled to the free distribution of four copies of each bill introduced in each House, and each Assemblyman and Assemblywoman to such a distribution of two copies. Additional copies of such bills may be distributed at a charge to the person to whom they are addressed. The amount charged for distribution of the additional copies must be determined by the Director of the Legislative Counsel Bureau to approximate the cost of handling and postage for the entire session.

RESOLUTIONS

Rule No. 8. Types, Usage and Approval.

1. A joint resolution must be used to:

(a) Propose an amendment to the Nevada Constitution.

(b) Ratify a proposed amendment to the United States Constitution.

(c) Address the President of the United States, Congress, either House or any committee or member of Congress, any department or agency of the Federal Government, or any other state of the Union.

2. A concurrent resolution must be used to:

(a) Amend these Joint Standing Rules which requires a majority vote of each House for adoption.

(b) Request the return from the Governor of an enrolled bill for further consideration.

(c) Request the return from the Secretary of State of an enrolled joint or concurrent resolution for further consideration.

(d) Resolve that the return of a bill from one House to the other House is necessary and appropriate.

(e) Express facts, principles, opinions and purposes of the Senate and Assembly.

(f) Establish a joint committee of the two Houses.

(g) Direct the Legislative Commission to conduct an interim study.

3. A concurrent resolution or a resolution of one House may be used to memorialize a former member of the Legislature or other notable or distinguished person upon his or her death.

4. A resolution of one House may be used to request the return from the Secretary of State of an enrolled resolution of the same House for further consideration.

5. A resolution of one House may be used for any additional purpose determined appropriate by the Majority Leader of the Senate or the Speaker of the Assembly, respectively.

AMENDMENTS

Rule No. 9. Germaneness Required.

1. The Legislative Counsel shall not honor a request for the drafting of an amendment to a bill or resolution if the subject matter of the amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of the bill or resolution.

2. For the purposes of this Rule, an amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of a bill or resolution if the amendment relates only to the general, single subject that is expressed in that title and not to the specific whole subject matter embraced in the bill or resolution.

3. This Rule must be narrowly construed.

ADJOURNMENT

Rule No. 10. Limitations and Calculation of Duration.

1. In calculating the permissible duration of an adjournment for 3 days or less, Sunday must not be counted.

2. The Legislature may adjourn for more than 3 days by motion based on mutual consent of the Houses or by concurrent resolution. One or more such adjournments may be taken to permit a committee or the Legislative Counsel Bureau to prepare the matters respectively entrusted to them for the consideration of the Legislature as a whole.

EXPENDITURES FROM THE LEGISLATIVE FUND

Rule No. 11. Manner of Authorization.

Except for routine salary, travel, equipment and operating expenses, no expenditures shall be made from the Legislative Fund without the authority of a concurrent resolution regularly adopted by the Senate and Assembly.

RECORDS OF COMMITTEE PROCEEDINGS

Rule No. 12. Duties of Secretary of Committees and Director.

1. Each committee shall cause a record to be made of the proceedings of its meetings.

2. The secretary of a committee shall:

(a) Label each record with the date, time and place of the meeting and also indicate on the label the numerical sequence in which the record was made;

(b) Keep the records in chronological order; and

(c) Deposit the records upon their completion with the Research Library of the Legislative Counsel Bureau.

3. The Director of the Legislative Counsel Bureau shall:

(a) Make the records available for accessing by any person during office hours under such reasonable conditions as the Director may deem necessary; and

(b) Retain the records for two bienniums and at the end of that period keep some form or copy of the record in any manner the Director deems reasonable to ensure access to the record in the foreseeable future.

Rule No. 13. Reserved.

ANTI-HARASSMENT POLICY

Rule No. 14. Maintenance of Working Environment; Procedure for Filing, Investigating and Taking Remedial Action on Complaints.

1. The Legislature hereby declares that it is the policy of the Legislature to prohibit any conduct, whether intentional or unintentional, which results in sexual harassment or other unlawful harassment based upon any other protected category. The Legislature intends to maintain a working environment which is free from sexual harassment and other unlawful harassment. Each Legislator is responsible to conduct himself or herself in a manner which will ensure that others are able to work in such an environment.

2. In accordance with Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000e et seq., for the purposes of this Rule, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment;

(b) Submission to or rejection of such conduct by a person is used as the basis for employment decisions affecting the person; or

(c) Such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.

3. Each Legislator must exercise his or her own good judgment to avoid engaging in conduct that may be perceived by others as sexual harassment. The following noninclusive list provides illustrations of conduct that the Legislature deems to be inappropriate:

(a) Verbal conduct such as epithets, derogatory comments, slurs or unwanted sexual advances, invitations or comments;

(b) Visual conduct such as derogatory posters, photography, cartoons, drawings or gestures;

(c) Physical conduct such as unwanted touching, blocking normal movement or interfering with the work directed at a person because of his or her sex; and

(d) Threats and demands to submit to sexual requests to keep a person's job or avoid some other loss, and offers of employment benefits in return for sexual favors.

4. In addition to other prohibited conduct, a complaint may be brought pursuant to this Rule for engaging in conduct prohibited by Rule No. 37 of the Joint Rules of the Senate and Assembly for the 80th Session of the Legislature when the prohibited conduct is based on or because of the gender or other protected category of the person.

5. Retaliation against a person for engaging in protected activity is prohibited. Retaliation occurs when an adverse action is taken against a person which is reasonably likely to deter the person from engaging in the protected activity. Protected activity includes, without limitation:

(a) Opposing conduct that the person reasonably believes constitutes sexual harassment or other unlawful harassment;

(b) Filing a complaint about the conduct; or

(c) Testifying, assisting or participating in any manner in an investigation or other proceeding related to a complaint of sexual harassment or other unlawful harassment.

6. A Legislator who encounters conduct that the Legislator believes is sexual harassment, other unlawful harassment, retaliation or otherwise inconsistent with this policy may file a written complaint with:

(a) The Speaker of the Assembly;

(b) The Majority Leader of the Senate;

(c) The Director of the Legislative Counsel Bureau, if the complaint involves the conduct of the Speaker of the Assembly or the Majority Leader of the Senate; or

(d) The reporting system established pursuant to subsection 11.

➔ The complaint must include the details of the incident or incidents, the names of the persons involved and the names of any witnesses. Unless the Legislative Counsel is the subject of the complaint, the Legislative Counsel must be informed upon receipt of a complaint.

7. The Speaker of the Assembly, the Majority Leader of the Senate or the Director of the Legislative Counsel Bureau, as appropriate, shall cause a discreet and impartial investigation to be conducted and may, when deemed necessary and appropriate, assign the complaint to a committee consisting of Legislators of the appropriate House.

8. If the investigation reveals that sexual harassment, other unlawful harassment, retaliation or other conduct in violation of this policy has occurred, appropriate disciplinary or remedial action, or both will be taken. The appropriate persons will be informed when any such action is taken. The Legislature will also take any action necessary to deter any future harassment.

9. The Legislature encourages a Legislator to report any incident of sexual harassment, other unlawful harassment, retaliation or other conduct inconsistent with this policy immediately so that the complaint can be quickly and fairly resolved.

10. All Legislators are responsible for adhering to the provisions of this policy. The prohibitions against engaging in sexual harassment and other unlawful harassment which are set forth in this Rule apply to employees, Legislators, lobbyists, vendors, contractors, customers and any other visitors to the Legislature.

11. The Legislative Counsel shall establish a reporting system which allows a person to submit a complaint of a violation of this Rule with or without identifying himself or herself. Such a complaint must provide enough details of the incident or incidents alleged, the names of the persons involved and the names of any witnesses to allow an appropriate inquiry to occur.

12. This policy does not create any enforceable legal rights in any person.

And be it further

RESOLVED, That this resolution becomes effective upon adoption.

Senator Cannizzaro moved the adoption of the resolution.

Remarks by Senator Cannizzaro.

Madam President, the Joint Rules for the 32nd Special Session are identical to the Joint Rules that were adopted for the 31st Special Session.

Resolution adopted unanimously.

Madam President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 11:10 a.m.

SENATE IN SESSION

At 11:17 a.m.

President Marshall presiding.

Quorum present.

Senator Cannizzaro moved that all necessary rules be suspended and that the resolution be immediately transmitted to the Assembly.

Motion carried.

Resolution ordered transmitted to the Assembly.

Senator Cannizzaro moved that, for the remainder of the 32nd Special Session, all necessary rules be suspended, and that the reprinting of all bills and resolutions amended on the General File or the Resolution File be dispensed with, that the Secretary be authorized to insert all amendments adopted by the Senate, and that the bill or resolution be placed on the appropriate reading file.

Remarks by Senator Cannizzaro.

Madam President, dispensing with the reprinting of amended bills and resolutions eliminates the need to wait for a reprint of these measures before the Senate can vote on final passage or adoption.

Motion carried.

Senator Cannizzaro moved that, for the remainder of the 32nd Special Session, all necessary rules be suspended, and that all bills and resolutions reported out of the Committee of the Whole be immediately placed on the appropriate reading file, next agenda.

Remarks by Senator Cannizzaro.

Madam President, suspending this rule will allow all legislative measures reported out of Committee to be immediately placed on the appropriate reading file on the Senate's next agenda providing all constitutional restrictions are resolved.

Motion carried.

Senator Cannizzaro moved that, for the remainder of the 32nd Special Session, all necessary rules be suspended, and that all bills and resolutions that have been passed or adopted by the Senate be immediately transmitted to the Assembly.

Remarks by Senator Cannizzaro.

Madam President, suspending this rule will allow all legislative measures to be sent to the Assembly immediately instead of waiting for the day's Floor Session to adjourn. However, immediately transmitting these measures to the other House will eliminate the opportunity to rescind a final Senate action on the bill or resolution once the measure has been transmitted. The President will announce the transmittal of these measures before they leave the Senate.

Motion carried.

Senator Cannizzaro moved that for the remainder of the 32nd Special Session, the Secretary of the Senate dispense with reading the histories of all bills and resolutions.

Motion carried.

Senator Cannizzaro moved that for the remainder of the 32nd Special Session, the reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee of the Whole:

Senate Bill No. 1—AN ACT relating to property; authorizing certain courts to grant a stay in certain proceedings concerning eviction; and providing other matters properly relating thereto.

Senator Cannizzaro moved that the bill be referred to the Committee of the Whole.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Per Senate Standing Rule No. 31, Senators Settlemeyer and Hansen gave notice of protest regarding the action whereby Senate Resolution No. 1 was adopted.

Senator Cannizzaro moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering Senate Bill No. 1 and any other matters as outlined in the Governor's Proclamation, with Senator Cannizzaro as Chair and Senator Ratti as Vice Chair.

Motion carried.

IN COMMITTEE OF THE WHOLE

At 11:26 a.m.

Senator Cannizzaro presiding.

Senate Bill No. 1 and any other matters as outlined in the Governor's Proclamation considered.

The Committee of the Whole was addressed by Senator Cannizzaro; Senator Hansen; Supreme Court Justice James Hardesty; Senator Goicoechea; Senator Settlemeyer; Senator Pickard; Senator Hardy; Senator Washington; Senator Kieckhefer; Senator Ratti; Senator Ohrenschall; J.D. Klippenstein, Executive Director, ACTIONN; Zach Conine, Treasurer, State of Nevada; Karla Ramirez, Planned Parenthood; Jim Berchtold, Attorney, Legal Aid Center of Southern Nevada, Consumer Rights Project; Dan Rolle; Maria Nieto, Nevada State Coordinator, Mi Familia Vota; Jared Busker, Associate Director, Children's Advocacy Alliance; Serena Evans, Policy Specialist, Nevada Coalition to End Domestic and Sexual Violence; Aaron Ibarra, Deputy Director, Mi Familia Vota; Erika Minaberry; Marlene Lockard, Nevada Women's Lobby; Andreit Sherfid; Nicholas Shepack, Policy Fellow, American Civil Liberties Union of Nevada; Emily Paulsen, Executive Director, Nevada

Homeless Alliance; Lalo Montoya, Political Director, Make the Road Nevada; Ariel Guevara, Nevada State Coordinator, Mi Familia Vota; Katie Ryan, Director of Government Relations, Dignity Health-St. Rose Dominican Hospital, Policy Council on Homelessness through Nevada Homeless Alliance; Elena Delapaz; Erika Castro, Progressive Leadership Alliance of Nevada; Annette Magnus, Executive Director, Battle Born Progress; Anna Perez-McKay; Barbara Paulsen, Nevadans for the Common Good; Aviva Gordon; Edward Kania, President, Southern Nevada Eviction Services; Tiffany Banks, General Counsel, Nevada Realtors.

SENATOR CANNIZZARO:

The first order of business is to approve the rules for the Committee of the Whole.

The rules are as follows:

1. All meetings shall be open to the public via live broadcasts on the Legislature's website.
2. Committee recesses shall be at the call of the Chair or to a time certain.
3. Provided a quorum is present, a majority of those present and voting is sufficient to pass a bill or resolution, or adopt Committee amendments. Members approved, by the Chair, to participate remotely are present and in attendance at the meeting for all purposes.
4. The Chair must be present and will decide when the Committee takes an action or a vote. The Secretary shall record motions and votes of Committee members on all votes and other actions.
5. Matters not within the Governor's Proclamation or not relevant to the specific topic under consideration will be ruled out of order.
6. Any work requested of legislative staff on behalf of the Committee must be made through the Chair.

Senator Brooks moved to adopt the rules of the Committee of the Whole.

Senator Cancela seconded the motion.

Remarks by Senators Hansen and Cannizzaro.

SENATOR HANSEN:

Normally, in the Committee of the Whole, we have the opportunity to question the bill's sponsor. Are we going to be able to do that? Are we able to call witnesses and have discussion on these bills? The Committee of the Whole is the same as any other committee where there is an opportunity to ask questions and have discussion. Will this be allowed?

SENATOR CANNIZZARO:

The rules we are adopting are the same rules we adopted during this last Special Session. During the last Special Session, we asked questions as a Committee and did our jobs as Legislators. This will be the intent of the Committee.

SENATOR HANSEN:

Will we have the bill's sponsor available to answer questions?

SENATOR CANNIZZARO:

I will note the option is to adopt the rules as presented to the Committee of the Whole. If you have a specific question on these rules, I will be happy to answer it.

SENATOR HANSEN:

Since there is some confusion, I will vote "no."

Motion carried. Senators Hammond, Hansen and Settlemeyer voted no.

SENATOR CANNIZZARO:

We will open the hearing on Senate Bill No. 1.

SUPREME COURT JUSTICE JAMES W. HARDESTY:

I appear, today, as a co-chair of the Nevada Supreme Court Access to Justice Commission. This Commission started approximately 14 or 15 years ago. I have co-chaired ever since its commencement, first, with Justice Douglas and, now, with Chief Justice Pickering. The purpose of the Access to Justice Commission is to assess the ability of citizens in our State to access the court system on a variety of issues and areas of concern.

Approximately five weeks ago, the Commission began a review of the status of evictions in Nevada, including a potential impact on the court system resulting from the current moratorium ending on August 31 or September 1. Under that current moratorium from the Governor's administrative order, arrangements were made with various stakeholders to effectively place a moratorium on evictions in the State. Our question is, what happens then, and will the court system be able to meet the projected, significant increase in eviction cases?

I would like to offer some context for the Commission's review of this matter. We received information from the State Treasurer's Office indicating evictions in our State could amount to about 135,000. In addition, we received a copy of the Guinn Center Report, which projects approximately 142,000 households may be affected by evictions. We received information from the Urban Institute and the National Apartment Association which are assessing the impact of evictions throughout the rest of the United States.

According to the Nevada Supreme Court's annual report, as of the end of 2019, the State's summary evictions total 45,805 for an entire year. Fiscal Year ending 2019 for Clark County was 39,705. Washoe County saw 3,304. In addition, yet separate from the summary evictions, the Courts handled 1,056 unlawful detainer cases. If any of the projections the Commission has looked at are accurate, we would be increasing the Court's caseload for evictions, particularly associated for the nonpayment of rent, by three times to what we normally see in an entire year. Soon after September 1, this could be on the Court's doorstep.

The summary eviction process begins with a notice to the tenant from the landlord of their intention to reclaim the property. The tenant has seven days to file an answer with the Justice Court in the township in which the property is located. Once that occurs, the landlord would file a complaint seeking access to the property. Thereafter, the Court sets a hearing on these pleadings. There is no timeline in the statute, and I submit it would be unlikely one could establish one for the Court to decide the question.

One of the concerns the Supreme Court and the Commission have is the ability of the court system to respond to this increased caseload with this urgent problem. It is possible with these kinds of numbers, court settings would go out weeks and months before disputes could be addressed in the Justice Court. As a result, we began to look at some alternatives. Other states faced with similar problems have undertaken some Alternative Dispute Resolution processes: Arizona, Delaware, Michigan, North Carolina, Texas and others, have been looking at alternatives to help alleviate the influx of cases. We looked to see if Alternative Dispute Resolution programs might be able to facilitate a resolution of the tenants' issues.

There is a substantial amount of money, not unending, available for rental assistance to help mitigate the impact on landlords resulting from unpaid rent. In many of these states, the purpose is to, first, inform tenants that rent relief is available and, second, connect landlords and tenants in a process to allow them to address their payment obligations.

The Commission has recommended a rather short bill for a big problem. We propose, because of the statutory complexities that exist within Chapter 40, the addition of a provision contained in Senate Bill No. 1. It is short by comparison to most bills you see. First of all, this is conditional. If the Supreme Court, a district court or a Justice Court establishes, by rule, an expedited program of an Alternate Dispute Resolution program concerning an eviction, the statute would allow that court to stay the eviction hearing or process for not more than 30 days to facilitate the Alternative Dispute Resolution program.

I mentioned to the Senators from Districts 2 and 13 and to the Assemblywomen from Districts 1 and 41 and both the Senate and Assembly Republican Caucuses, that the Court has inherent authority to adopt rules establishing Alternative Dispute Resolution programs. We have done so in a number of contexts. We have adopted rules to create mandatory settlement programs for civil cases in the Nevada Supreme Court. We have adopted rules that require Alternative Dispute Resolution in the District Courts before they proceed to trial in the context of cases with lower

dollar amounts. There are other examples where Alternative Dispute Resolution and Dispute Mediation programs have been adopted by rule.

The Commission felt it was best to, first, highlight the issue to the public and the Legislature by bringing this bill forward and asking you to provide us with a tool in statute that would allow us to stay the proceedings. This stay would be not more than 30 days and would allow a mediation program to take place under an Alternative Dispute Resolution program.

Moving forward, if you pass this and the Court can assess a number of other issues that would allow such a program to take place, including administration, mediators and the like, we would invite a public process consistent with our administrative docket process that takes place in which drafts of proposed rules would be submitted to the Court where public comment is solicited and public hearings are conducted. We have reached out to some of the stakeholders, and they have furnished information to us about what they think would be appropriate to include in such rules. While we are not in a position to commit to the proposals they have offered at this juncture, for the reason that is subject to public hearings and the like before the Supreme Court, we encourage them and others to submit drafts of rules they would like to see in this kind of a program.

The rule we have asked the Senate to consider is to pass legislation allowing us to temporarily stay an eviction proceeding. If you pass this, we will ask the Assembly to consider it as well. The rule would allow for a dispute-resolution program to be adopted by the Court to be effectuated in this context. This will give landlords and tenants the opportunity to mitigate these tenant issues, to inform tenants that rent-relief dollars are available and to help resolve other disputes.

Mediation is frequently successful. Most cases in the system eventually settle. Many disputes settle as a result of the input and assistance of a mediator or a mediation program.

SENATOR GOICOCHEA:

The tenant and the landlord would appear in the Justice Court first. Is that correct?

JUSTICE HARDESTY:

Yes.

SENATOR GOICOCHEA:

This 30-day period to resolve a dispute, would that require a court appearance in the Justice Court to start the 30-day-stay process?

JUSTICE HARDESTY:

It depends on how the rules are constructed. We have offered a couple of suggestions. It would seem best, when the answer is filed by the tenant, that they request mediation. When the complaint is filed by the landlord, they request mediation. The case would be referred to a mediator for remediation.

SENATOR GOICOCHEA:

It would seem if you still have to go to court first and are looking at 100,000-plus cases, it would be huge. If the rules were constructed so they could file the paperwork without a court appearance, they would have 30 days to see if they could resolve it. If not, they would go back to the court process, but that could be a lengthy backlog as well if they were in the Justice Court, is that correct?

JUSTICE HARDESTY:

Yes. If I could add a couple of points, number one, the referral to the mediator would be automatic. We are trying to keep people out of the courthouse in view of the current health issues. We hope to construct a mediation process that allows the tenant, landlord and mediator to confer by phone or by Zoom to conduct these sessions. Yes, the mediation would be referred without a court direction, if the rule would allow for it, which is the most efficient procedure.

The second point is, yes, it would come back to the court if mediation was unsuccessful and would be set for hearing. Hopefully, we will be able to address some processes for this, such as the use of e-filing like in Clark County, particularly the Las Vegas Justice Court, which handles about 70 to 72 percent of these cases. This would benefit the tenant and the landlord by filing their paperwork through an e-filing system without coming to the courthouse and would minimize congestion at a time when we are trying to avoid the spread of this current health problem.

SENATOR SETTELMAYER:

This is only for residential evictions, not commercial, is that correct?

JUSTICE HARDESTY:

Yes, you are correct.

SENATOR SETTELMAYER:

I agree there is an immense need for this due to today's current situation. How long will it take the Court to promulgate rules and get this up and running since these rules will not go through the Legislative Commission or the legislative process?

JUSTICE HARDESTY:

My hope is we can develop drafts and secure drafts from interested parties as quickly as possible. My personal goal is to start this between October 1 and 15. We need to vet what the rules might look like and publish those rules in an order from the Court, they would take effect after that publication.

SENATOR PICKARD:

I recognize the Court has the inherent ability and authority to do many things, including Alternative Dispute Resolution programs. But, I wonder, if the Court has the authority to do this on their own, why do we need this legislation?

JUSTICE HARDESTY:

Reasonable people might differ about the authority of the Court to stay a pending eviction proceeding. Rather than getting into another legal fight about that, we thought it best to put it in statute. We do not need any more lawsuits, we are trying to reduce them. Our assessment is by having the Legislature extend this authority, it reduces or eliminates that problem from the program moving forward.

All Courts have authority to undertake injunctive relief and other temporary-stay relief in a variety of contexts. Some are by statute and some by rule. We are trying to make this as transparent as possible. We thought it important to bring it to the attention of the Legislature, the public and the stakeholders.

SENATOR PICKARD:

The Courts possess significant authority. I was thinking injunctive relief, which is based on the merits of the case. This is a statutory provision which deprives landlords of their right to evict under existing law and creates a taking. That is a concern. Is the Court's position this does not constitute a taking of a property right, even if only momentarily, since this decision is made without the merits of the case?

JUSTICE HARDESTY:

I am not in a position to offer a legal opinion about the efficacy or the consequence of that provision and would decline to do so. This is an issue that could come by the Court. The concern, from a pragmatic point of view, is if the Court is unable to process cases due to the sheer number, 30 days is small by comparison to the time it could take for people to get their cases heard. We are trying to proactively develop a system where an Alternative Dispute Resolution can take place. Under the Judicial Code, it is inappropriate for me to respond to your legal question.

SENATOR PICKARD:

As to the language of the bill and intent of the legislation, since you are presenting it, can landlords and tenants contract around provisions of this statute, or is this a mandatory stay on their case until a session of mediation is completed?

JUSTICE HARDESTY:

If the mediation is requested, there would be a mandatory stay until the mediation is conducted or results are provided. Yes, people can contract and resolve their issues. We hope many people would communicate with one another and with the various relief funds in advance, and never invoke the Court's jurisdiction in the first place. The Court does not become involved until there is a dispute over nonpayment of rent. When that takes place, the Court's jurisdiction is invoked.

Under the Governor's administrative order, people were encouraged to undertake voluntary resolution and payment plans. According to information provided to me in meetings with the Apartment Owners Association and the realtors, people have done so. This process is occurring now, and there is no reason it could not continue to occur after September 1.

SENATOR HARDY:

If the Supreme Court, or a District, or Justice Court, can establish a rule, there would be three different levels and literally scores of potential different rules of resolution. Did I understand that correctly?

JUSTICE HARDESTY:

The language would cause a person to arrive at that conclusion. The fact of the matter is, no District Court rule or Justice Court rule can be enacted without the approval of the Supreme Court. We are trying to be clear as to which Court might initiate the program, but even in doing so, it must be approved by the Supreme Court. The purpose of that is to have a uniform system throughout the State.

SENATOR HARDY:

Is the bottom line a mediation or an arbitration?

JUSTICE HARDESTY:

The purpose of this is to effectuate mediation. We are not setting up an arbitration process.

SENATOR HARDY:

We know there are certain "at risk" groups. People who own complexes or apartment buildings have a loan payment that is due. Some of their loan holders base their viability on the occupancy rate of that particular property. Is this protection designed in this mediation being able to understand the reality that an owner of an apartment complex may be put into bankruptcy and everyone would lose their place of living? Is that part of the equation?

JUSTICE HARDESTY:

The eviction problem facing our State presents enormous hardships for landlords as well as their tenants. This is a step we hope the court system can initiate to try and mitigate those hardships. As an example, one might assume the program, if it were put in place, would be an unnecessary delay for the eviction of the tenant. The resolution in mediation might be an immediate removal of the tenant without court order, constables or additional costs, in exchange for some accommodation by the landlord with respect to outstanding costs, outstanding rent or other issues. There are many things that can come out of mediation.

The importance of flexibility in an impartial system allows parties to address alternatives and consider what is best for their own situation. I do not know if that answers your question. I do not profess to be an expert in bankruptcy or how bankruptcy would apply. I might have some opinions when I practice law. As I explained earlier, I do not want to go down the road of offering legal advice on a point like this.

SENATOR HARDY:

The way this is written in legalese, the 30 days to facilitate, what is the length of time that a person could or could not be evicted? As I read it, no one can be evicted within 30 days if they go through this process. But, is there a timeframe or a limit as to when it is over, or is it going to be the mediation that takes 6 months?

JUSTICE HARDESTY:

That is a good point. In the absence of any program, the eviction occurs as soon as the judge can get to the case. Assuming the judge agrees that the eviction should take place, the eviction would occur with, perhaps, the assistance of the sheriff or constable. The problem is, if you have this kind of caseload, it is difficult to know when the judge can get to the case.

In the meantime, under existing statutes, the status quo is maintained and the tenant stays in, perhaps, not paying rent. The landlord is not able to get them out until the court hearing. Under the 30-day period, eviction would be stayed. This would enable the parties to get together and accelerate the process voluntarily and by agreement. That is the purpose.

The second portion of your question was when. The mediation we envision would occur during that 30-day period, not 6 months later.

SENATOR HARDY:

In that 30-day period, is that when an eviction could happen, or according to the mediation, it could happen much later, or am I misinterpreting this?

JUSTICE HARDESTY:

If the parties reach an agreement, the eviction could occur as soon as the agreement is reached. If the parties did not reach an agreement, the case would go back to the Court. The Court would set a hearing on the summary eviction proceeding, and the eviction would occur as soon as the Court could hear it. If we accomplish a number of mediated settlements, the Court's caseload would be reduced and allow cases where agreements were not reached to be quickly heard.

SENATOR HARDY:

So, there is no time limit. It would be up to the Court to decide regarding the eviction, if it happened?

JUSTICE HARDESTY:

Yes. That is the case now, even without this program.

SENATOR WASHINGTON:

Is this bill being requested as a result of ongoing problems with tenants, or is it based on COVID-related problems that are occurring with the pandemic we are experiencing now?

JUSTICE HARDESTY:

This bill is being requested in the Commission's review. This problem is being looked at as a result of impending consequences of the pandemic on our economy and the ability of tenants to pay their rent. It will also make tenants and landlords aware of newly-authorized resources to be able to apply toward their rent. It is a combination of the economic consequences created by the pandemic.

SENATOR WASHINGTON:

Would the money being offered for rental assistance automatically go to the landlord or to the tenants?

JUSTICE HARDESTY:

I am not in the best position to answer your question. I would expect whatever effort is made, the purpose is to get the money to the landlord in order to have their rent paid.

SENATOR KIECKHEFER:

In response to the question by the Senator from District 4, under the Rental Assistance Program the Interim Finance Committee approved earlier this week that payments would go directly to the landlord.

Since the bill is effective upon passage and approval and there is no sunset, do you envision this as an ongoing program of Alternative Dispute Resolution that the court would continue to oversee once the emergency has subsided?

JUSTICE HARDESTY:

Right now, I do not know that any of us know when this problem will subside. I expect this to be an ongoing problem and I would expect the program to be an ongoing program. We can certainly revisit this upon request of the Courts or the parties. There is no point in establishing an artificial deadline when we have no idea how long the economic impact we are facing will last. I do not envision any sunset date.

SENATOR KIECKHEFER:

Thank you, and I am not suggesting there should be. I want to make sure the intent is clear.

SENATOR RATTI:

This Body is grateful for the Access to Justice Commission for their good work at anticipating the challenges we are facing due to the COVID-19 epidemic well as impacts of the September 1 deadline. We appreciate you getting ahead of this.

From a legislative-intent point of view, this is narrowly tailored to bringing some certainty for the parties, both the landlord and the tenant. If mediation or an Alternative Dispute Resolution program should be set up, there is certainly the program will only stay a court decision for 30 days. The other details would be addressed during the Court's rule-making process. That is the appropriate time and space for our constituents or stakeholders to work with you to figure out the details of this program. Is that correct?

JUSTICE HARDESTY:

Yes.

SENATOR RATTI:

This only applies if the eviction is contested. Many evictions will happen where this program will not apply because the tenant does not contest the eviction. Is that also correct?

JUSTICE HARDESTY:

Yes. This only occurs when the Justice Court's jurisdiction is invoked, and that is only invoked when the tenant contests the eviction notice.

SENATOR HANSEN:

If this is COVID-related, should there not be a sunset provision included? Is it your intention to leave this open-ended, or is it COVID-related and needs a sunset amendment for this bill?

JUSTICE HARDESTY:

COVID inspires the problem because it has created this economic problem. I doubt anyone knows when either the pandemic or the economic consequences resulting from this will end. There is no intent for a sunset, and I will not be proposing it in the proposed rule.

SENATOR HANSEN:

This is a concern. Even though it is narrowly tailored, it gives carte blanche for the court system to establish a program, with limited input from the Legislature other than this 30-day provision.

SENATOR OHRENSCHALL:

I want to thank Justice Hardesty and the Supreme Court Justices for this proactive role. When we had the foreclosure crisis and many constituents needed our help, the Supreme Court stepped up. The Foreclosure Mediation Program helped many people stay in their homes. It was a successful program.

SENATOR CANNIZZARO:

We will now open the hearing to those in support of Senate Bill No. 1.

J.D. KLIPPENSTEIN (Executive Director, ACTIONN):

I am in favor of Senate Bill No. 1. Our State has experienced a housing crisis for some time. Housing insecurity, rising rents and homelessness are a serious problem in our State. We have the largest gap in terms of available affordable housing for low-income renters of any state in our Country. COVID-19 has deepened this crisis. Without additional support for renters, we will see mass evictions and a spike in homelessness, especially amongst our most vulnerable neighbors. Senate Bill No. 1 is a step in the right direction. We need bolder legislation. I encourage you to vote in favor of Senate Bill No. 1. Ensure Nevadans, who are fearful of the September 1 deadline and what that means for them, there are additional support systems in place.

ZACH CONINE (Treasurer, State of Nevada):

I am testifying in support of Senate Bill No. 1. Executive Directive No. 8 went a long way to ensure people could remain in their homes in Nevada without fear of eviction. People stayed home for Nevada and kept us safe. Now, the moratorium is being phased out. It is important we find ways to encourage landlords and tenants to work together to avoid as many evictions as possible.

We have seen a tremendous response to the State's Residential Rental Assistance Program over the last two weeks. It is clear there will be a higher demand for assistance than what is available in resources. This bill is critical to ensure our courts are not flooded with a wave of eviction proceedings and families can safely remain in their home. I want to thank Justice Hardesty and Legal Aid for all of their work on this bill. We look forward to working with them and the State's regional housing partners to make this program is successful.

KARLA RAMIREZ (Planned Parenthood):

I support Senate Bill No. 1 and urge the Legislature to stand up for Nevada's families. Access to affordable housing is a human right. The COVID-19 pandemic has exposed inequities in the healthcare system for black, indigenous, communities of color and low-income families. Nevada has experienced record-breaking job losses, particularly affecting these same communities. Projections show that up to 200,000 Nevada households will face eviction in the coming months. Mediation, along with the 30-day stay, would allow families in need to receive rental assistance and find housing solutions. We cannot allow our friends, families and neighbors to be evicted in the midst of a global pandemic. I urge you to support Senate Bill No. 1.

JIM BERCHTOLD (Attorney, Legal Aid Center of Southern Nevada, Consumer Rights Project):

The Legal Aid Center is receiving hundreds of calls daily from tenants panicked with the prospect of being evicted when the current moratorium lifts this September. Based on data we have seen and our own on-the-ground observations, Clark County is facing a flood of evictions that will clog the Courts and damage already struggling tenants and landlords.

To lessen the impact of this flood, we have been working with various stakeholders, including the Access to Justice Commission, to develop tools, such as Rental Repayment Agreements and the Rental Assistance Program, to help avoid evictions. The proposed mediation program is one of those important tools. A structured mediation program will allow landlords and tenants to link with available rental-assistance programs. It will also allow landlords and tenants to sit with a neutral third party and craft alternative solutions to evictions not necessarily available to Courts in a straightforward eviction case. The goal is to avoid evictions and provide relief to landlords and tenants at a critical time when people need to stay out of the courthouse and stay home. Legal Aid encourages you to support Senate Bill No. 1.

DAN ROLLE:

I support Senate Bill No. 1 and urge Senators to speak with members of their communities. When I speak with members of Nevada's communities who are facing eviction, there is a sense of panic. We are told from members of the community they are not hearing from their elected officials to better understand the challenges they are facing. We are facing a housing crisis in America and the State of Nevada. While I support the bill, more needs to be done to ensure the protection of Nevada's residents in this unprecedented pandemic. Thank you for your work for Nevada. I urge you to consider more supportive measures.

MARIA NIETO (Nevada State Coordinator, Mi Familia Vota):

I support Senate Bill No. 1. We are currently in a crisis, a pandemic for which our communities had no plans for. I urge your support on Senate Bill No. 1.

JARED BUSKER (Associate Director, Children's Advocacy Alliance):

We support Senate Bill No. 1 for the reasons previously stated and refer the Committee to the letter we previously submitted online.

CHILDREN'S ADVOCACY ALLIANCE

July 31, 2020

MAJORITY LEADER CANNIZZARO AND MEMBERS OF THE NEVADA SENATE

RE: Testimony in Support of Senate Bill No. 1.

GOOD MORNING MADAM CHAIR AND MEMBERS OF THE SENATE,

My name is Jared Busker. I serve as associate director of the Children's Advocacy Alliance, a statewide nonprofit that serves as the independent voice for Nevada's children and families. According to a report by the Guinn Center, about 300,000 Nevadans, many with children, are at risk of eviction due to COVID-19.¹ When a family is evicted from their home, it can take them a

lifetime to recover. Matthew Desmond, professor of sociology at Princeton University and author of the best-selling book *Evicted*, explains that losing a home through eviction is often a sudden and traumatic loss.²

For families, it can have profound impacts on mental and financial well-being and result in them losing their possessions, losing their jobs, and experiencing higher rates of depression. For children, the instability caused by eviction can result in worse outcomes in education, health, and future earnings.³

For these reasons, we urge the committee of the whole to consider these impacts related to Senate Bill 1 and call on your support for this legislation.

¹ <https://guinncenter.org/wp-content/uploads/2020/07/COVID-19-and-Evictions-in-Nevada-July-2020-1.pdf>

² <https://www.evictedbook.com/>

³ <https://www.aspeninstitute.org/blog-posts/a-glimpse-into-the-eviction-crisis-why-housing-stability-deserves-greater-attention/>

SERENA EVANS (Policy Specialist, Nevada Coalition to End Domestic and Sexual Violence):

We support Senate Bill No. 1. Finding single housing is a key factor to ensure victims/survivor's safety and success in leaving their abuser. With Nevada's current housing crisis and growing rates of homelessness, affordable housing is at the forefront of many victims/survivor's safety plans. Once the moratorium is lifted, this group risks eviction. About 99 percent of victims/survivors, who are also victims of financial abuse, have little to no credit, no savings, no emergency funds or stable employment. These factors make it difficult to obtain housing, potentially causing them to return to their abuser and subject themselves to further abuse. Homelessness increases the risk for domestic and sexual violence. Safe and stable housing makes a critical difference for victims of abuse. We urge your support for eviction reform to ensure a fair process once the moratorium has been lifted. Victims/survivors deserve a chance to maintain stable housing and be treated with dignity during these troubling, economic times of our State.

AARON IBARRA (Deputy Director, Mi Familia Vota):

We support Senate Bill No. 1. This pandemic has impacted Nevada's Latin communities the most. We need to ensure these communities can recover in some way, shape or form and not be put out on the street. I urge you to support Senate Bill No. 1.

ERIKA MINABERRY:

I am representing my three children. I just received custody of them a little over one year ago. The past housing crisis forced me to relinquish custody of them. I am laid off, and the unemployment money has run out. The eviction moratorium is being lifted at the same time school is starting. I am struggling and barely making it above water. If the eviction moratorium is lifted, I will be pushed under the water and I do not know how I can make it. There is no place for homeless people to safely live in a pandemic.

MARLENE LOCKARD (Nevada Women's Lobby):

We urge your support for Senate Bill No. 1. During this difficult time, this legislation is vital and will go a long way to offer a process for struggling Nevadans. We would like to thank Justice Hardesty, Legal Aid and all of the stakeholders for their hard work in putting this bill together.

ANDREIT SHERFID:

I am a citizen of North Las Vegas. I live near many homeless encampments and see the problems firsthand. I support Senate Bill No. 1. The streets are no place for children. I hope this bill passes so we can save people from evictions and having to live on the streets.

NICHOLAS SHEPACK (Policy Fellow, American Civil Liberties Union of Nevada):

We support Senate Bill No. 1. The human toll on families and children is devastating, causing a change of schools at best and homelessness at worst. We echo the sentiments of the previous callers. We urge Nevada to be leaders in this area and protect families from eviction.

EMILY PAULSEN (Executive Director, Nevada Homeless Alliance):

We cannot afford the surge in homelessness we are facing. We should take every opportunity to connect a family to available resources like rental assistance. We urge your support on Senate Bill No. 1 to prevent a rush in numbers of individuals and families of homelessness in our State.

LALO MONTROYA (Political Director, Make the Road Nevada):

We support Senate Bill No. 1. We are a nonprofit organization fighting to improve the quality of life for local immigrants and working families in Nevada. With the end of the eviction moratorium looming, hundreds and thousands of households are at risk of eviction. Requiring people to go in droves to the courthouse in order to save the roof over their heads is unsafe. Although we could do more to help people, this bill will allow us to help people find a better path moving forward. We urge the passage of Senate Bill No. 1.

ARIEL GUEVARA (Nevada State Coordinator, Mi Familia Vota):

I want to reiterate comments made by Maria Nieto and Aaron Ibarra. We all support Senate Bill No. 1 and urge the Senate to pass this bill allowing Nevadans the ability to remain in their homes and prevent homelessness.

KATIE RYAN (Director of Government Relations, Dignity Health-St. Rose Dominican Hospital, Policy Council on Homelessness through Nevada Homeless Alliance):

I support Senate Bill No. 1 and agree with all of the previous speakers. Housing is an essential, social determinant of health. During an unprecedented health crisis, it is even more important.

ELENA DELAPAZ:

I support Senate Bill No. 1. Approximately, 300,000 Nevadans could be affected by eviction. This includes only the people who are paying the rent and not the children who also face this impact. I am a University of Nevada student, close to downtown. I see and experience the homelessness of all of the people suffering from the housing crisis. There is no safe place for them. By safety, it is the absence of mental or physical abuse, sexual or not, and safety that does not risk the health of everyone around you. This global pandemic is not close to being over. These people are not responsible for being at risk. This pandemic has caused many job losses. It is the responsibility of our leaders, like those in this meeting, to realize this and give support to those who are in need.

ERIKA CASTRO (Progressive Leadership Alliance of Nevada):

We support Senate Bill No. 1. As we continue to mitigate this health and economic crisis, this is a step in the right direction to ensure Nevadans will remain sheltered. It is estimated 100,000 families will be at risk of eviction once the moratorium is lifted. Prior to this crisis, many of these families were already rent-burdened. According to the National Low Income Housing Coalition, it is estimated 97,680 renter households are in extremely low-income brackets, and 81 percent of them are severely cost-burdened due to rents in the State of Nevada. With the continued rise in COVID-19 cases, it is imperative we enact legislation to slow the wave of evictions and ensure families can remain healthy in their homes. For this legislation to be successful, it is critical for State government to replenish the scarcity of resources readily available to help with rental and other forms of assistance for our communities.

ANNETTE MAGNUS (Executive Director, Battle Born Progress):

People are suffering due to no fault of their own. As a community, we are obligated to help them during these times, all Nevadans. We support Senate Bill No. 1 and any other remedies that will help with Nevada's housing crisis during this pandemic. We hope you will support Senate Bill No. 1.

ANNA PEREEZ-MCKAY:

I am a student and young person in Washoe County calling in support of Senate Bill No. 1. More needs to be done to help the families, tenants and workers in our State. Senate Bill No. 1 is a good start. It is necessary to protect the people who live in our State not only in our area but all over Nevada.

BARBARA PAULSEN (Nevadans for the Common Good):

During this health and economic crisis, our top priority should be enabling people to stay in their own homes. For all of the different reasons previously stated in terms of housing, healthcare, food assistance and education of our children, we are in support of Senate Bill No. 1. This bill provides time and a process to help meet this priority.

SENATOR CANNIZZARO:

We will now open the hearing to those in opposition of Senate Bill No. 1.

AVIVA GORDON:

I urge opposition to Senate Bill No. 1. I am a resident of Henderson, Nevada, and my business has offices in both Henderson and Las Vegas. I have reviewed Senate Bill No. 1 have listened to the positions of Justice Hardesty and appreciate the intent. Nevertheless, I have concerns over the consequences of this bill. While I, along with responsible citizens of Nevada, do not want to cause further injury to the residential security of our neighbors, the effects of this bill could be devastating.

I am a lawyer in southern Nevada and represent Nevada business owners, many who have touched upon residential housing for over 25 years. The bill is authorized in the Judicial Branch to engage in the creation of legislation contrary to the existing framework of NRS Chapter 40. Beyond the inherent constitutional question, Nevada law provides for specific timeframes for the protection of tenants. For a landlord, who also likely has a mortgage, these timeframes are already challenging. The inability for landowners to satisfy their obligations will lead to a mortgage dam-break reminiscent of the 2008 crisis. The ultimate result will lead to higher costs associated with rental properties and affordable housing. It will lead to significant challenges for lenders to fund loans within the State.

This bill purports to create a solution when there is already one in place. In our current crises, the proposed solution will only lead to uncertainty and ultimately harm the most vulnerable.

EDWARD KANIA (President, Southern Nevada Eviction Services):

I represent landlords in the Las Vegas Valley and am in opposition to Senate Bill No. 1. Landlords have been denied Court access for six months, and this proposal will delay that access further. Landlords have been providing essential services during the past six months, and they are economically suffering. Landlords can no longer continue to provide free housing. Currently, parties can request voluntary mediation in the Justice Court to craft a solution. Mandatory mediation is not necessary. Placing an additional step in the eviction process is unfair to landlords and will impact investments in Nevada.

SENATOR CANNIZZARO:

We will now open the hearing to those neutral of Senate Bill No. 1.

TIFFANY BANKS (General Counsel, Nevada Realtors):

We are testifying in the neutral position on Senate Bill No. 1. We appreciate the opportunity to work with the Supreme Court and the Access to Justice Commission through the rule-making process. To ensure protections for both landlords and tenants, the mediation program should remain voluntary and be specifically limited to evictions based on the nonpayment of rent and not other types of evictions.

Senator Ratti moved to do pass Senate Bill No. 1.

Senator Cancela seconded the motion.

Motion carried. Senators Hammond and Hansen 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 12:58 p.m.
 President Marshall presiding.
 Quorum present.

REPORTS OF COMMITTEE

Madam President:

Your Committee of the Whole, to which was referred Senate Bill No. 1, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

NICOLE J. CANNIZZARO, *Chair*

Madam President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 12:58 p.m.

SENATE IN SESSION

At 4:25 p.m.
 President Marshall presiding.
 Quorum present.

MESSAGES FROM ASSEMBLY

ASSEMBLY CHAMBER, Carson City, July 31, 2020

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 1.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 2.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee of the Whole:

Senate Joint Resolution No. 1—Proposing to amend the Nevada Constitution to revise provisions governing the taxation of minerals extracted in this State and to require the Legislature to provide by law for a program to make payments to eligible persons in this State from a portion of the tax on the proceeds of minerals.

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That Section 5 of Article 10 of the Nevada Constitution be amended to read as follows:

Sec. 5. 1. The ~~Legislature~~ *Legislature* shall provide by law for the taxation of mines, mining claims and the proceeds of all minerals, including oil, gas and other hydrocarbons, extracted in this State.

2. In addition to any other taxes provided by law, for each calendar year beginning on or after January 1, 2023, a tax is hereby imposed upon the ~~net~~ gross proceeds of all minerals, including oil, gas and other hydrocarbons, extracted in this ~~state~~ State during a calendar year, at a rate ~~not to exceed 5 percent of the net~~ of 7.75 percent of the gross proceeds ~~[No other tax may be imposed upon a mineral or its proceeds until the identity of the proceeds as such is lost.~~

~~—2. The legislature shall appropriate to each county that sum which would be produced by levying a tax upon the entire amount of the net proceeds taxed in each taxing district in the county at the rate levied in that district upon the assessed valuation of real~~

~~property. The total amount so appropriated to each county must be apportioned among the respective governmental units and districts within it, including the county itself and the school district, in the same proportion as they share in the total taxes collected on property according to value.], unless the Legislature increases or reduces the rate of the tax by a law enacted in accordance with subsection 5.~~

3. ~~[Each patented mine or mining claim must be assessed and taxed as other real property is assessed and taxed, except that no value may be attributed to any mineral known or believed to underlie it, and no value may be attributed to the surface of a mine or claim if one hundred dollars' worth of labor has been actually performed on the mine or claim during the year preceding the assessment.] Fifty percent of any money collected by the State from the tax imposed pursuant to subsection 2 on the gross proceeds of minerals extracted in this State must be segregated in proper accounts in the State Treasury and, in accordance with appropriations made by law, used exclusively to fund a program established pursuant to subsection 4.~~

4. *The Legislature shall provide by law for a program to make payments from the money held in the State Treasury pursuant to subsection 3 to eligible persons domiciled in this State on a yearly basis, with the first payment being due on August 30, 2024, and subsequent payments being due on the last Friday of August for each year thereafter. The Legislature shall establish by law the criteria which a person must satisfy to be eligible for such payments.*

5. *Notwithstanding any other provision of this Constitution:*

(a) A majority of all the members elected to each House is necessary to pass any provision of a bill that enacts or amends any law providing for the taxation of mines, mining claims or the proceeds of minerals, including oil, gas and other hydrocarbons, extracted in this State, if the provision creates, generates or increases any public revenue in any form, including, without limitation, any provision of a bill that increases the rate of the tax imposed pursuant to subsection 2.

(b) An affirmative vote of not fewer than two-thirds of the members elected to each House is necessary to pass a bill which provides for an exemption from or a reduction in the rate of the tax imposed pursuant to subsection 2 with respect to the gross proceeds of minerals extracted in this State during a calendar year by a class of persons extracting such minerals or with respect to the gross proceeds of a type of mineral extracted in this State during a calendar year.

And be it further

RESOLVED, That this resolution becomes effective upon adoption.

Senator Cannizzaro moved that the resolution be referred to the Committee of the Whole.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 1.

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

Motion carried.

Assembly Bill No. 2.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Cannizzaro moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering Assembly Bill No. 2, Senate Joint Resolution No. 1, Assembly Bill No. 1 and other matters as outlined in the

Governor's Proclamation, with Senator Cannizzaro as Chair and Senator Ratti as Vice Chair.

Motion carried.

IN COMMITTEE OF THE WHOLE

At 4:31 p.m.

Senator Cannizzaro presiding.

Assembly Bill No. 2, Senate Joint Resolution No. 1, Assembly Bill No. 1 and other matters as outlined in the Governor's Proclamation considered.

The Committee of the Whole was addressed by Brenda Erdoes, Director, Legislative Counsel Bureau; Senator Pickard; Senator Kieckhefer; Senator Settelmeyer; Senator Cannizzaro; Kevin C. Powers, General Counsel, Legal Division, Legislative Counsel Bureau; Senator Brooks; Senator Goicoechea; Senator Settelmeyer; Russell Guindon, Principal Deputy Analyst, Fiscal Analysis Division, Legislative Counsel Bureau; Senator Hansen; Bryan Fernley, Legislative Counsel, Legislative Counsel Bureau; Senator Hardy; Senator Seevers Gansert; Patrick Donnelly, Director, Center for Biological Diversity, State of Nevada; Dagny Stapleton, Executive Director, Nevada Association of Counties; David Jensen, Superintendent, Humboldt County School District; Paul Enos, Chief Executive Officer, Nevada Trucking Association; Susan Fisher, Nevada Mineral Exploration Coalition; Cyrq Energy; Paul Moradkhan, Senior Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce; Andrew MacKay, Executive Director, Nevada Franchised Auto Dealers Association; Tyre Gray, President, Nevada Mining Association; Mary Walker, Lyon County; James Wadhams, Newmont Mining Company; Annette Magnus, Executive Director, Battle Born Progress; Kyle Davis, Political and Policy Director, Nevada Conservation League.

SENATOR CANNIZZARO:

We will open the hearing on Assembly Bill No. 2.

BRENDA ERDOES (Director, Legislative Counsel Bureau):

NRS 218F.150 prohibits the Director and other officers and employees of the Legislative Counsel Bureau (LCB) from opposing or urging passage of legislation unless the person's duties require them to make recommendations to the Legislature. This bill is somewhere in the middle, between these two situations. For example, the first provisions in the bill, sections 2-9, relate to the use of remote-technology systems in Interim Committees. In my role as Director, I recommend you enact these provisions to protect the process that allows remote participation by specifying how the process should work in the Interim and by providing penalties for interruption of these virtual meetings held both during Session and during the Interim, only if you wish to continue to allow remote participation during the public-health crisis caused by the COVID-19 pandemic.

During the public-health crisis caused by the COVID-19 pandemic, sections 2-9 of Assembly Bill No. 2, provide for the use of remote-technology systems by Interim, advisory and similar committees staffed by LCB employees and have members who are Legislators. Those are committees like the Administration of Justice or the Committee on License Plates. These provisions specifically authorize Interim Committees to use remote-technology systems for committee meetings during the public-health crisis caused by the COVID-19 pandemic. Sections 2-9 do not apply to the use of remote-technology systems to facilitate Legislative Sessions. Because of the use of remote-technology systems for Legislative Sessions is governed

by the rules adopted by each House pursuant to their constitutional authority to determine the rules of their proceedings.

Sections 15 and 16 of Assembly Bill No. 2, however, do apply to the use of remote technology during the Legislative Session and the Interim. These sections specifically extend the existing provisions that prohibit conduct constituting unlawful interference with the legislative process by adding specific examples, including actions relating to the use of remote technology. The penalty for interfering with the legislative process is a gross misdemeanor pursuant to NRS 218A.915.

Section 17 is a different topic, it is actually related. Section 17 is in the bill because recently and over the years, we have been asked whether a joint resolution proposing an amendment to the *Nevada Constitution* could be passed for the first time during a Special Session. When we researched the issue, we determined Section 1, Article 16 of the Constitution, does, by explained language, allow proposed constitutional amendments to be adopted. But, currently, we do not have a method in our existing statutes to comply with the three-month notice requirement during an even-numbered year because of our pattern of printing the Statutes of Nevada only once every two years. Section 17 remedies this problem by providing that a separate publication of joint resolutions that propose constitutional amendments immediately following the adoption of joint resolutions.

Section 10-14 and 19-25 of Assembly Bill No. 2 makes modifications to the organization of the LCB. Some, like the addition of the title of Division Chief for the Assembly and the Senate Fiscal Analyst and the Chief of the Administrative Division, are not substantive. Instead, they are merely helpful in making the organization of the LCB more readily apparent. Others are related to the appointment of a General Counsel. That was approved by the Legislative Commission at its June 5 meeting.

For many years, the Legal Division has experienced times when we were unable to act on behalf of the Legislature because we were conflicted out. The problem was, by having the Legislative Counsel responsible for all of the attorneys in the Legal Division, if we advised the Legislature during investigatory stages of an event, we were then conflicted out from advising the Legislature during the adjudicatory stages. Outside counsel had to be found by either borrowing an attorney from one of the counties, as we did in the Augustine impeachment proceedings, or by contracting with outside counsel, as in the expulsion matter of former Assemblyman Brooks. This type of issue has become more prevalent in the past few Sessions with various occurrences, such as sexual harassment complaints, the same thing happens there. With the appointment of a second Division Chief in the Legal Division, much like the Fiscal Division, the Legal Division will now be able to provide an appropriate legal separation for issues that may arise in the future.

One of the things that makes this more of an emergency to us is we believe this ability to provide legal separation within the Division may also be helpful in ensuring that Legislators who are involved in litigation against the State may choose to work on BDRs and legal opinions with attorneys who are not working on that litigation. That might really work there.

SENATOR PICKARD:

With respect to the Division and the firewall this purports to create, is it fair to say that without this structure, it is improper for the Legislative Counsel to both represent and advise members of the Body?

MS. ERDOES:

I believe that question was answered by the Supreme Court's latest decision in this case. There was a 5-2 decision saying that the attorneys were not conflicted out from giving that advice. The problem I saw, is that it was clear people were uncomfortable, and that is why we are seeking to make this work better for all of us.

SENATOR PICKARD:

What I hear you saying is this legislation is unnecessary; it just makes us feel better?

MS. ERDOES:

No, I think it is necessary. Over the years, we have spent a fair amount of money hiring outside counsel to handle the adjudicatory side of issues that have come through. For that reason, this will be valuable and cost-effective to the Legislature.

SENATOR KIECKHEFER:

My first question relates to how we define when we are meeting during the public-health crisis caused by the COVID-19 pandemic. I do not see a reference to the Governor's Declaration of Emergency or anything that spells out when those systems take effect.

MS. ERDOES:

In this case, we opted to leave it a little more open. That decision could be made by the Legislative Commission, for example, for the LCB and then by the Interim Finance Committee (IFC) for itself and its programs. We felt having this much of our organization be directed toward a different branch of government may be an issue in the future, so we intentionally left it open. It would be up to the Body to determine when the pandemic has seceded so far that you do not need this anymore.

SENATOR KIECKHEFER:

In section 17, when it comes to the immediate publication of the constitutional amendment, can you clarify the process on that? I assume you are referring to physically printing something and then publishing it.

MS. ERDOES:

You are correct. What we are looking at doing is something much like the advance sheets. The paperback advance sheets would just be stitch-bound, depending on how much of a resolution it was. We were thinking it would be a fairly small publication and then it would be routed to all of the same people that, by statute, we are required to provide the Statutes of Nevada to. That is how we deal with the advance sheets, and we were just going to follow that same manner of getting this notice out. It would also be on our website as well.

SENATOR KIECKHEFER:

If, for example, an advance sheet needed to be produced by August 3, when would a resolution have to be passed by in order to meet that deadline for you?

MS. ERDOES:

August 3, I presume. The printing office is pretty amazing on how they turn bills around. If it were be a small publication, it could be done fairly quickly.

SENATOR SETTELMEYER:

If section 17 did not pass, when would it have to be passed by?

MS. ERDOES:

If we are talking about something for this Special Session and it did not pass, then I do not believe this would work. It is currently not recognized in statute. I suspect we would go ahead and put something out, and it should work. It would be subject to challenge, this is trying to help with that potential for challenge.

SENATOR SETTELMEYER:

So, basically, this would preempt a legal problem that could occur.

In section 9, have there been any remoting problems in other communities with individuals trying to interfere with the process? Besides the fact you could just have terrible Internet, what have we seen in other states that makes this necessary?

MS. ERDOES:

We have done a fair amount of looking at this and what we have found in other states is there have been different displays of crude things as well as other interruptions. The issue that spurred us on to this was what happened during an IFC meeting, you may remember, a nun was flashed up on the screen for a little while. Our Broadcast and Production Services team has figured out how to secure the system a little better. It behooves us to try and deal with this by penalties as well. Technology, at least from my perspective seems to keep developing, and hackers are getting better and better.

SENATOR SETTELMAYER:

Another issue I have is pulling up the votes for Assembly Bills Nos. 1 and 2. The computer shows 2 people voted "yes" on both bills, and 40 people were vacant. This brings up some questions of our own technology problems.

Senator Brooks moved to do pass Assembly Bill No. 2.

Senator Ratti seconded the motion.

Motion carried. Senators Goicoechea, Hammond, Hansen, Pickard and Settelmeyer voted no.

SENATOR CANNIZZARO:

There have been questions as to whether the Legislature has the power to pass joint resolutions proposing State constitutional amendments at a Special Session convened by the Governor, if those proposed amendments are not "related to the business for which the Legislature has been specially convened." These legal opinions from the Legislative Counsel Bureau's Legal Division addresses those legal questions and conclude that the Legislature has the power to pass joint resolutions proposing State constitutional amendments at a Special Session, regardless of whether such joint resolutions are "related to the business for which the Legislature has been specially convened."

August 1, 2020

NEVADA SENATE, Senate Chambers

DEAR MEMBERS OF THE SENATE:

You have asked this office a legal question relating to special sessions of the Legislature convened by the Governor under Article 5, Section 9 of the Nevada Constitution. In particular, you have asked whether, at a special session convened by the Governor under Article 5, Section 9, the Legislature has the power to introduce, consider and pass any joint resolutions proposing state constitutional amendments under Article 16, Section 1 of the Nevada Constitution, regardless of whether such joint resolutions are "related to the business for which the Legislature has been specially convened." Nev. Const. art. 5, § 9.

As explained in the legal discussion below, based on the 2012 constitutional amendment that revised the state constitutional provisions governing special sessions, it is the opinion of this office that, at a special session convened by the Governor under Article 5, Section 9, the Legislature has the power to introduce, consider and pass any joint resolutions proposing state constitutional amendments under Article 16, Section 1, regardless of whether such joint resolutions are "related to the business for which the Legislature has been specially convened." Nev. Const. art. 5, § 9.

DISCUSSION

Article 16, Section 1 authorizes the Legislature to propose any amendment or amendments to the Nevada Constitution, stating that:

Any amendment or amendments to this Constitution may be proposed in the Senate or Assembly; and if the same shall be agreed to by a Majority of all the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their respective journals, with the Yeas and Nays taken thereon, and referred to the Legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice. And if in the Legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the Legislature voting thereon, such amendment or amendments shall, unless precluded by subsection 2 or section 2 of article 19 of this constitution, become a part of the Constitution.

Although Article 16, Section 1 authorizes the Legislature to propose constitutional amendments, it does not specify the type of legislative measure that must be used to make such proposals. When a state constitution does not specify the type of legislative measure that must be

used to propose constitutional amendments, the general rule is that the legislative body may use a resolution adopted by both Houses to make such proposals. Mason's Manual of Legislative Procedure § 145(2) (2010).

Consistent with this general rule, the Legislature has from its earliest sessions proposed state constitutional amendments by the use of resolutions. See Senate Journal, 3rd Sess., at 43, 48 (Nev. 1867); Senate Journal, 4th Sess., at 17, 27 (Nev. 1869). Even though the Legislature has consistently used resolutions to propose state constitutional amendments, it has not consistently used the same term to describe the resolutions. In the legislative sessions before 1919, the Legislature employed multiple terms to describe such resolutions, including "concurrent resolution," "joint resolution," "joint and concurrent resolution," "conjoint resolution" and "proposal to amend the Constitution," and sometimes the Legislature employed several of these terms within the same legislative session.¹ However, beginning with the 1919 legislative session, the Legislature adopted the practice of using only the term "joint resolution" to describe resolutions proposing state constitutional amendments, and the Legislature has consistently followed that practice since 1919. See, e.g., 1919 Nev. Stat., File Nos. 6, 19 & 20, at 478 & 486-87; 2019 Nev. Stat., File Nos. 40 & 44, at 4630 & 4636.

Given that the Legislature has consistently followed the practice of using joint resolutions to propose state constitutional amendments for over a century, the legal issue is whether, at a special session convened by the Governor, the Legislature has the power to introduce, consider and pass any joint resolutions proposing state constitutional amendments, regardless of whether such joint resolutions are "related to the business for which the Legislature has been specially convened." Nev. Const. art. 5, § 9.

As a general rule, the power of the Legislature at a special session is as broad as its power at a regular session, unless there are express constitutional limitations to contrary. See Richards Furniture Corp. v. Bd. of County Comm'rs, 196 A.2d 621, 625 (Md. 1964) ("It is generally held that in the absence of constitutional limitation, the legislative power of a Legislature, when convened in extraordinary session, is as broad as its powers in its regular sessions."); Long v. State, 127 S.W. 208, 209 (Tex. Crim. App. 1910) ("In the absence of a constitutional provision limiting the same, the jurisdiction of the Legislature when convened in special session is as broad as at a regular session.").

Under Article 4, Section 18 of the Nevada Constitution, the Legislature has the power to pass bills and joint resolutions at a regular session. Therefore, the Legislature also has the power to pass bills and joint resolutions at a special session, subject to any express constitutional limitations. Based on the 2012 constitutional amendment that revised the state constitutional provisions governing special sessions, we believe that, at a special session convened by the Governor, the Legislature has the power to introduce, consider and pass any joint resolutions proposing state constitutional amendments, regardless of whether such joint resolutions are "related to the business for which the Legislature has been specially convened." Nev. Const. art. 5, § 9.

At the 2012 general election, the voters approved a state constitutional amendment that revised the state constitutional provisions governing special sessions (hereafter "2012 amendment"). The 2012 amendment was proposed and passed by the Legislature during the 2009 and 2011 legislative sessions. Assembly Joint Resolution No. 5 (A.J.R. 5), 2009 Nev. Stat., File No. 92, at 3282; 2011 Nev. Stat., File No. 33, at 3853.

The 2012 amendment added Article 4, Section 2A to the Nevada Constitution, which authorizes the Legislature to convene itself into a special session upon a petition signed by two-thirds of the members of each House. The 2012 amendment included the following language in Article 4, Section 2A:

1. The Legislature may be convened, on extraordinary occasions, upon a petition signed by two-thirds of the members elected to each House of the Legislature. A petition must specify the business to be transacted during the special session, indicate a date on or before which the Legislature is to convene and be transmitted to the Secretary of State. Upon receipt of one or more substantially similar petitions signed, in the aggregate, by the required number of members, calling for a special session, the Secretary of State shall notify all members of the Legislature and the Governor that a special session will be convened pursuant to this section.

2. *At a special session convened pursuant to this section, the Legislature shall not introduce, consider or pass any bills except those related to the business specified in the petition and those necessary to provide for the expenses of the session.*

A.J.R. 5, 2009 Nev. Stat., File No. 92, at 3284; 2011 Nev. Stat., File No. 33, at 3855 (emphasis added).

The 2012 amendment also revised the provisions governing special sessions convened by the Governor pursuant to Article 5, Section 9. The 2012 amendment included the following revisions to Article 5, Section 9:

~~{Sec. 9. The}~~

Sec. 9. 1. Except as otherwise provided in Section 2A of Article 4 of this Constitution, the Governor may, on extraordinary occasions, convene the Legislature by Proclamation and shall state to both houses, when organized, the ~~purpose~~ business for which they have been specially convened. ~~and the Legislature shall transact no legislative business, except that for which they were specially convened, or such other legislative business as the Governor may call to the attention of the Legislature while in Session.~~

2. *At a special session convened pursuant to this section, the Legislature shall not introduce, consider or pass any bills except those related to the business for which the Legislature has been specially convened and those necessary to provide for the expenses of the session.*

A.J.R. 5, 2009 Nev. Stat., File No. 92, at 3286; 2011 Nev. Stat., File No. 33, at 3857 (emphasis added).

Thus, before the 2012 amendment, Article 5, Section 9 provided that, at a special session, "the Legislature shall transact no legislative business, except that for which they were specially convened, or such other legislative business as the Governor may call to the attention of the Legislature while in Session." Nev. Const. art. 5, § 9 (1864) (emphasis added). By contrast, after the 2012 amendment, Article 5, Section 9 now provides that "[a]t a special session convened pursuant to this section, the Legislature shall not introduce, consider or pass any bills except those related to the business for which the Legislature has been specially convened and those necessary to provide for the expenses of the session." Nev. Const. art. 5, § 9 (emphasis added).

We believe that the 2012 amendment produces two significant results. First, the 2012 amendment removed the power of the Governor to call other legislative business to the attention of the Legislature during a special session. As a result, with regard to the Legislature's consideration and passage of bills, the scope of the special session is limited to only those bills related to the business for which the Legislature has been specially convened and those bills necessary to provide for the expenses of the session. Therefore, we believe that if the Governor wants the Legislature to consider any other bills, the Governor would need to convene another special session under Article 5, Section 9 for the Legislature to consider other bills. Alternatively, the Legislature could convene itself into a special session upon a petition signed by two-thirds of the members of each House under Article 4, Section 2A to consider other bills.

Second, the 2012 amendment removed the provision stating that "the Legislature shall transact no legislative business" and replaced it with the provision stating that "the Legislature shall not introduce, consider or pass any bills." Nev. Const. art. 5, § 9 (emphasis added). We believe that the use of the term "bills" and the omission of the term "resolutions" is notable because other provisions of the Nevada Constitution use both terms, such as "bills or joint resolutions" and "statute or resolution." Nev. Const. art. 4, § 18, art. 19 § 1.

Based on the 2012 amendment, the Nevada Constitution expressly places limitations on the Legislature's power at a special session only with regard to "bills," stating that "the Legislature shall not introduce, consider or pass any bills except those related to the business for which the Legislature has been specially convened and those necessary to provide for the expenses of the session." Nev. Const. art. 5, § 9 (emphasis added). By contrast, the Nevada Constitution does not place any limitations on the Legislature's power at a special session with regard to resolutions.

Because the Nevada Constitution does not place any limitations on the Legislature's power at a special session with regard to resolutions, the Legislature's power to introduce, consider and pass any joint resolutions proposing state constitutional amendments at a special session is as broad as

its power at a regular session. Nev. Const. art. 4, § 18, art. 16, § 1; Richards Furniture Corp. v. Bd. of County Comm'rs, 196 A.2d 621, 625 (Md. 1964) ("It is generally held that in the absence of constitutional limitation, the legislative power of a Legislature, when convened in extraordinary session, is as broad as its powers in its regular sessions."); Long v. State, 127 S.W. 208, 209 (Tex. Crim. App. 1910) ("In the absence of a constitutional provision limiting the same, the jurisdiction of the Legislature when convened in special session is as broad as at a regular session.").

Thus, because the term "resolutions" is omitted from Article 5, Section 9, we believe that a reasonable construction of the 2012 amendment means that, at a special session convened by the Governor, the Legislature has the power to introduce, consider and pass any joint resolutions or other resolutions, regardless of whether the resolutions are "related to the business for which the Legislature has been specially convened." Nev. Const. art. 5, § 9. As a result, it is the opinion of this office that, at a special session convened by the Governor, the Legislature has the power to introduce, consider and pass any joint resolutions proposing state constitutional amendments, regardless of whether such joint resolutions are "related to the business for which the Legislature has been specially convened."² Nev. Const. art. 5, § 9.

CONCLUSION

Based on the 2012 constitutional amendment that revised the state constitutional provisions governing special sessions, it is the opinion of this office that, at a special session convened by the Governor under Article 5, Section 9, the Legislature has the power to introduce, consider and pass any joint resolutions proposing state constitutional amendments under Article 16, Section 1, regardless of whether such joint resolutions are "related to the business for which the Legislature has been specially convened." Nev. Const. art. 5, § 9.

If you have any further questions regarding this matter, please do not hesitate to contact this office.

¹ See, e.g., 1869 Nev. Stat., File Nos. 1 & 2, at 307 ("Proposal to Amend the Constitution"); 1877 Nev. Stat., File No. 6, at 213-14 ("Conjoint Resolutions"); 1877 Nev. Stat., File No. 23, at 221 ("Concurrent Resolution"); 1879 Nev. Stat., File No. 6, at 149 ("Concurrent Resolution"); 1879 Nev. Stat., File No. 7, at 149 ("Conjoint Resolution"); 1879 Nev. Stat., File No. 26, at 166 ("Concurrent Resolution"); 1903 Nev. Stat., File No. 13, at 232 ("Joint and Concurrent Resolution"); 1903 Nev. Stat., File No. 23, at 240 ("Concurrent Resolution").

² Because the term "resolutions" is also omitted from Article 4, Section 2A, we believe that a reasonable construction of the 2012 amendment means that if the Legislature convenes itself into a special session upon a petition signed by two-thirds of the members of each House, the Legislature has the power at the special session to introduce, consider and pass any joint resolutions or other resolutions, regardless of whether the resolutions are "related to the business specified in the petition." Nev. Const. art. 4, § 2A.

Sincerely,
KEVIN C. POWERS
General Counsel

August 2, 2020

NEVADA SENATE, Senate Chambers
DEAR MEMBERS OF THE SENATE:

You have asked this office a legal question relating to joint resolutions proposing state constitutional amendments under Article 16, Section 1 of the Nevada Constitution. In particular, you have asked whether such a joint resolution is subject to the two-thirds majority requirement in Article 4, Section 18 of the Nevada Constitution if the joint resolution "creates, generates, or increases any public revenue in any form." Nev. Const. art. 4, § 18(2).

During the 2013 legislative session, this office was asked the same legal question with regard to Senate Joint Resolution No. 15 (S.J.R. 15), which proposed state constitutional amendments relating to the taxation of mines, mining claims and the proceeds of all minerals extracted in this state. S.J.R. 15, 2011 Nev. Stat., File No. 44, at 3871; 2013 Nev. Stat., File No. 40, at 3958. The Legislature passed S.J.R. 15 during the 2011 and 2013 legislative sessions as required by

Article 16, Section 1. However, the voters did not approve S.J.R. 15 at the 2014 general election by a vote of 49.70% in favor and 50.30% against the proposed state constitutional amendments.

When the Legislature was considering S.J.R. 15 during the 2013 legislative session, this office was asked whether a joint resolution proposing state constitutional amendments is subject to the two-thirds majority requirement if the joint resolution "creates, generates, or increases any public revenue in any form." Nev. Const. art. 4, § 18(2). On February 22, 2013, this office issued a written legal opinion concluding that such a joint resolution is not subject to the two-thirds majority requirement, regardless of whether the joint resolution "creates, generates, or increases any public revenue in any form." Nev. Const. art. 4, § 18(2). On March 26, 2013, when the Senate Committee on Revenue and Economic Development conducted a hearing on S.J.R. 15, the Chair authorized this office to provide testimony regarding the potential legal effects and consequences of the state constitutional amendments proposed by S.J.R. 15, and the written legal opinion from this office was entered into the legislative record. Legislative History of S.J.R. 15, 77th Leg., at 114-15 & 133 (Exhibit G) (Nev. LCB Research Library 2011).¹

As explained in the legal discussion below, the opinion of this office has not changed from our written legal opinion issued in 2013. Therefore, it is the opinion of this office that a joint resolution proposing state constitutional amendments is not subject to the two-thirds majority requirement, regardless of whether the joint resolution "creates, generates, or increases any public revenue in any form." Nev. Const. art. 4, § 18(2).

DISCUSSION

Article 16, Section 1 authorizes the Legislature to propose any amendment or amendments to the Nevada Constitution, stating that:

Any amendment or amendments to this Constitution may be proposed in the Senate or Assembly; and if the same shall be agreed to by a Majority of all the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their respective journals, with the Yeas and Nays taken thereon, and referred to the Legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice. And if in the Legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the Legislature voting thereon, such amendment or amendments shall, unless precluded by subsection 2 or section 2 of article 19 of this constitution, become a part of the Constitution.

Nev. Const. art. 16, § 1 (emphasis added).

Although Article 16, Section 1 authorizes the Legislature to propose constitutional amendments, it does not specify the type of legislative measure that must be used to make such proposals. When a state constitution does not specify the type of legislative measure that must be used to propose constitutional amendments, the general rule is that the legislative body may use a resolution adopted by both Houses to make such proposals. Mason's Manual of Legislative Procedure § 145(2) (2010).

Consistent with this general rule, the Legislature has from its earliest sessions proposed state constitutional amendments by the use of resolutions. See Senate Journal, 3rd Sess., at 43, 48 (Nev. 1867); Senate Journal, 4th Sess., at 17, 27 (Nev. 1869). Even though the Legislature has consistently used resolutions to propose state constitutional amendments, it has not consistently used the same term to describe the resolutions. In the legislative sessions before 1919, the Legislature employed multiple terms to describe such resolutions, including "concurrent resolution," "joint resolution," "joint and concurrent resolution," "conjoint resolution" and "proposal to amend the Constitution," and sometimes the Legislature employed several of these terms within the same legislative session.² However, beginning with the 1919 legislative session, the Legislature adopted the practice of using only the term "joint resolution" to describe resolutions proposing state constitutional amendments, and the Legislature has consistently followed that

practice since 1919. See, e.g., 1919 Nev. Stat., File Nos. 6, 19 & 20, at 478 & 486-87; 2019 Nev. Stat., File Nos. 40 & 44, at 4630 & 4636.

When the Nevada Constitution was ratified in 1864, Article 4, Section 18 provided that "a majority of all the members elected to each House shall be necessary to pass every bill or joint resolution." Nev. Const. art. 4, § 18 (1864) (emphasis added). Thus, as originally ratified by the voters, both Article 4, Section 18 and Article 16, Section 1 required the same number of votes to pass legislation or to propose a constitutional amendment—a majority of all the members elected to each House.

In 1994 and 1996, however, the voters approved several amendments to Article 4, Section 18 that were proposed by an initiative petition pursuant to Article 19, Section 2 of the Nevada Constitution. The amendments provide that "an affirmative vote of not fewer than two-thirds of the members elected to each House is necessary to pass a bill or joint resolution which creates, generates, or increases any public revenue in any form." Nev. Const. art. 4, § 18(2) (emphasis added). The amendments also include an exception which provides that "[a] majority of all of the members elected to each House may refer any measure which creates, generates, or increases any revenue in any form to the people of the State at the next general election." Nev. Const. art. 4, §-18(3) (emphasis added).

Because the two-thirds majority requirement in Article 4, Section 18 refers to "joint resolutions," we must consider two legal issues. First, we must consider whether the two-thirds majority requirement applies to joint resolutions proposing state constitutional amendments given that Article 16, Section 1 contains its own specific voting requirement which requires only a majority of all the members elected to each House to propose state constitutional amendments. Second, even if the two-thirds majority requirement applies to joint resolutions proposing state constitutional amendments, we must consider whether those joint resolutions qualify for the exception from the two-thirds majority requirement because the proposed state constitutional amendments become effective only if approved by voters.

To date, there are no reported decisions from Nevada's appellate courts that have addressed these legal issues. In the absence of any controlling decisions from Nevada's appellate courts, we must apply the rules of constitutional construction, and we must consider historical evidence, case law from other jurisdictions and other legal sources for guidance in this area of the law.

In 1798, the United States Supreme Court addressed a similar legal issue in a case where the plaintiffs argued that Congress did not validly propose the Eleventh Amendment to the Federal Constitution. Hollingsworth v. Virginia, 3 U.S. 378 (1798). The plaintiffs argued that when Congress exercised its power to propose the Eleventh Amendment under the Amendments Article of the Federal Constitution, Congress failed to submit the proposed amendment to the President for approval or disapproval under the Legislative Article, which provides that:

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

U.S. Const. art. I, § 7 (emphasis added).

The Supreme Court rejected the plaintiffs' argument and held that the Eleventh Amendment was constitutionally adopted. 3 U.S. at 382. Although the Supreme Court did not provide any explanation in its opinion for rejecting the plaintiffs' argument, Justice Chase stated that "[t]here can, surely, be no necessity to answer that argument. The negative of the President applies only to the ordinary cases of legislation: He has nothing to do with the proposition, or adoption, of amendments to the Constitution." Id. at 381 n.

Following the Hollingsworth decision, many state courts have held that legislative proposals to amend the state constitution "are not the exercise of an ordinary legislative function nor are they subject to the constitutional provisions regulating the introduction and passage of ordinary legislative enactments, although they may be proposed in the form of an ordinary legislative bill or in the form of a Joint Resolution." Collier v. Gray, 157 So. 40, 44 (Fla. 1934).³ As a general rule, these courts have found that the process of proposing constitutional amendments is a separate

and independent function that is unconnected with the process of passing ordinary bills and resolutions. See, e.g., Edwards v. Lesueur, 33 S.W. 1130, 1135 (Mo. 1896) ("The provision for adopting resolutions proposing amendments is distinct from, and independent of, all provisions which are provided for the government of legislative proceedings."); Commonwealth v. Griest, 46 A. 505, 508 (Pa. 1900) ("the separate and distinctive character of this particular exercise of the power of the two houses is preserved, and is excluded from association with the orders, resolutions and votes, which constitute the ordinary legislation of the legislative body."). As further explained by the Colorado Supreme Court:

The power of the general assembly to propose amendments to the constitution is not subject to the provisions of article 5 regulating the introduction and passage of ordinary legislative enactments. . . . Section 2 of article 19 prescribes the method of proposing amendments to the constitution, and no other rule is prescribed. It is not, therefore, by the "legislative" article, but by the article entitled "amendments," that the legality of the action of the general assembly in proposing amendments to the constitution is to be tested. Article 19 is *sui-generis*; it provides for revising, altering and amending the fundamental law of the state, and is not *in pari materia* with those provisions of Article 5 prescribing the method of enacting ordinary statutory laws.

Nesbit v. People, 36 P. 221, 223 (Colo. 1894).

Consequently, under the interpretative rule favored by a majority of state courts that have addressed the issue, "[a] proposal by the legislature of amendments to the constitution is not the exercise of ordinary legislative functions, and is not subject to constitutional provisions regulating the introduction and passage of ordinary legislative enactments." Cooney v. Foote, 83 S.E. 537, 539 (Ga. 1914). Under this interpretative rule, a state legislature is required to comply only with the specific provisions in the Amendments Article that govern the proposal of constitutional amendments, and it is not required to comply with the general provisions in the Legislative Article that govern the passage of legislation.

It should be noted, however, that a small minority of state courts have rejected this interpretative rule. These courts have held that specific constitutional provisions governing the proposal of constitutional amendments must be interpreted and harmonized with general constitutional provisions governing ordinary legislative action. Geringer v. Bebout, 10 P.3d 514, 515-24 (Wyo. 2000); State ex rel. Livingstone v. Murray, 354 P.2d 552, 556-58 (Mont. 1960); Smith v. Lucero, 168 P. 709, 709-13 (N.M. 1917). As explained by the Wyoming Supreme Court:

[W]e do not find cited cases [from other states] persuasive because the interpretative rule, which led to a result which differs from our result in this case, was based on reading constitutional provisions as sequestered pronouncements. We continue to be persuaded that our rule of reading the Wyoming Constitution as an integrated document composed of separate parts but united together for a more complete, harmonious and coordinated entity is the proper rule of interpretation. . . . In several cases, an appellate court's result was reached by distinguishing "law making" from proposals of constitutional amendments, which were viewed by those courts as not being "law making." We perceive little if any difference between the process employed by the legislature in enacting bills which may become a part of Wyoming Statutes and the process used to propose constitutional amendments. To the extent there is a difference, it is not a meaningful distinction which we need to recognize. In the final analysis, the Legislature is engaged in the process of "law making." We are unable to find anything in the cited decisions, which rely on that line of reasoning, that persuades us to adopt it.

Geringer, 10 P.3d at 523-24.

Because of the split in case law from other jurisdictions, we cannot determine with any reasonable degree of certainty whether the Nevada Supreme Court would follow the interpretative rule favored by the majority or minority view. However, we believe that when either interpretative rule is applied to the provisions of the Nevada Constitution at issue, the end result is the same— joint resolutions proposing state constitutional amendments under Article 16, Section 1 do not have to satisfy the two-thirds majority requirement in Article 4, Section 18.

If the Nevada Supreme Court were to follow the interpretative rule favored by the majority view, the Legislature would be required to comply only with the specific majority voting requirement in Article 16, Section 1 when it adopted any joint resolution proposing state constitutional amendments. The Legislature would not be required to comply with the two-thirds majority requirement in Article 4, Section 18, regardless of whether the joint resolution "creates, generates, or increases any public revenue in any form." Nev. Const. art. 4, § 18(2).

By contrast, if the Nevada Supreme Court were to follow the interpretative rule favored by the minority view, the provisions of Article 16, Section 1 would have to be interpreted and harmonized with the provisions of Article 4, Section 18. But when those provisions are interpreted and harmonized together in accordance with the rules of constitutional construction, we believe that any joint resolution proposing state constitutional amendments qualifies for the exception from the two-thirds majority requirement because the proposed state constitutional amendments become effective only if approved by voters.

When interpreting the provisions of the Nevada Constitution, the Nevada Supreme Court applies the same rules of construction that are used to interpret statutes. Nev. Mining Ass'n v. Erdoes, 117 Nev. 531, 538 (2001). In applying those rules of construction, the court has indicated that its primary task is to ascertain the intent of the framers and to adopt an interpretation that best captures their objective. *Id.* As explained by the court, "[t]he intention of those who framed the instrument must govern, and that intention may be gathered from the subject-matter, the effects and consequences, or from the reason and spirit of the law." State ex rel. Cardwell v. Glenn, 18 Nev. 34, 42 (1883). Thus, "[w]hatever meaning ultimately is attributed to a constitutional provision may not violate the spirit of that provision." Miller v. Burk, 124 Nev. 579, 590-91 (2008); Lueck v. Teuton, 125 Nev. 674, 680 (2009).

When two or more constitutional provisions relate to the same subject matter, the court strives to "give effect to all controlling legal provisions *in pari materia*." State of Nev. Employees Ass'n v. Lau, 110 Nev. 715, 718 (1994). In other words, whenever possible, constitutional provisions relating to the same subject matter must be read together and harmonized so that each of the provisions is able to achieve its basic purpose without creating conflicts or producing unintended consequences or unreasonable or absurd results. We the People Nev. v. Miller, 124 Nev. 874, 880-81 (2008) ("[W]hen possible, the interpretation of a statute or constitutional provision will be harmonized with other statutes or provisions to avoid unreasonable or absurd results."). To this end, when two or more constitutional provisions apply to a given situation and create an ambiguity, the court will endeavor to reconcile the provisions consistently with what reason and public policy would indicate the framers intended. *See* Halverson v. Miller, 124 Nev. 484, 489-91 (2008); We the People Nev., 124 Nev. at 883-89. As stated by the court, "[i]f a constitutional provision's language is ambiguous, meaning that it is susceptible to 'two or more reasonable but inconsistent interpretations,' we may look to the provision's history, public policy, and reason to determine what the voters intended." Burk, 124 Nev. at 590 (quoting Gallagher v. City of Las Vegas, 114 Nev. 595, 599 (1998)); Lueck, 125 Nev. at 680.

Based on its review of the history of the two-thirds majority requirement, the Nevada Supreme Court has explained the purpose of the requirement as follows:

The supermajority requirement was intended to make it more difficult for the Legislature to pass new taxes, hopefully encouraging efficiency and effectiveness in government. Its proponents argued that the tax restriction might also encourage state government to prioritize its spending and economize rather than explore new sources of revenue.

Guinn v. Legislature (Guinn II), 119 Nev. 460, 471 (2003) (emphasis added).⁴

Additionally, the court has noted that the two-thirds majority requirement contains an exception which "permits a majority of the Legislature to refer any proposed new or increased taxes for a vote at the next general election." Guinn II, 119 Nev. at 472 n.27.

By requiring the Legislature to act by a two-thirds majority vote to pass revenue-generating measures, the framers of the constitutional provision clearly wanted to restrict the power of the Legislature to enact such measures into law through the ordinary legislative process. Nev. Const. art. 4, § 18(2). However, by also providing that the Legislature could act by a traditional majority vote to refer such measures to the people at the next general election, the framers clearly did not

want to restrict the power of the Legislature to refer such measures to the voters for approval or disapproval. Nev. Const. art. 4, § 18(3).

Because the Legislature's power to refer revenue-generating measures to the voters under Article 4, Section 18 is substantially the same as its power to refer constitutional amendments to the voters under Article 16, Section 1, we believe that the two provisions must be interpreted and harmonized together as substantially equivalent provisions. In describing the state legislature's power to propose constitutional amendments to the voters, the Colorado Supreme Court has stated:

[I]n proposing an amendment to the constitution, the action of the general assembly is initiatory, not final; a change in the fundamental law cannot be fully and finally consummated by legislative power. Before a proposed amendment can become a part of the constitution, it must receive the approval of a majority of the qualified electors of the state voting thereon at the proper general election.

When thus approved it becomes valid as part of the constitution by virtue of the sovereign power of the people constitutionally expressed.

Nesbit v. People, 36 P. 221, 224 (Colo. 1894).

We believe that the foregoing description applies equally to the Legislature's power to propose revenue-generating measures to the voters under Article 4, Section 18. When the Legislature proposes such measures, its action is initiatory, not final, and its proposal cannot be fully and finally consummated by legislative power. Instead, the proposal must receive the approval of the voters, and only then does it become law by virtue of the sovereign power of the people constitutionally expressed.

Thus, the spirit and purpose of the referral provisions in Article 4, Section 18 can be construed consistently and harmoniously with the spirit and purpose of the referral provisions in Article 16, Section 1. Under these equivalent referral provisions, the Legislature is authorized to refer measures to the voters by a traditional majority vote, but the measures do not become effective unless approved by the voters. Consequently, when these equivalent referral provisions are interpreted and harmonized together, we believe that any joint resolution proposing state constitutional amendments under Article 16, Section 1 would qualify for the exception from the two-thirds majority requirement under Article 4, Section 18 because the proposed state constitutional amendments become effective only if approved by voters.

Even though we have not found a case directly on point, we believe that our conclusion is supported by the reasoning in Lockman v. Secretary of State, 684 A.2d 415, 419 (Me. 1996). In Lockman, the Maine Legislature, by a majority vote, passed a joint resolution which proposed a competing measure to be placed on the general election ballot with an initiative petition pursuant to Article IV, Section 18 of the Maine Constitution. The plaintiffs argued that the joint resolution was invalidly enacted without a two-thirds vote under Article IV, Section 16 of the Maine Constitution. Section 16 provided that no act or joint resolution could take effect until 90 days after the adjournment of the session in which it was passed, unless the Maine Legislature, by a two-thirds vote, directed otherwise. Even though the joint resolution did not comply with the 90-day provision in section 16 because it was passed with only a majority vote, the Maine Supreme Court rejected the plaintiffs' argument and held that "section 16 applies to acts and resolves that have the force of law and does not apply to the approval of competing measures that will become law only if approved by the voters." Id. at 419 (emphasis added).

Like the two-thirds majority requirement at issue in Lockman, Nevada's two-thirds majority requirement does not apply to measures that become effective only if approved by the voters. It follows, therefore, that Nevada's two-thirds majority requirement does not apply to joint resolutions proposing state constitutional amendments because such measures become effective only if approved by voters. Therefore, it is the opinion of this office that a joint resolution proposing state constitutional amendments is not subject to the two-thirds majority requirement, regardless of whether the joint resolution "creates, generates, or increases any public revenue in any form." Nev. Const. art. 4, § 18(2).

CONCLUSION

Under the interpretative rule favored by a majority of state courts, the Legislature would be required to comply only with the specific majority voting requirement in Article 16, Section 1 when it adopted any joint resolution proposing state constitutional amendments, and it would not be required to comply with the two-thirds majority requirement in Article 4, Section 18, regardless

of whether the joint resolution "creates, generates, or increases any public revenue in any form." Nev. Const. art. 4, § 18(2).

Furthermore, even under the interpretative rule favored by a minority of state courts, we believe that the end result would be the same. Under both Article 16, Section 1 and Article 4, Section 18, the Legislature may refer measures to the voters by a traditional majority vote, but the measures do not become effective unless approved by the voters. When these substantially equivalent constitutional provisions for referring measures to the voters are interpreted and harmonized together, we believe that any joint resolution proposing state constitutional amendments under Article 16, Section 1 would qualify for the exception from the two-thirds majority requirement under Article 4, Section 18 because the proposed state constitutional amendments become effective only if approved by voters.

Therefore, it is the opinion of this office that a joint resolution proposing state constitutional amendments is not subject to the two-thirds majority requirement, regardless of whether the joint resolution "creates, generates, or increases any public revenue in any form." Nev. Const. art. 4, § 18(2).

If you have any further questions regarding this matter, please do not hesitate to contact this office.

¹ Available at:

https://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/2011/SJR15.2011_2013.pdf.

² See, e.g., 1869 Nev. Stat., File Nos. 1 & 2, at 307 ("Proposal to Amend the Constitution"); 1877 Nev. Stat., File No. 6, at 213-14 ("Conjoint Resolutions"); 1877 Nev. Stat., File No. 23, at 221 ("Concurrent Resolution"); 1879 Nev. Stat., File No. 6, at 149 ("Concurrent Resolution"); 1879 Nev. Stat., File No. 7, at 149 ("Conjoint Resolution"); 1879 Nev. Stat., File No. 26, at 166 ("Concurrent Resolution"); 1903 Nev. Stat., File No. 13, at 232 ("Joint and Concurrent Resolution"); 1903 Nev. Stat., File No. 23, at 240 ("Concurrent Resolution").

³ *Jones v. McDade*, 75 So. 988, 991 (Ala. 1917); *Mitchell v. Hopper*, 241 S.W. 10, 11 (Ark. 1922); *Nesbit v. People*, 36 P. 221, 223-24 (Colo. 1894); *People v. Ramer*, 160 P. 1032, 1032-33 (Colo. 1916); *Cooney v. Foote*, 83 S.E. 537, 539 (Ga. 1914); *Hays v. Hays*, 47 P. 732, 732-33 (Idaho 1897); *State ex rel. Morris v. Mason*, 9 So. 776, 795-96 (La. 1891); *Opinion of Justices*, 261 A.2d 53, 57-58 (Me. 1970); *Warfield v. Vandiver*, 60 A. 538, 538-43 (Md. 1905); *Julius v. Callahan*, 65 N.W. 267, 267 (Minn. 1895); *Edwards v. Lesueur*, 33 S.W. 1130, 1135 (Mo. 1896); *In re Senate File 31*, 41 N.W. 981, 983-88 (Neb. 1889); *State ex rel. Wineman v. Dahl*, 68 N.W. 418, 418-20 (N.D. 1896); *Commonwealth v. Griest*, 46 A. 505, 505-10 (Pa. 1900); *Kalber v. Redfearn*, 54 S.E.2d 791, 793-98 (S.C. 1949); *Moffett v. Traxler*, 147 S.E.2d 255, 258-60 (S.C. 1966).

⁴ In *Guinn v. Legislature*, the Nevada Supreme Court issued two reported opinions—*Guinn I* and *Guinn II*—that discussed the two-thirds majority requirement. *Guinn v. Legislature (Guinn I)*, 119 Nev. 277 (2003), *opinion clarified on denial of reh'g, Guinn v. Legislature (Guinn II)*, 119 Nev. 460 (2003). In 2006, the court overruled certain portions of its *Guinn I* opinion. *Nevadans for Nev. v. Beers*, 122 Nev. 930, 944 (2006). However, even though the court overruled certain portions of its *Guinn I* opinion, the court has not overruled any portion of its *Guinn II* opinion, which remains good law.

Sincerely,
KEVIN C. POWERS
General Counsel

SENATOR CANNIZZARO:

We will open the hearing on Senate Joint Resolution No. 1.

SENATOR BROOKS:

The mining industry has enjoyed special treatment in the *Nevada Constitution*, in one way or another, for over 100 years. This constitutional protection has led to a situation where the mining industry is currently highly profitable, although their effective tax rate to the State last year was less than 1 percent, all while Nevada is experiencing its worst economic crisis in history.

Senate Joint Resolution No. 1 proposes to change that. This resolution proposes to change Article 10 of the *Nevada Constitution*. Under the *Nevada Constitution* in Article 10, Section 5, the Legislature must impose a tax on all net proceeds of all minerals extracted in the State at a rate not to exceed 5 percent, and the net proceeds are not subjected to any other tax. Article 10, Section 5, of the *Nevada Constitution* also exempts mines and mining claims from property tax.

This resolution proposes to amend the *Nevada Constitution* to eliminate the requirements of the Legislature to impose a tax upon the Net Proceeds of Minerals (NPM) extracted at a rate not to exceed 5 percent of the net proceeds. It also eliminates the appropriation of a portion of those proceeds to each county in the State. Instead, this resolution would amend the *Nevada Constitution* to impose a tax on the gross proceeds of all minerals extracted in the State during a calendar year at a rate of 7.75 percent of the gross proceeds and authorize the Legislature to provide, by law, for the taxation of mines, mining claims and the proceeds of all minerals extracted in this State.

Under this resolution, the tax on the gross proceeds of minerals extracted in the State during each calendar year would begin on or after January 1, 2023. The amendment to the *Nevada Constitution* proposed by this resolution would provide that the majority of members elected to each House is necessary to pass any provision of a bill that enacts or amends a law providing for the taxation of mines, mining claims or the proceeds of minerals extracted in the State in a manner that creates, generates or increases any public revenue in any form.

This resolution would also provide that a two-thirds affirmative vote from each House would be necessary to pass a bill to reduce the rate of, or provide an exemption from, the tax on gross proceeds of minerals extracted by a particular class of taxpayers or imposed on a type of mineral extracted. Under the proposed amendment by this resolution, 50 percent of the tax proceeds on the gross proceeds of minerals extracted in this State would be accounted for separately in the State Treasury and exclusively used to fund a program to make payments to eligible persons domiciled in this State. The remaining 50 percent of the proceeds of this tax would not be restricted by the provisions of the *Nevada Constitution*.

If this resolution is passed during the 32nd Special Session of the Legislature, it must also be passed by the next Legislative Session, approved and ratified by the voters in an election before the proposed amendment to the *Nevada Constitution* becomes effective.

Mining, an important part of Nevada's history and heritage, plays a vital role in our State's economy, especially in rural Nevada. The methods of mining have changed and modernized over the years. The minerals we mine are even changing. The way Nevada taxes mining needs to change as well.

SENATOR GOICOECHEA:

I understand what the intent is. My concern is how would local governments apply a property-tax rate? It is exactly why we have had the net proceeds, and that is why it is structured how it is. It is technically based on the mineral load, land values and the values within the ore body. Explain how local government would approach this. Clearly, the sales tax is there, property taxed on any fixtures on the property. How do you value that mine property and assess a property-tax rate to it?

SENATOR BROOKS:

This would give the ability to the Nevada Legislature to enable counties to assess those taxes. Recently, counties got together and petitioned for the Diesel Fuel Tax, and the Nevada Legislature allowed the counties to set that rate. If this is successful in the 2021 Session, we would have to allow the counties to set those tax rates.

SENATOR GOICOECHEA:

I appreciate that, but all counties are under the .364 cap. A number of these counties I represent would be at that cap. This is exactly why net proceeds is structured the way it is in the *Nevada Constitution*. There was no other mechanism to apply a value. If we are going to do this, maybe I can go back to my cultivated lands and call it "third-class grazing." There is a difference in the values of these properties held in Nevada. As I see the distribution, I am struggling with how the counties are going to be kept whole. You need to clarify that the property-tax rate needs to be applied to a fixed value.

SENATOR SETTELMEYER:

In reading this, it looks like it is applied to everything. Net proceeds of mines would become gross proceeds of mines. If I am reading this correctly, it would apply to everything from copper, which has a small margin of error, to geothermal, gravel and lithium. We are trying to develop these technologies, and already a major industry has moved to northern Nevada. Am I reading this correctly?

SENATOR BROOKS:

All of the other minerals would be covered except for geothermal which is treated as mining but not defined as mining in the *Nevada Constitution*. The Legislature would be able to exempt or lower any individual mineral or taxpayer class based upon circumstances the mineral or taxpayer class experiences.

SENATOR SETTELMEYER:

So, the Legislature will have the ability to pick winners and losers.
Are there any other industries in the State of Nevada taxed on its gross?

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

The most obvious one is the gaming industry which has the monthly tax paid based on their monthly gross gaming revenue. There is the Commerce Tax, which was approved in Session 2015, which taxes the gross revenues of businesses. This is broad-based in terms of all of the types of businesses it includes. There are 26 different tax categories on gross revenue in terms of the type of business and the rate assessed. This does not apply unless there is more than \$4 million gross revenue in a fiscal-year tax period. Those are the businesses taxed on a gross revenue point of view.

There are other types of taxes imposed on the value or, in a sense, a gross revenue from business activity. The Transportation Connection Tax sometimes referred to as the Uber and Lyft 3-percent tax. That was put in place a few Sessions ago. This tax is passed onto the consumer in the value. You can see where it can get tricky. The Commerce Tax and the Gaming Tax are the two obvious gross revenue taxes for the operations of their businesses.

SENATOR SETTELMEYER:

I thought gaming taxes was based upon the win, not on the concept of the gross, and could modify deductions with their Modified Business Tax, and things like that, off of the Commerce Tax, or am I incorrect?

MR. GUINDON:

The way the tax works, the win is their gross revenue. The win is what the house keeps from wagering that is occurring on electronic gaming devices or table games. Adjustments are made for the tax through the credit play, and that credit is not taxable until it is collected, which makes sense from a taxation point of view. There are no adjustments for expenses against the gaming-percentage fee tax. There are adjustments for credit play in terms of determining taxable gaming revenue. The starting point is the gross gaming revenue, which is what they receive from winnings of the gambling activity each month.

SENATOR HANSEN:

How is this related to COVID? According to the *Nevada Constitution*, this is supposed to be a Special Session based on extraordinary circumstances. This is not related to COVID and is not so special that we have to rush this through during this Special Session. Could the bill's sponsor please address the urgency?

SENATOR BROOKS:

Resolutions are not included in proclamations for Special Sessions.

SENATOR HANSEN:

There is no urgency, and this is a matter of convenience. I object. At this point of the Session, it is not appropriate to bring this up. We just received this about an hour ago and it would make a

major change in the *Nevada Constitution* tax structures. This will kill rural Nevada and rural governments.

We are also putting in a constitutional provision which removes the Gibbons Tax Restraint Initiative and going to inverse it. Instead of requiring a two-thirds vote for a tax increase, we are now going to require a two-thirds vote to remove a tax increase.

SENATOR BROOKS:

Specific to the resolution for this industry, it would require a two-thirds majority vote to lower or exempt what would be the default tax rate.

SENATOR HANSEN:

Do we have anyone from Legal who can answer this question? If this resolution passes, it would be in conflict with the Gibbons Tax Restraint Initiative. How would this take precedence over that?

BRYAN FERNLEY (Legislative Counsel, Legislative Counsel Bureau):

The rule of construction, which would apply, is the provision that allows tax on the gross proceeds of minerals set forth in this joint resolution. It would be a more specific and recently enacted provision that would prevail over the other provision requiring a two-thirds for bills that create, generate or increase public revenue.

SENATOR HANSEN:

Thank you for the explanation. I object to this process being included in the Special Session.

SENATOR KIECKHEFER:

Is it possible under the gross-tax scenario we are envisioning that a 7.75-percent levy on gross revenue could exceed pretax profit for small mining companies?

MR. GUINDON:

Are you asking me could a small mine have a net profit or net income but for having the gross tax?

SENATOR KIECKHEFER:

Could we be taxing them into unprofitability?

MR. GUINDON:

That is a difficult question for me to answer. Is it possible? Yes. Based on the calendar year 2019, actual data of the 104 mines that filed reports, around 40 mines had deductions allowed under current law that were greater than their gross proceeds. They, therefore, did not pay any tax. If you move it over to the gross side, they would pay taxes since it is not dependent upon the net. If their expenses were already greater than their revenue, this would compound that. There could be situations where this tax could affect the viability of a business. This could be said for any tax imposed upon a business. The tax would be an expense to deal with at their margin to the extent they could pass it on to their customers, or not, through price mechanisms.

SENATOR KIECKHEFER:

For many years, I have objected to fixing tax policy in the State Constitution and providing broad discretion to the Legislature, as an entity, that should have the authority to set tax policy for our State. Why do you want to continue having industry-specific tax policy in the *Nevada Constitution* and why a gross-revenue tax rather than a severance tax or other taxing mechanism that could be used?

SENATOR BROOKS:

That was contemplated when looking at the ability to exempt or lower a tax rate based on the operating circumstances of a mine or mineral so that scenario you just described does not take place. Regarding this being a constitutional change as opposed to something else, using the same protections that have existed for generations in mining, we wanted to change that paradigm. Senate Joint Resolution No. 1 creates a requirement for mines to pay a minimum based upon the Legislature's ability to set what that minimum is, not cap that number and have our hands tied by

the *Nevada Constitution*. There is enough flexibility in the proposed amendment to allow the Legislature to regulate what that rate is and how it is applied.

SENATOR HARDY:

Businesses like stability. Mines that currently can stay open are staying open, and this would put them in a different position.

My question comes from the phrase "... used exclusively to fund a program to make payments to eligible persons domiciled in this State." Are there people domiciled in another state that we have a financial obligation for? This would put that at risk. And put this in the *Nevada Constitution*? Is this "a" program, or is this "any" program? Is this legalese for "a" meaning "any" and "eligible" persons have to be domiciled in Nevada to use the money produced by this tax?

MR. FERNLEY:

This provision of the *Nevada Constitution* would require the Legislature to establish the program with eligibility criteria. The one restriction would be that payments would only go to persons domiciled in Nevada. This residence must be in Nevada, and it is the residence they keep and return to. The Legislature would have discretion to establish this program and the qualifying criteria for someone to receive a payment pursuant to the program.

SENATOR HARDY:

What is the program we are envisioning to be funded by this tax?

MR. FERNLEY:

It would be a program established by a future Legislature after the amendment became effective, or it could be established by a companion bill to this constitutional amendment.

SENATOR HARDY:

What program takes that much money?

MR. GUINDON:

It would be up to the Legislature to decide what program these earmarked funds of this 50 percent would go to. Going to the residents, they would have to credit construct for the amount of money that comes from the 50 percent and allocated it to whom the Legislature decides to be the eligible persons. The program will be determined by the Legislature.

SENATOR HARDY:

Looking at all of these mines on your current tax sheets, how much money are we looking at to use for a program?

MR. GUINDON:

Using actual data reported to the Department of Taxation by mining operations for calendar year 2019, as was discussed in the 31st Special Session, in a static analysis, had the 7.75-percent tax on gross proceeds been in place, it would have generated approximately \$607 million. Holding the amount distributed to local governments, as well as school districts, and the State debt rate harmless, it would have left \$541 million of the \$607 million available to be split 50/50 between the General Fund and this other fund for the program to be established by the Legislature. Fifty percent of that \$541 million would be approximately \$271 million. Had this been in place in 2019 and based on the gross proceeds of \$7.8 billion, the \$271 million would have been the 50-percent portion allocated to this fund and distributed out to the eligible persons as determined by the Legislature.

SENATOR HARDY:

That \$271 million would be done away with the current net proceeds. Minus the net proceeds, how much would we have, or does this get rid of the net proceeds?

MR. GUINDON:

No. This would be the 50-percent portion earmarked for this fund. The Legislature can establish the program to allocate to eligible persons. The other 50 percent, that \$271 million, would go to the General Fund. Under the current law, we received about \$57 million. The net increase to the

General Fund would have been about \$213 million had this been in place for calendar year 2019 and for Fiscal Year 2020 taxes. The General Fund increase in revenues from minerals would have been approximately \$213 million over what we currently receive under current law.

SENATOR HARDY:

How much do we currently pay in Medicaid?

MR. GUINDON:

I do not know the answer to that. I am the revenue guy, not the expense guy.

SENATOR HARDY:

What big program could we put \$271 million in? Do you have a program that uses that much money right now?

MR. GUINDON:

There are several programs that are part of the budget. There is K-12 education, or any program the Legislature would decide to allocate these additional funds to. Prior to the virus impact, the budget was approximately \$4.5 to \$4.6 billion. Clearly, there are new programs this money could go toward, for that matter.

SENATOR SEEVERS GANSERT:

I have some fiscal questions. You mentioned there are 104 mining companies on our sheets paying taxes, and there are 40 whose expenses exceed their revenue. Potentially, this could put them out of business since they are not currently making a profit. How many mines are there within the 7.75 percent of making a profit? By requiring the 7.75, you just increase their expenses 7.75 percent of their gross. How many mines are within that range as well?

MR. GUINDON:

I have not calculated that analysis. In trying to quickly look at some of this data today, based on the calendar year 2019, approximately four mining operations have zero net proceeds. That means their deductions were at least equal to or greater than their gross proceeds. They did not pay any mining tax. They may have had net proceeds in the positive, but it was not much. I know this is semantics, but I cannot necessarily use the word "profit" here. These are net proceeds. These expenses are allowed under current statute that determine net proceeds. I am unaware if these are the same expenses a mining company gets for reporting their income to the United States government for income-tax purposes or what they would do from an accounting point of view to determine profits. I am talking about what is a net proceeds concept, which is statutorily allowed deductions plus the proceeds. If it is negative and there are additional expenses they would deduct that are not allowed under the net proceeds, it would exacerbate the expenses over what they actually receive for selling the mineral they are extracting.

SENATOR SEEVERS GANSERT:

You mentioned this would potentially produce \$607 million, and you talked about the hold harmless. The total the State is receiving for both the local and the General Fund is about \$114 million, and that would grow to over \$600 million a year. Is that correct?

MR. GUINDON:

Based on the actual calculation from calendar year 2019, in Fiscal Year 2020, the State received approximately \$57 million in General Fund revenue from the NPM tax. The delta of 50 percent of the net after covering the local governments, the school districts and the State debt-rate portion, was \$541 million. Splitting that 50 percent, \$271 million would go to the General Fund, an additional increment of \$213 million. Under current law, we receive \$57 million.

SENATOR SEEVERS GANSERT:

We get \$57 million and would receive an additional \$213 million. This money would not be split between local governments, and it would be sent to the Legislature. Would the Legislature set up how 50 percent of those taxes would be divided up? You mentioned the hold harmless for local governments, but I do not find that in this bill.

MR. GUINDON:

You are correct. This removes the constitutional provisions with regards to the local portion. As previously stated, the Legislature would decide how and what to do with the amount of taxes on gross proceeds.

That was my decision to staff when I was doing this, to just say, well, let us do the scenario that it would generate approximately \$607 million, or 7.75 percent against the gross of \$7.8 billion, had it been in place in calendar year 2019. Thus, what would be the net amount available if the Legislature made the decision to hold all entities harmless from what they received in Fiscal Year 2020 based on calendar year 2019. That was me doing that math. If this became constitutional law, it would be up to the Legislature to decide what to do with the proceeds from taxes on gross proceeds and how to distribute and allocate them, in some mechanism, to the local governments.

SENATOR SEEVERS GANSERT:

There is no guarantee local governments would get any money with this resolution.

MR. GUINDON:

Not the way I read it in terms of the constitutional provisions. The Legislature would make the decision to take some of the proceeds from the tax on gross proceeds, and decide to provide that to the local governments that were getting money previously under the net proceeds concept.

SENATOR PICKARD:

To the Senator from District 3, you suggested after this was enacted, we could make adjustments to exempt or reduce that with a two-thirds vote. Is that correct?

SENATOR BROOKS:

That is correct.

SENATOR PICKARD:

That presupposes the biennium before the Legislature made that decision, those mines would be subject to the tax as is before any reduction. Is that a fair statement?

SENATOR BROOKS:

Not necessarily. The Legislature has the ability to enact legislation that in the event of the passage of this, certain things would happen. Those certain things could be how we treat the local contribution, which exemptions and reductions could be applied before that tax is actually applied.

SENATOR PICKARD:

This would require a two-thirds vote, correct?

SENATOR BROOKS:

Yes, it would.

SENATOR PICKARD:

Of the 40 mines that could be put out of business, the ones having expenses greater than their gross revenues, how many Nevadans are employed by those 40 mines?

MR. GUINDON:

I do not have that information. That information is part of what is reported in the Net Proceeds Minerals Bulletin published by the Department of Taxation.

SENATOR CANNIZZARO:

We will now open the hearing to those in support of Senate Joint Resolution No. 1. Hearing none, we will now open the hearing to those in opposition to Senate Joint Resolution No. 1.

PATRICK DONNELLY (Director, Center for Biological Diversity, State of Nevada):

While we applaud the Legislature's willingness to address mining taxes and support Assembly Joint Resolution No. 1, we oppose Senate Joint Resolution No. 1. Creating a dividend program where the mining industry is making cash payments to Nevadans will create a host of perverse offences and unlimited political influence for the mining industry.

Mining is destructive for our environment. Some Nevada mines permanently poison the surrounding ground waters, as we have seen in Yerington. Mines result in habitat loss for wildlife. These impacts need to be regulated and ameliorated to ensure mining does not unduly impact our State's ecosystem.

Nevadans directly and personally financially benefiting from a mining industry will create a perverse incentive for the State on the residents here to promote the most expedient and cheapest mechanisms for permitting new mining projects. You could put a per-person dollar amount on any new mining project effectively setting up a legal bribe to facilitate unhindered mining and potentially strip away environmental protections the mining industry might deem too restrictive.

We need to have perspective here. Our back-of-the-envelope calculations show that under Senate Joint Resolution No. 1, every Nevadan at \$150 is up to \$200 a year. Although I will not belittle the value of that for people who are struggling, this will not make a difference between being or not being in poverty. It will not cover one month's rent, and many of us will fritter it away on dinner and drink. Whereas, collectively, that \$300 million could go a long way toward filling in our inadequate education budget or providing healthcare for low-income individuals. That \$300 million is more valuable to us collectively as a society than it is doled out to individuals. We will fight to see Assembly Joint Resolution No. 1 pass into law, but we must oppose Senate Joint Resolution No. 1. Creating a mining dividend creates perverse incentives and will prevent future environmental reforms of the mining industry.

DAGNY STAPLETON (Executive Director, Nevada Association of Counties):

Our opposition is based on section 5.2. Removal of the language in 5.2 would eliminate the portion of net proceeds that go to Nevada's counties. We appreciate the Senator from District 3 and his statement that counties could be enabled to raise revenues if this section was removed, but there is no guarantee this could happen.

If Senate Joint Resolution No. 1 moves forward, companion legislation could provide a substitute for loss of local revenue. Counties have seen a reduction in county revenues including taxes from property taxes. This reduction would specifically impact rural counties. A reduction in net proceeds could adversely impact a broad range of critical county services, such as emergency response, local court systems, human services and elections.

Mining is an important piece of Humboldt County's diverse economy. In 2019, net proceeds were over 25 percent of the total revenues that County received. Only 16 percent of those revenues went into their General Fund. This would be a dramatic reduction for them. In Elko County, net proceeds make up 17 percent of the local fire district's budget.

Nevada Association of Counties oppose any decreases to county revenues, especially during a time when these revenues have already been significantly reduced.

DAVID JENSEN (Superintendent, Humboldt County School District):

I oppose Senate Joint Resolution No. 1. There has been insufficient opportunity for districts and local governments to take a look at this and provide a fiscal analysis.

Gold is sitting at record highs. In 1999, gold prices fell within the \$300 range. Gold is a moving target. It is inaccurate to believe specific levels of revenue can generate \$600 million annually. Revenues can dramatically change based on the international, economic climate. Remember, these are fixed resources. There is only so much gold. At some point, these resources will diminish and go away. If the basis of NPM is to help school districts, those can be set aside to offset future deficits.

An unaddressed component of this resolution is to identify what groups would benefit from it. Listing those as "unidentified" becomes difficult to support. The potential of a hold harmless is not included in this resolution, and so it becomes a presumption and not a true opportunity. I oppose Senate Joint Resolution No. 1 and ask you to not move this forward.

PAUL ENOS (Chief Executive Officer, Nevada Trucking Association):

We oppose Senate Joint Resolution No. 1. This will directly impact the mining industry and the miners, who are some of the best taken-care-of employees in the State when you look at compensation. I grew up in Elko and speak from my own experience working in the mines. My father was a goldminer for 36 years. The mining industry is one of the most responsible, community-oriented industries I know of in Nevada. This resolution will detrimentally impact

supporting businesses that rely on the mines for their customers: the motels, hotels, restaurants and all of the retail businesses in rural Nevada, including my trucking company. We move a tremendous amount of ore from the mines to the mills and processing facilities.

If Senate Joint Resolution No. 1 moves forward, it will be the death of many communities, especially on the I-80 Corridor. I have seen what happens when the price of gold goes down. My father was at Newmont Mining on the Carlin Trend for 27 years. When gold in Nevada became too expensive to produce and make a profit, he went to Indonesia. All of the exploration went to Indonesia, Ghana, East Pakistan which is South Africa and to Australia. Even though gold is in Nevada, it does not mean the mining companies have to operate here. These companies will look elsewhere if it does not make sense for them to make a profit, take care of their employees and drive the tremendous amount of activity they do in the State.

SUSAN FISHER (Nevada Mineral Exploration Coalition; Cyrq Energy):

This pandemic has impacted the Nevada Mineral Exploration Coalition. They depend on financing from international organizations to fund exploration projects in Nevada which create hundreds, if not thousands, of jobs in the State. Much of this has dried up. There is some activity going on, but it has significantly reduced. This creates an uncertain financial market and will stop those dollars even more.

On behalf of Cyrq Energy, we also oppose Senate Joint Resolution No. 1. This is a geothermal company with operations in Reno, Nevada, and Churchill County in partnerships with Ormat Technologies. Cyrq Energy has planned for some expansion in the Reno area for space heating and water heating. This will have a significant impact on their operations as well. We urge you to not support Senate Joint Resolution No. 1.

PAUL MORADKHAN (Senior Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce):

The Las Vegas Metro Chamber of Commerce opposes Senate Joint Resolution No. 1. We have learned several times over the last few decades that relying on industry-specific taxation makes our tax base vulnerable and less diverse. This is a significant tax increase on a specific industry, and we urge you to not pass it during this economic and public-health crisis. If this resolution passes, good-paying jobs in the mining industry will be lost. We are concerned about the direct impact on Nevada families and their communities, especially rural communities. It will also negatively impact several counties, their local governments and residents in those areas.

We oppose the concept in the resolution requiring the Body's two-thirds vote for any lowering of a tax rate. This unprecedented change in tax policy could potentially harm all Nevada businesses in the future. During an economic crisis, employers need support. This type of tax policy will have the opposite effect. Stable taxation should be broad-based and the burden fairly shared. Specific taxation supports volatility in the system. The Las Vegas Chamber supports important services in the State, such as education and healthcare. This is not the right approach and we ask for your opposition to this resolution.

ANDREW MACKAY (Executive Director, Nevada Franchised Auto Dealers Association):

We oppose this matter. Senate Joint Resolution No. 1 will negatively impact businesses and employers that service the mines. Many of our members provide services to the mines and its employees. We have concerns about the policies this resolution will enact. It will have a detrimental impact on our rural auto dealers in Elko, Winnemucca and other areas of the State. We urge this Body's opposition to this matter.

TYRE GRAY (President, Nevada Mining Association):

Since Nevada's inception, the mining industry has been a great partner with Nevadans. In every economic downturn, the mining industry has supported the people of Nevada and has helped the State get through to the other side. Although Senate Joint Resolution No. 1 is presented as a tax increase, it is destined to destroy Nevada's mining industry.

There are at least 40 unprofitable mines across the State. There are dozens of others who, with the passage of Senate Joint Resolution No. 1, will be put in the exact same position. Not all of the expenses incurred by a mining operator are deductible under NPM. Even the deducted amounts do not account for the true cost of mining operations in Nevada.

It is well known that the mining industry accounts for over 30,000 jobs both direct and induced. These are highly-compensated employees who are spread throughout the State. Many in rural communities where the mines are the major employer, major contributor of taxes and key partner in education. What happens to these people? Do they just shift from the mine rolls to the State unemployment rolls? What happens to these communities? Do they lose their financial independence and look to Clark and Washoe Counties for supplementation of these lost revenues? More importantly, what happens to these children and their education?

The mining industry supports Nevada. We have been at the table willing to discuss and figure out how we can best help, but this is not the vehicle. Senate Joint Resolution No. 1 is bad for Nevada.

MARY WALKER (Lyon County):

We oppose Senate Joint Resolution No. 1. We are concerned about the loss of good-paying jobs the mining companies provide and the effects to the rural economy if mining takes a devastating hit.

Mining companies pay a large sum of sales tax on their equipment, primarily out-of-state sales. Mining companies buy huge pieces of equipment from different states. When the equipment comes into Nevada, it is taxed. That tax goes to the Consolidated Tax for local governments, and it is split statewide. Clark County, Las Vegas, Henderson, Washoe County and Reno all receive a portion of this out-of-state sales tax from mining, and it is a significant amount. When mining is doing well, it typically means the rest of the economy is not. In a recession, mining is one of the bright lights we have to carry us through. We appreciate the Senator from District 3 and his comments about replacing any money the local governments would lose. If mines are unable to purchase large pieces of equipment and provide sales tax statewide, an analysis should be done of how much revenue would be lost to Clark County, Washoe County and everyone else in the State. Further work will need to be done if this resolution passes.

JAMES WADHAMS (Newmont Mining Company):

The Newmont Mining Company has operated on the Carlin Trend for several decades and is partnered with Nevada Gold Mines in a joint venture. I speak solely on behalf of Newmont Mining Company.

Mining has always responded when requested. The difficulty with this resolution is that the anticipated income may not meet the expectation and make the mining industry unsustainable. We have concerns about the language and provisions in this resolution. As we come out of this crisis during which our economy has suffered due to major shutdowns of the primary industry in the State, it suggests we need to look for new revenue sources. We should look at diversifying rather than depending on a single source. The difficulty presented by this resolution is that it takes the one source that may be somewhat countercyclical and could put it out of business. We lose that other point in making our tax base more diversified. I urge you to vote "no" on Senate Joint Resolution No. 1.

SENATOR CANNIZZARO:

We will now open the hearing to those neutral to Senate Joint Resolution No. 1.

ANNETTE MAGNUS (Executive Director, Battle Born Progress):

We are in a neutral position. All revenue options are critical for our State to consider and have on the table. We are concerned about the environmental impacts for our State. As we have seen in the history of Alaska, abuse has been shown in a system similar to this. We thank you for keeping revenue options open. We look forward to further discussion on this resolution as well as Assembly Joint Resolution No. 1, which we prefer. We all agree mining must pay its fair share, especially at a time when mining is doing so well. Corporate welfare should not be allowed in our State.

KYLE DAVIS (Political and Policy Director, Nevada Conservation League):

The Nevada Conservation League is neutral on Senate Joint Resolution No. 1 in its current form. Although we appreciate the Body's efforts to find additional revenues for our State during these tough budget times, Senate Joint Resolution No. 1 contains problematic provisions that could hinder Nevada's ability to protect our environment. The revenue proposals aimed at mining

considered by this Body have not contained similar proposals. Many other western states have budgets dependent on oil and gas extraction. Alaska has a mechanism similar to the one contemplated in Senate Joint Resolution No. 1, which provides payments directly to Alaskans. These provisions make Alaska and its residents in favor of increased resource extraction no matter the environmental consequences.

We are concerned about the creation of a fund that does not help fund the State's crucial programs but, instead, creates a program that incentivizes resource extraction no matter the environmental and social costs.

We support increasing the mining industry's revenues to account for the value of natural resources taken from our State. Nevada spends less than 1 percent of our General Fund on conservation and environmental protections. Increased revenues from the mining industry could help remedy this situation. We welcome the opportunity to work with the Legislature and craft legislation to meet these goals.

Senator Brooks moved to do pass Senate Joint Resolution No. 1.

Senator Cancela seconded the motion.

Remarks by Senator Hansen.

I do not believe it was intentional, but Mr. Guindon, Legislative Counsel Bureau staff, indicated that the gross gaming tax is a gross tax. Later, he said it was a winning portion and not based on the gross. For the record, gaming does not pay on their gross. They pay on their net.

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

SENATE CANNIZZARO:

We will open the hearing on Assembly Bill No. 1.

MR. FERNLEY:

After every Legislative Session, the Legal Division of the Legislative Counsel Bureau undertakes the project of codifying bills enacted and approved by the Governor during the Legislative Session into the Nevada Revised Statutes (NRS). The goal is to provide an easy-to-access and easy-to-understand compilation of Nevada's statutory laws. In conducting that process, it sometimes becomes necessary to correct technical, clerical or typographical errors found in the bills. Assembly Bill No. 1 asks the Legislature to ratify some of the technical corrections made during the codification of these bills enacted during the 2019 Legislative Session. I will walk through each of the corrected bills and the manner in which those corrections were made.

Assembly Bill 431 of the 80th Session revised the right to vote of convicted persons so any convicted person not incarcerated, including those persons placed on probation, granted parole, granted a pardon or released from prison, after completing a sentence of imprisonment, is immediately restored the right to vote. The bill inadvertently failed to include this restoration of the right to vote in the correct section of NRS. To correct this clerical error and insure the intended persons are restored the right to vote, NRS 213.157 was codified to clarify that a person who was placed on probation, granted parole or granted a pardon is immediately restored their right to vote. This makes the section consistent with other provisions of the bill. Nevada Revised Statute 293.540 was also codified to clarify a person's right to vote would only be suspended if the person is incarcerated. Section 7 of Assembly Bill 431 of the 80th Session, which is contained as a reviser's note in NRS, was codified to clarify that any non-incarcerated person convicted before the effective date of the bill who has not had their right to vote restored is also restored the right to vote.

Senate Bill 151 of the 80th Session, section 1.7, increases the period for a tenant to take action after receiving a notice to pay rent or surrender the premises from at or before noon on the fifth full day before the close of business of the Court that has jurisdiction on the seventh judicial day. Sections 1 and 1.7 maintained this time period for tenants of commercial premises, but Senate Bill 151 of the 80th Session inadvertently failed to amend accordingly NRS 40.2512 to account for a residential tenant. To correct this technical error, section 4 of the bill amends NRS 40.2512

to include the applicable periods within which a tenant who is in default of a payment of rent is required to pay the required rent or surrender the premises.

The final technical correction was made to Senate Bill 161 of the 80th Session. This bill exempts Internet lenders who make loans exclusively through the Internet from certain requirements through maintaining a licensed office, or place of business in Nevada. It also prohibits conducting business and making loans in the same office where other businesses are conducted. These sections of Senate Bill 161 of the 80th Session inadvertently excluded the word "business" and failed to refer to an "Internet business lender" who makes "business" loans exclusively through the Internet. To correct this typographical error, sections 5-7 of Assembly Bill No. 1 amend the relevant sections of Senate Bill 161 of the 80th Session to use the term "Internet business lender" and defines the term "Internet business lender" to mean "a person who makes business loans exclusively through the Internet."

SENATOR HANSEN:

If someone is currently incarcerated but has been released due to COVID concerns, if this bill passes as is, does that mean they can vote now?

MR. FERNLEY:

It depends on the reason they were released. If they were granted parole, they would be restored the right to vote. If it was a home-release program or a furlough, that would not apply. The bill only refers to being placed on probation or granted parole.

Senator Brooks moved to do pass Assembly Bill No. 1.

Senator Cancela seconded the motion.

Remarks by Senator Hansen:

I am voting "no." I am opposed to people who have not completed their sentence voting. I voted against it last Session. This does not rise to the standard of extraordinary concerns and should be dealt with during the regular Session.

Motion carried. Senators Hansen, Pickard 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 6:18 p.m.

President Marshall presiding.

Quorum present.

REPORTS OF COMMITTEE

Madam President:

Your Committee of the Whole, to which were referred Senate Joint Resolution No. 1; Assembly Bills Nos. 1, 2, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

NICOLE J. CANNIZZARO, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Cannizzaro moved that Senate Joint Resolution No. 1 be placed on the General File for the next legislative day.

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

Motion carried.

Senate in recess at 6:20 p.m.

SENATE IN SESSION

At 9:02 p.m.
 President Marshall presiding.
 Quorum present.

MESSAGES FROM ASSEMBLY

ASSEMBLY CHAMBER, Carson City, July 31, 2020

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 4.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 4.
 Senator Ratti moved that the bill be referred to the Committee of the Whole.
 Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Cannizzaro moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering Assembly Bill No. 4 and other matters as outlined in the Governor's Proclamation, with Senator Cannizzaro as Chair and Senator Ratti as Vice Chair.

Motion carried.

IN COMMITTEE OF THE WHOLE

At 9:05 p.m.
 Senator Cannizzaro presiding.
 Assembly Bill No. 4 and other matters as outlined in the Governor's Proclamation considered.

The Committee of the Whole was addressed by Senator Ohrenschall; Kevin Powers, General Counsel, Legal Division, Legislative Counsel Bureau; Senator Goicoechea; Senator Settlemeyer; Barbara Cegavske, Secretary of State, State of Nevada; Wayne Thorley, Deputy Secretary of State for Elections, State of Nevada; Senator Hardy; Senator Hammond; Senator Pickard; Senator Hansen; Senator SeEVERS Gansert; Joe Gloria, Registrar of Voters, Clark County, Nevada; Senator Kieckhefer; Senator Washington; Senator Ratti; Senator Spearman; Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada; Lindsey Harmon, Executive Director, Planned Parenthood Votes Nevada; Emily Persaud-Zamora, Executive Director, Silver State Voices; Guillermo Barahona, Civic Engagement Director, Chispa; Adrienne Michelson; Cecilia Alvarado, Nevada State Director, Mi Familia Vota; Chris Daly, Nevada State Education Association; Christi Cabrera, Policy and Advocacy Director, Nevada Conservation League; Eric Keng, Director, Outreach for Asian Community Development Council; Marlene Lockard, Nevada Women's Lobby; William Leford, Director, Lutheran Engagement and Advocacy in Nevada; Matthew Kimball; J.D. Klippenstein, Executive Director, ACTIONN; Briana Escamilla, Nevada State Director, Human Rights Campaign;

Holly Welborn, Policy Director, American Civil Liberties Union of Nevada; Beverly Harry; Jim DeGraffenreid, Vice Chairman, Nevada Republican Party; Dainer Bailey; David Gibbs; Logan Gifford; Joe Acosta; Jesse Law; Kimberly Fergus; John Young; Lee Hoffman; Matthew Myntognest; Gail Combs; Andrea Young; Maureen Morris; Jimmi McKee; Theresa DeGraffenreid; Janet Freixas, President, Nevada Federation of Republican Women; Unidentified Testifier; Frances Deane, Nonpartisan Network of Nevada.

SENATOR CANNIZZARO:

We will open the hearing on Assembly Bill No. 4.

SENATOR OHRENSCHALL:

This bill is a critical measure to insure our election system can endure the State's current crisis as well as emergency situations our State may face in the future. This legislation will provide for the successful conduct of elections during emergencies and disasters. Nevada has never experienced such a public-health crisis. During this critical election year, we must make sure that the right to vote and democracy are protected.

Assembly Bill No. 4 gives our State the flexibility to insure scheduled elections can go forward and take place even during a State of Emergency or Declaration of Disaster. This allows every voter to have the opportunity to vote by mail if they choose. If constituents prefer to vote in person, the bill allows them to vote in person during the early-voting period or on Election Day. Assembly Bill No. 4 sets forth a Legislative Declaration stating if an emergency or disaster occurs, Nevada's election officials will conduct elections safely and securely and voters can fully participate without fear for their health, safety and welfare. Assembly Bill No. 4 addresses numerous procedures related to early voting: including polling places on Election Day, voter registration, mail-in ballots, absentee ballots, election costs and the counting of ballots in the context of running elections during a Declaration of Emergency or Disaster. I urge the Committee's support. This critical legislation ensures our constituents can safely cast their vote in this time of crisis.

KEVIN POWERS (General Counsel, Legal Division, Legislative Counsel Bureau):

The Legal Division is a nonpartisan legal agency. We do not support or oppose any piece of legislation, policy or viewpoint. Instead, we provide the Legislature, and its members, with objective legal advice regarding the legislation, whether it is constitutional or it is legal, with facts or consequences. I am before you today to explain this piece of legislation, its legal mechanics and some of the legal effects and consequences if the Legislature were to adopt this legislation.

It is important to understand how the existing statutes are set up with regard to elections in Nevada. Elections are covered by several chapters of NRS in Title 24 of NRS. Chapter 293 governs all elections, to a certain degree, and generates procedures. There is Chapter 293C of NRS which applies to cities. Cities are either created by general law, by a charter creating the commission of government or by a special charter enacted by the Legislature. Due to the differences between cities, counties and states, there are different provisions in the law that supplement general procedures but apply specifically to those cities.

The way the statutes are set up, when you are dealing with the mail-in-type ballots, it would be absent ballots, mail-in precinct ballots or military ballots overseas. There are three subheadings in Chapter 293 of NRS. In 293C of NRS, there are similar subheadings. The result is, when you want to create a uniform procedure dealing with mail-in ballots, you need to amend every one of those areas of law. You end up having six different sections with repetitive language in them. This explains why the bill before you is so long.

Sections 2-27 are the bulk of the bill when it comes to elections affected by emergencies or disasters. The rest of the bill following those sections, 28-84, goes through the existing sections of NRS and puts in the same procedures for absent ballots, mail-in precinct ballots and any other type of mail-in ballots. Although the bill is lengthy, the reason is having to repeatedly address similar sections of law so there are uniform procedures for these types of mail-in ballots.

Sections 2-27 are the heart of the legislation. This legislation is tied to a Declaration of Disaster or Declaration of Emergency by the Governor under existing law. The trigger for this legislation is in section 8 of the bill, and we will address three separate subsections in section 8. Subsection 1 of section 8, if the Governor or the Legislature by resolution issues a Declaration of Disaster or a Declaration of Emergency that applies to the entire State and that Declaration is in effect on a particular date set by statute before the election, it will be an affected election. The provisions of sections 2-27 kick in and cover the operation of that election. Subsection 1 is automatic if the statewide emergency is in effect on that particular date preceding the election.

If a Declaration of Emergency or Disaster is issued after those dates set forth in subsection 1 and it is a statewide emergency or disaster, subsection 2 gives the Governor discretion to deem the election an affected election subject to sections 2-27, and those provisions would begin. In order to do this, the Governor must find the emergency would impair the health, safety and welfare of the public in conducting the election and that there was sufficient time before the election to implement sections 2-27 and the federal law provisions dealing with an election. When there is a statewide Declaration of Emergency, it is the discretionary part for the Governor.

In subsection 3 of section 8, this is where a Declaration of Emergency or Disaster only applies to a specific area of the State and not the entire State of Nevada. Under those circumstances, if the Governor finds the emergency would adversely affect the election and the public health, safety and welfare of the people, and there is sufficient time before the election to invoke provisions of sections 2-27, the Governor could order the election in that locality to be an affected election by the Emergency of Disaster and, thereby, be subject to sections 2-27 of the legislation. Those are the triggering mechanisms of the legislation.

In section 85, the bill includes a provision to clarify that sections 2-27 for the affected elections apply to the 2020 General Election. If this legislation is enacted, the emergency provisions of sections 2-27, creating the new election structure under these emergency circumstances, would be applied to the 2020 General Election.

Sections 9 and 10 are sections that provide rules or standards of interpretation to interpret these provisions in conjunction with existing provisions governing elections. Under section 9 or 10, if a provision of another election statute conflicts with sections 2-27 and an election that is being conducted under sections 2-27, sections 2-27 will supersede and take precedence over those other statutory provisions. If, however, there are other election statutory provisions that do not conflict with 2-27, those other statutory provisions still continue to be applied and have to be applied harmoniously in conjunction with sections 2-27. In addition, sections 9 and 10 also clarify when an election is being conducted under sections 2-27. It does not adversely affect the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, which covers military ballots overseas. The provisions of that law, both federal and State, stay in place and operate in conjunction and in harmony with sections 2-27 even during an affected election.

Sections 11-14 set up the required minimum number of polling places each local jurisdiction needs to maintain while they are conducting the affected election. Even though there will be mostly a mail-ballot election, there will be polling places established. Each of these sections establishes a minimum number of polling places in each different jurisdiction for early voting or Election Day voting at vote centers. They deal with same-day registration both for early voting and Election Day and make sure there are same-day registration polling places during those periods. They also provide that if an Indian reservation or colony wants to go through the statutory process of having a polling place on an Indian reservation or colony, there are provisions they can follow. If by September 1, for example, before this election, they invoke their right to having a polling place on the Indian reservation or colony, they can do that under this legislation.

There are provisions in existing law dealing with polling places in residential facilities exclusively dedicated for elderly people. Those provisions are also in place here, and they would be part of an affected election. Those facilities could ask to have a polling place established at that location.

The next provisions of the bill are 15 and 16. Under those provisions, each county and city clerk is required to issue a mail ballot to every active registered voter in their jurisdiction. This would require the mail ballot to go out at a certain time. With regard to those voters entitled to a military ballot overseas, distribution of those ballots generally have to occur no later than 45 days before the election. As part of this mail ballot, those ballots would go out to the military and

overseas voters. The mail ballots would have a certain number of days before the election and would also be issued within the local jurisdiction as well.

Sections 18, 19 and 20 deal with the process of voters voting their mail ballot under the provisions of this bill. Section 18 makes clear that even though a voter has received their mail ballot, the voter can still apply to vote in person at a polling place and either surrender the mail ballot or sign an affidavit under penalty of perjury they have not voted in that election. There is an option, not every person who receives a mail ballot is required to send it back in the mail. If they choose to take that mail ballot to a polling place and surrender it, they can vote in person.

Section 19 names provisions with regard to a voter who is with a physical disability, is at least 65 years of age or unable to read or write. This authorizes that voter to have someone mark and sign the ballot on behalf of the voter or assist the voter in marking and signing the ballot themselves. If a person is involved in assisting a voter, that person must comply with certain requirements, including signing the document that goes back with the mail ballot indicating the name of the person, their address and signature.

Section 20 sets up the process for counting the mail ballots and how they must be timely returned. Mail ballots have to be either delivered to the county or city clerk, dropped off at a ballot drop box, or postmarked on or before the day of the election. The clerk must receive the ballot no later than 5:00 p.m. on the seventh day following the election. Those are the options for returning the mail ballot instead of bringing it and surrendering it in person. There are provisions in section 20 for each county to establish at least one location for a ballot drop box, but that is a minimum. Counties can establish more locations for a ballot drop box. The bill also provides the standards each of the ballot drop boxes must meet. If a ballot drop box is not located at a polling place, the voter can still come in, surrender their mail ballot and vote in person at that voting location.

Section 21 provides that a voter who has received a mail ballot and filled it out can authorize another person to return the mail ballot on behalf of the voter by mail or personal delivery. Section 2, however, also creates unlawful acts a person can engage in who has been given the responsibility of returning the ballot. If that person does anything to impede, obstruct, prevent or interfere with the return of the ballot, deny a voter's right to return the ballot or willfully fails to return the ballot within a certain period of time, that person has created a crime under the election laws which is considered a category E felony. Although a voter can authorize a return of a ballot, someone who is given that responsibility and fails to return it will face criminal liability under certain circumstances and if they act willfully.

Sections 22 and 23 deal with the process of verifying mail ballots when they are returned to the county clerk. Section 23 sets up standards for county and city clerks to determine whether there is a reasonable question of fact as to whether the signature used for the mail ballot matches the signature of the voter. There is a procedure the county and city clerk's use to verify the signature. If there are issues with the ballot and the signature verification cannot be accomplished at that time, or the voter failed to sign the ballot or failed to sign in the proper location, there are procedures for the clerk to contact the voter and give the voter an opportunity to correct or rectify the errors or omissions on the ballot. There is a period during which the voter has to accomplish this. Generally, that period ends on the seventh day following the election at 5:00 p.m. Under those circumstances, the clerk is to contact the voter by mail or by telephone if the clerk has a telephone number on file. If the voter has previously provided the clerk with sufficient information to be contacted by electronic mail, the clerk will use electronic mail for contact.

Sections 24-27 establish the process for the Mail Ballot Counting Board to count the ballots as they come in. The Mail Ballot Counting Board goes through a procedure to verify the ballots are accurate, the voter is entitled to vote, and the voter has not already voted in that election.

The remaining sections of the bill mirror much of what is in sections 2-27 with regard to processing absent ballots and mail-in precinct ballots. Even if it is not an affected election under section 2-27 and those provisions do not apply, the remaining sections of the bill ensure that the procedures for allowing another person to return a ballot, assisting a voter in filling out the ballot, and the signature verification process, those processes have been mirrored under absent ballots and mail-in precinct ballots so there is a uniform set of procedures for all State, county and city elections for mail-in ballots. The reason for the length of the bill is in Chapter 293 and 293C. There

are at least five or six different sections that mirror each other, and all of those sections must be put together in a similar fashion for consistency and uniformity in its application.

Finally, the bill contains a monetary component in section 84. That provision was amended in the Assembly. The provision calls for the transfer of \$3 million of federal money to the Secretary of State, and the Secretary of State will use that money to help local jurisdictions conduct the mail-ballot portion of the affected election during the 2020 General Election. The provision in section 84 also contains a series of provisions that if additional federal money comes in it could be used for the mail-ballot portion of the 2020 General Election. If this legislation passes, section 85 makes clear these provisions, sections 2-27, and the provision transferring money apply to the 2020 General Election.

SENATOR GOICOECHEA:

I would like to go back to section 13, the process on same-day voting in those counties under 100,000, I have a number of constituents who want to vote in person on Election Day. It sounds like they have to carry the mail ballot in with them, surrender that, and proceed to vote in the voting machine as they previously have. Is that how it works?

MR. POWERS:

That is correct. The provision in the bill that deals with surrendering the mail ballot is in section 18, subsection 3. If a voter receives a mail ballot but wants to vote in person and they show up at the polling place during either early voting or Election Day, they have to surrender their mail ballot. If they do not have their mail ballot with them, they can sign an affidavit saying they have not voted in the election. They would be authorized to vote at that point. After the voting, the county or city clerk would verify they did not vote in that election. If a mail ballot were to come in after that, there would be a record of them voting, and the mail ballot would be invalidated. Any voter who receives a mail ballot can bring it into their polling place and surrender it at that time or sign the affidavit.

A voter may also bring a completed mail ballot into a location that has a ballot drop box and physically drop off the ballot at the post office or polling place if there is a ballot drop box available at that location. That is an option.

This bill requires certain jurisdictions to have a certain number of polling places available on Election Day depending on the size of the jurisdiction. These are minimum requirements. No jurisdiction is prohibited from having an additional amount of polling places. It is whatever makes sense for that jurisdiction.

A vote center is a polling place where anyone in the county can vote. Even if the jurisdiction does not have those vote centers, the jurisdiction has to maintain several polling places located throughout the county where voters can go for their precinct and vote at those polling places. Keep in mind that even though there is no vote center, local clerks can create polling places with multiple precincts in them. You do not have to create a separate polling place for each precinct. Voting districts can consolidate precincts. Even if there are no vote centers, you can have five, six, ten or however many polling places you need with consolidated voting districts providing subsets of vote centers where voters can go on Election Day or during early voting and vote at those locations.

SENATOR GOICOECHEA:

I want to be clear on the fact they could walk in, sign the affidavit and vote. It is no different from what we have done in the past, signing a signature to receive the ballot. Many people in rural communities prefer to vote in person.

SENATOR SETTELMAYER:

In section 8 when it states the emergency is in effect. How do we know when a State of Emergency is no longer in place? There is no date or timeframe here. How would we know?

MR. POWERS:

That is controlled by Chapter 414 and the power of the Legislature and the Governor to make the Declaration of Disaster or proclaim the State of Emergency. If the Governor issues a Declaration of Disaster or a State of Emergency by proclamation, it remains in effect until the Governor issues another proclamation terminating the Declaration of Disaster or State of

Emergency. We will know. There is a definite date in existing law, not in the legislation, but in Chapter 414.

SENATOR SETTELMEYER:

Is it safe to say if the Governor does not issue something saying the emergency is over, it would be in perpetuity?

MR. POWERS:

That is a possibility, but it seems unreasonable and unrealistic. The Legislature has the power to come in through a session and end the Declaration of Disaster or State of Emergency if the Governor chose to have the State of Emergency last in perpetuity. The Governor is not the only constitutional officer or entity who has control over the State's emergencies. The Legislature itself has that power as well.

SENATOR SETTELMEYER:

How long will this prolong the counting of this election? How long do you expect we will have to wait? Generally, it is 7:20 at night when we tend to get election results and have a pretty good idea how the election is going. How long will this potentially add to that timeframe?

BARBARA CEGAVSKE (Secretary of State, State of Nevada):

I am joined by Wayne Thorley. I would like Mr. Thorley to talk about this.

WAYNE THORLEY (Deputy Secretary of State for Elections, State of Nevada):

The time it will take to count ballots is wholly dependent on how many voters choose to vote their mail ballot rather than in person. The counting and tabulation of ballots cast in person, using the touchscreen voting machines, is a quick-and-easy process. The process of counting the paper mail ballots take longer. It could take more time if many of the ballots are cast by mail. There is a provision in this bill that allows counties to start counting ballots on the front end, 15 days before the election. In current law, it is 4 working days before the election. The language in this bill would give counties more time on the front end to count ballots they had received which could save time on the back end.

SENATOR SETTELMEYER:

To clarify, 15 days prior to the election date, there will be people who will, potentially, already have an idea of how the results of the election could occur?

MR. THORLEY:

When ballots are counted, the Mail-in Counting Board, which is a bipartisan board appointed by each county clerk or registrar of voters, goes to work and opens and destructs the ballots from the envelopes and start to run the ballots through digital scanners. They will adjudicate or duplicate, as needed, if the ballot is damaged or if there is an over-vote or a voter intent to question. While this is done and the votes are tracked, it is all on the back end of the computer. It is my understanding no one is looking at that information. There is existing law, and stated in this bill, that makes it a misdemeanor to release election results prior to the close of polls on Election Day. That would stay in effect. Even if someone on the counting board did know or had a peek at how the election results were going, they would not be able to release that.

SENATOR SETTELMEYER:

This bill contains an unfunded mandate that was not requested by the affected local government. In the Assembly's version, there is approximately \$3 million of CARES Act funding. Is that enough to cover all of the costs, or will it still be an unfunded mandate to those local governments?

MR. THORLEY:

The \$3 million of the amended version of the bill is for costs related to preparation and distribution of mail ballots pursuant to the provisions of sections 2-27. Let us start with how much the Primary Election cost since we just went through a mostly vote-by-mail election last month. The printing and mailing of a ballot to every active registered voter cost approximately \$2 million. Each ballot's package cost a little over a dollar to manufacture. This includes the envelopes, all of

the materials, including the ballot that goes inside the envelope, and outbound postage. The bill requires mail ballots sent in an affected election to have postage prepaid with ballot-return envelopes included. The cost for that is entirely dependent on how many voters vote by mail and return their mail ballot through the post office rather than drop it off in person at a drop-off location. For the primary election, the business-reply-mail account we created with the post office was charged over \$400,000 for ballot-return cost. Assuming turnout will be larger for the General Election, the ballot-return cost, ballpark figure, \$600,000 to \$700,000. Between ballot printing, outbound postage and inbound postage for ballot return, we are getting close to the \$3 million that is in the bill.

Other activity we undertook for the Primary Election that would be important for the General Election is voter education. Given the significant changes proposed in this bill regarding how voters in this State are used to voting, along with the need to inform voters, given so much misinformation out there, we want to educate our voters. We did so with the Primary, which cost \$750,000. A similar voter-education campaign for the General would cost more. We are thinking about \$1.5 million due to air times. We received a good deal of radio and television advertising when there was hardly any competition for media air time. We expect competition for the General Election. Candidates for federal office will be buying up more media air time. We anticipate a cost of about \$1.5 million for voter education.

The \$3 million would cover printing, outbound postage and return, but it would not be enough to cover voter education. Section 84 states the \$3 million would be for costs related to preparation and distribution of mail ballots, not voter education.

SENATOR HARDY:

This question relates to those who assist persons with a physical disability, 65 or older, unable to read or write. How many people can one person help as an assistant to fill out ballots? Under section 27 would the person who assists would be under the same obligation as the clerk keeping the ballot a secret, or it is a misdemeanor to disclose ballot information before the election? What obligation does this assistant have, and what holds them accountable?

MR. POWERS:

Subsection 3, section 27, does create the misdemeanor for any person who disseminates information to the public pertaining to the count of mail ballots. Someone who assists another voter to prepare a mail ballot would not have information about the actual county or how many votes were going to one candidate. It is true if you helped out multiple people, you would know what candidates were voted for, but they are not involved in the process of counting the ballots.

There is a provision in section 53 of the bill that talks about after voting. A voter cannot show their ballot to another person unless it is a mail ballot, absentee ballot or mail-in precinct ballot. It is all right for a person to show their vote to another person. Once that person has that information, they can disclose the information that person "x" told them who they voted for. That is not prohibited by the law. If it is someone who assists multiple people, they would have information on those multiple people. Keep in mind though, someone who is authorized to assist another person prepare the ballot is limited to someone with a physical disability, at least 65 years of age or is unable to read or write. This is a small subset of population. Nonetheless, it is theoretically possible that one individual could assist multiple people and have information about who those individuals voted for. There are no specific provisions in the bill that prohibits someone who assists the voter from disclosing the information they found on the ballot.

SENATOR HARDY:

The person assisting could share that ballot information and not be held accountable for disclosing the vote?

MR. POWERS:

There is no provision in existing law that prohibits the person who assists from sharing that information with another. The person who assists has to identify themselves in the return mail ballot, give their name, address and provide their signature. As I understand it, there is no provision for disclosure.

SENATOR HARDY:

Nor does this bill propose to do so?

MR. POWERS:

That is correct.

SENATOR HAMMOND:

This bill purports most of the footwork we are dealing with is trying to keep people safe during the age of COVID. After reading the bill and wondering about your capacities and what your office is doing, do you feel you have the resources, the capabilities and tools to maintain a safe and fair election without the passage of this bill?

SECRETARY CEGAVSKE:

The answer is "yes." We have done it. As long as I have been Secretary of State, we have made fair and good decisions with the 17 counties. The 17 counties are taking up the means of getting hand sanitizer and making sure the machines are cleaned after being used. All of these things they need to do, the 17 counties are doing. We have worked with them extensively on this and are proud of their efforts. I would like to have Wayne Thorley, our Deputy for Elections, talk about this as well.

SENATOR HAMMOND:

How long have you had possession of this bill, and how long have you had a chance to review it so I can understand what you know about it?

SECRETARY CEGAVSKE:

I can answer that and then turn this over to Wayne. We received this the same time everyone else did, an hour before it was heard on the Assembly side. We have reached out for the last several months trying to find someone to work with or talk to about this bill to see if we could be helpful. Unfortunately, no one responded to us with regard to working on the bill. Our only input was heard today in the Assembly and then tonight with the Senate. Wayne, would you like to answer these questions?

MR. THORLEY:

Could you please restate your question?

SENATOR HAMMOND:

Given the nature of Assembly Bill No. 4 and what was stated about the need to have a safe election, in your estimation, do you possess the necessary tools to conduct an election in November in a safe and fair manner?

MR. THORLEY:

Yes. The Centers for Disease Control and Prevention has issued guidelines on how to structure polling places for in-person voting and how to work on the tabulation of mail ballots. The Secretary mentioned that counties have been excellent in following these guidelines. We worked on them for the Primary Election. For the General Election, we would continue to follow all of those guidelines from health officials regarding social distancing and the proper wearing of Personal Protective Equipment for our election workers. We would also encourage all in-person voters to wear a mask. There will be hand sanitizer, sanitizing equipment and wipes available for the hard surfaces. plexiglass partitions will be between voters and between election workers so we can make sure in-person voters are kept safe and ensure our poll workers, whom we are extremely appreciative of every year, especially this year, can stay safe during the times they are working the polls.

SENATOR HAMMOND:

Even if we did not pass this bill, the Elections Department at the Secretary of State's Office would be able to conduct an election that is both safe and fair just as you have in the past.

MR. THORLEY:

Yes, we believe so.

SENATOR PICKARD:

In sections 19 and 21, for those who assist others collecting and turning in the ballots, is your office responsible for investigating and prosecuting offenders who are reported to you?

MR. THORLEY:

Our office is responsible for investigating alleged violations of election law. Sometimes, we bring in other offices or law enforcement at both the State and federal level to help us with those investigations. Regarding prosecution, the Secretary of State does not have prosecutorial power. The District Attorney or Attorney General would have that purview to prosecute any violations of election law.

SENATOR PICKARD:

How many investigators do you employ?

MR. THORLEY:

The Secretary of State's Office has one, part-time compliance investigator. We share him with our Commercial Recordings Division to investigate alleged civil violations of election law. The Secretary of State's Office also employs several sworn peace officers, five, I believe. They are employed with the Secretary of State's Security Division, not with the Elections Division. They will assist on election cases as needed.

SENATOR PICKARD:

We are talking about six or seven people responsible for doing all of the investigations in their normal activity plus the part-timer who investigates for your office to cover the entire State.

How do we find out if this has ever happened? I am imagining someone going to active adult communities. There are many volunteers going around helping people to vote. It used to be they would take them to the polling place. Now, it is getting the ballots into the mail or the drop-off box. What is to stop a person from saying, can I help you fill this out and I will take it to the mailbox for you? They help them fill it out and take the ballot. The voter thinks their ballot has been deposited. How do they know if the ballot was deposited? Is there a mechanism either in the bill or in the process of your office that gives every voter a confirmation their vote was put in? It is a felony if they do not drop it off. If it is not reported and no one knows, it is like a foul in a sports game; if it was not caught, it is not a foul. Is that a fair statement?

MR. THORLEY:

With the many aspects of alleged election violations, we rely on members of the public to report alleged violations of election law to us. We cannot be everywhere at once and cannot know everything that goes on at all times. We do have an online form anyone can fill out to register a complaint. If there is an alleged violation of election law, send in the complaint form and attach any evidence to support the allegation. We will take a look at it.

SENATOR PICKARD:

But that presupposes the voter's knowledge of the violation. If they do not know about the violation, it will never be caught, correct?

MR. THORLEY:

Are you asking, hypothetically, if the voter does not know their ballot was not turned in, would that issue ever be caught? Is that the question?

SENATOR PICKARD:

Correct.

MR. THORLEY:

Voters have several options to confirm the status of their ballot and determine if it was received by election officials. Voters in our large counties, for example, Clark County, can log on to their Registered Voters Services Portal and look up all kinds of information. They can verify their registration status or see a sample ballot. They can do several things they can also see when their mail ballot was mailed out and the date the county received it for confirmation. Voters can log on to the Secretary of State's My Voter File, similar to Clark County's Registered Voters Services

Portal, to confirm the county has received their ballot. Any voter can reach out to their county via email or phone call and ask about ballot status. They would be happy to provide the voter the status of their ballot.

SENATOR PICKARD:

The vulnerable population we are talking about serving are much less likely to be sophisticated enough to be able to access those sites. I would submit they will assume their ballot got there, and we have no way of knowing if anything untoward has happened.

SENATOR HANSEN:

When I vote, I stand in line, and there is a voting machine. No one is allowed to stand within several feet of me while I vote. This is to guarantee my ballot is completely safe, impartial and secret. With this new process, especially under section 19, I can see someone going into a rest home and saying almost all of these people qualify for the issues of possible physical disability, being 65 years of age, or possibly being unable to read or write. The potential for not having a secret ballot and the possibility of being pressured to vote a certain way is enormous. Whoever is helping them to fill out the ballot will know exactly how they voted and could encourage or pressure other people as well. The bill, in this section, eliminates one of the most critical things America has developed, to ensure everyone's vote is confidential. This bill eliminates secret ballots and places senior citizens at a tremendous disadvantage. If someone is assisting numerous people to vote in a rest home, it is logical to assume they could encourage them in a certain direction.

Are there any protections to make sure you have a true, secret, safe and secure ballot? That is what is missing in this bill.

MR. POWERS:

Every voter who does not face the situation of needing the assistance of another voter has the right to keep their ballot secret. That voter can also disclose their vote to whomever they want. The person who receives the information can further disclose it to whomever they want. The situation of someone providing assistance to a voter is unfortunate if that voter needs that assistance. The voter selects who would be helping them fill out the ballot and assists them in returning the ballot to the county clerk. It is the voter who controls most of those functions. In situations where a voter feels pressured, same as under any other circumstance of needing the assistance of another, regarding a legal penalty, there is no legal penalty involved in that situation.

SENATOR HANSEN:

Correct. There is no penalty, no oversight and no way to protect people's impartiality when they vote, especially if you are in a senior citizen home or someone who is physically challenged. The potential for abuse is enormous. I am amazed this would be considered after all of the efforts Americans and Nevadans have gone through to protect the concept of a secret, safe ballot. No one has any business knowing how I have voted. If I want to express that to someone, it is my choice. To know at the time I am voting what that is and have the ability to go and use that to influence other people in the same rest home, for example, as to how to vote, it is like going back to the old days when ballots were marked and people could look at the number of the ballot you received and find out how you voted. The concepts in section 19 are ripe for criminality and abuse of people who are physically and mentally challenged. It is frightening we are considering adding this into State law.

SENATOR SEEVERS GANSERT:

It is hard to track in the bill, but if you look at the Legislative Digest starting at line 133, it talks about individuals who can turn in ballots for other people. The Legislature has limited that to family members since 1999. Assembly Bill 614 of the 70th Session stated that people can turn in a ballot on behalf of someone else, but it needs to be a family member. This has been established in statute for over 20 years.

Now, we are amending sections 21, 40, 44, 70 and 75 and allowing someone to turn in a ballot on behalf of someone else. We just had a discussion about those who are disabled and were 65 with certain criteria. When people turn in a ballot on behalf of someone else, they are required to provide a written statement. That makes sense. We should have an information-gathering database

of who, other than a family member, is turning in ballots. It would be a good amendment to ensure ballots are secure. Many people are concerned about ballot harvesting, mass quantities of ballots being turned in by people who do not know the voters, unlike what we have long established with family members. If we can keep that information and treat it like we have people with disabilities, it might be a solution for this issue.

In section 26 it talks about the roster must show someone has voted. Is this an electronic roster? How do we keep track as we are getting ballots? When we early vote, we purge the databases so we know who votes every day. Is this 15-day, early-count system going to be the same or similar as when you early vote? Is it going to be documented on a roster? Is that an electronic roster able to be uploaded and will that information become available?

MR. THORLEY:

This question is better for Mr. Gloria to answer. I would like to correct a previous statement I made. I received a text message, and we have seven sworn law-enforcement officers in the Security Division of the Secretary of State's Office.

SENATOR SEEVERS GANSERT:

Going back to the question for Mr. Gloria, how are we marking the roster voted when we are doing early counting of ballots?

JOE GLORIA (Registrar of Voters, Clark County, Nevada):

It is tracked electronically. Every ballot is scanned electronically and immediately tagged as to whether the signature is good, or it goes into a status of "RM" or "RS," which is missing signature or signature not matching. Ballots that pass on the first go-around with a good signature are marked voted and sent to the county board to separate and tabulate. This is how it is marked in the system, and that is how we are able to tag the Registered Voters Services where voters can verify the date their ballot was verified, processed and counted.

SENATOR SEEVERS GANSERT:

What happens when you get a duplicate? If someone turns in their mail-in ballot and it turns out that same person supposedly votes in person, what happens then? Which one is the valid vote? Do you have to go back and find that ballot to check the signature if it has been turned in by hand? I suppose the electronic might happen first. If someone turns it in, you would not know until the envelope was opened. Do you have an issue with duplications?

MR. GLORIA:

Are you referring to duplicate mail ballots, which is the scenario that does occur from time to time, or when someone sends the mail ballot in and shows up to vote in person at one of the early vote sites or on Election Day?

SENATOR SEEVERS GANSERT:

More likely the latter.

MR. GLORIA:

Since we are sending ballots out to all of the voters, anyone who shows up in person will have to either turn the ballot in or sign an affidavit affirming they will not send their ballot in or count it. At that point, it is marked in the system. That ballot's sequence number and ballot identification, if scanned in, will not process to be counted and will be rejected as spoiled. We will then take the in-person vote on the voting equipment, whether it be early voting or on Election Day. The poll book system tracks all of it, and we are able to prevent dual votes in that manner.

SENATOR SEEVERS GANSERT:

Regarding the changes in sections 21, 40, 44, 70 and 75, is there a way to have an affidavit or something signed when someone brings in a ballot on behalf of another? If it is not a written statement, is there a way to track who delivers ballots on behalf of individuals outside of their family? Since we already do written statements for people with disabilities, it would not include that. If someone came in with a number of ballots, is there a way for them to indicate they had the permission to turn in those ballots?

MR. GLORIA:

Whatever the bill's language dictates as the process to us, we can implement. There is no reason why we could not if an amendment is made to change that language.

SENATOR KIECKHEFER:

How did we come up with the number of early voting locations and vote centers we have established as the minimum standard?

SENATOR OHRENSCHALL:

To determine the number in the bill, we tried to look at a minimum for the two most populous and the least populous counties that would be workable and comparable to past elections and something they could find enough people willing to work during the emergency situation.

SENATOR KIECKHEFER:

How many early voting locations do you generally have for a standard General Election?

MR. GLORIA:

During the 2018 General Election, we supported 33 sites during the early voting period. On Election Day, we supported 172 vote centers. Our plans for the General Election are to increase the number of early voting sites to 35, 32 of which will be 14-day, permanent, long-term sites at government facilities. Three of those will be mobile teams. On Election Day, we have trimmed that number down to 159 sites for both vote centers on Election Day in Clark County.

SENATOR KIECKHEFER:

Based on your plans for the 2020 General Election, will you be able to accommodate as many in-person voters as you did in 2018?

MR. GLORIA:

Our concern is proper social distance requirements at these sites could impact what we normally would have been able to process. At the Galleria Mall, we set up 45 machines and 12 laptops. We may not be able to set up the same amount of equipment at some of these sites. This translates to being unable to process the same amount of voters. In the last couple of days for the 2018 General, we processed between 4,500 and 5,000 voters at the Galleria Mall. It is an efficient operation. We cannot guarantee we will be able to do the same for the 2020 General. Unfortunately, I cannot tell the future, so there is no guarantee.

We will work hard to meet the minimum requirements in the language of the bill. One reason why it is critical we proactively make the determination to provide a mail ballot is we do not know if there will be a spike in the COVID-19 pandemic. We are within the timeline to work with our vendor and insure we can get about 1.2 million mail ballots sent out to our voters. If we get to the middle September or early October, it will be too late to turn on a dime and get our vendor to produce that many ballots at that time. We are going to work hard to get workers to support those sites. If something happens and the pandemic increases and we have no control over it, we at least know mail ballots are in the hands of the voters.

SENATOR KIECKHEFER:

What is the current deadline for a voter to request a mail ballot? There is nothing that prohibits a voter from requesting a mail ballot under current law, correct?

MR. GLORIA:

Outside of the language of this bill, it would be 14 days prior to the election for a domestic voter to request a ballot. Military and overseas ballots can be requested until the seventh day before the election.

SENATOR KIECKHEFER:

Would you order all mail ballots from the same vendor at the same time would this include all of the overseas and military ballots as well as for all of your Clark County voters?

MR. GLORIA:

It would be the entire voter file for active registered voters we have at the time. We are ready to begin work with printing. They would immediately start preparing to get the ballots ready for our first deadline, which is the 45-day federal, overseas requirement. Out-of-state is 40 days prior and everything local is 20 days prior to the election. We would be preparing to send all of the ballots out from the beginning.

SENATOR KIECKHEFER:

Do you have a deadline from your vendor as to when you need to place that order to meet the 45-day requirement for the overseas and military ballots?

MR. GLORIA:

As long as we can give them that file by the third or fourth week of August, we should be in good shape.

SENATOR KIECKHEFER:

In section 8, discretion is given, and it would be the Governor's decision as to whether an all-mail election would occur. Why is that discretion given to the Governor rather than the Secretary of State who controls elections in Nevada?

SENATOR OHRENSCHALL:

Chapter 414 of the NRS, dealing with Emergency Declarations and Declarations of Disaster, states those can be declared by either the Executive or the Legislature. We are a part-time Legislature meeting 120 days every 2 years. When we cannot meet, the Governor is the constitutional officer who has that ability. This power was vested in the Governor based on the power he has in Chapter 414. Section 8 allows for the election to be preserved even if the Declaration does not need that minimum time before the election.

SENATOR KIECKHEFER:

This Body can choose who to empower with that. In the future, I would hope the Governor consults with the Secretary of State before making such decisions.

SENATOR WASHINGTON:

I want to make a general comment regarding seniors who need assistance filling out their ballots. Most of these individuals are either their caregivers or family members who assist them. I have worked with many seniors and senior-citizen centers in Las Vegas. Most caregivers and relatives are trustworthy, have integrity and would not do anything illegal.

During the 2020 Primary, we did not have enough workers. Are we getting younger people to work the polls? Many seniors were frightened by COVID and were not able to come out and work. My concern is we need to hire younger individuals who can assist in the election process.

MR. GLORIA:

We work hard to try and get younger people to preside at the polls. We have developed a program this year to motivate schools to take advantage of our Right to Vote Program where they can surrender their pay and put it toward buying uniforms for the band, help support student council, winter-ball dance, prom or whatever they want to put money toward. In the last report, we have been successful in getting over 300 people to participate in this program.

We regularly network with Clark County School District representatives with whom we have an outstanding relationship. Through their interoffice mail, they will send teachers, student council leaders and various groups at the high-school level our notices motivating students to work the polls. For the past 20 years, the Clark County School District has partnered with us. There is no school on Election Day in November. It is a perfect opportunity for students to get out. Some of them can earn volunteer credits, while they get paid, for scholarship requirements, admission to college and things along those lines. We work hard recruiting students to participate in the process.

SENATOR WASHINGTON:

With schools also having COVID issues, is it possible to recruit college students from the University or Community Colleges?

MR. GLORIA:

Although the effort with the Colleges is not the same as with high-school-level students, we do reach out to them and to sororities, fraternities and alumni groups. We have a direct relationship with the University of Nevada, Las Vegas and the College of Southern Nevada. We vote there on campus and are fortunate to have contact with Student Relations. We also reach out to all of the local Colleges and try to motivate students to come and work the polls for us.

SENATOR RATTI:

Looking in section 19, subsection 3, there has been a good deal of conversation about people assisting someone who needs assistance with their ballot. In many elections past, whether it was an absentee ballot or an in-person situation, we strove to ensure everyone had the access to vote, regardless of their ability. We provide support so people can vote. At a minimum level, we need to stay in compliance with the American Disabilities Act. This is something we have been doing for years. I am confused as to why there is so much concern about that.

The bill specifically states if you help someone with their ballot, you have to note that and must provide a written statement. Am I missing something? Are we changing that in any way in this process, or is it pretty much the same thing? Are we being explicit enough saying if you are assisting someone fill out their ballot, it has to be noted on the ballot, and you have to write the statement?

MR. POWERS:

Section 19 deals with someone assisting a voter who meets the qualifications of having a physical disability, 65 year or older or who is unable to read, write, or to actually mark and sign the ballot. Either you mark and sign it on their behalf or you assist them in marking and signing. That is when you have to file the affidavit. Section 19 does not control the return of the completed mail ballot. That is what section 21 does. Even if you are assisting the voter in filling out the ballot, you might not necessarily be returning the ballot. Your assistance has to be documented in the mail ballot by including the written statement. If you were to return it on behalf of the voter, you would be subject to section 21. Section 21 applies to any person who returns a ballot on behalf of any voter without the qualifications of physical disability, being 65 or older or who does not have the ability to read or write. If you conflate the two, you can get into the confusion that somehow they are the same thing, but they are different.

SENATOR RATTI:

In the act of assisting someone with a ballot, you may know something about the content of that ballot. We, therefore, want to know who you are on the record. If there is a problem with that person's ballot, or the secrecy of that ballot, we know who to talk to.

With the delivery of ballots, those ballots are subject to all of the rules which make a ballot legitimate, as they were in the Primary mail-in or absentee ballots. I assume the envelope needs to be sealed and signed properly, all of those things, so we know that when the ballot left the voter's hand and was delivered to the registrar and turned in, it is still intact and has not been tampered with in any way. Is that correct?

MR. POWERS:

That is correct. Much of the language in sections 2-27 with regard to procedures of signature verification and handling ballots, already exists in law with regard to absent ballots. This is why later sections of the bill have identical language in all of those other areas so there are consistent procedures for returning all types of mail ballots, whether under 2-27, absent ballots or mail-in precinct ballots. Much of what you see is already done. If you return a mail ballot, those mail ballots are subject to the same signature verification requirements that currently exist under NRS Chapters 293 and 293C, and other requirements to insure the ballot is the voter's ballot. They are incorporated, refined and made uniform across all of these various sections.

SENATOR RATTI:

We did pass legislation that allowed for mail-in ballots, correct? Anyone can do this today.

MR. POWERS:

In the form of an absent ballot, yes. Someone can request an absent ballot. If they are an eligible voter, an absent ballot will be issued as long as the request is timely made before the election. If the request misses the deadline, there are certain emergency circumstances where an absent ballot can be obtained up to the day of the election. There are existing provisions that allow for receiving an absent ballot and for someone to assist the voter in filling out the ballot. It is the same criteria as in the bill; you have a disability, are 65 or older or are unable to read or write.

SENATOR RATTI:

I was looking at the Washoe County results today for COVID and there are three additional deaths. Our rate of transmission is at record highs with the number of cases we have in the community. Looking at every-single-day new cases we have had over the seven-day rolling average, the trends are not heading in a good direction.

Assembly Bill No. 4 ensures every voter has the opportunity to use that same process, a vetted process we have used and know works. As a state, we will make our best effort to reduce the number of individuals at risk of transmitting a virus we know is capable of killing people, particularly, vulnerable populations. The longer someone has contact, the more likely for transmission. Although we like to believe people follow social-distancing guidelines, if we have learned anything in the past five months, people do not always use social-distancing guidelines, use hand sanitizer or do the things in their best interest we have ask them to do.

This bill gives the opportunity for every Nevadan to mail in their ballots and stay safe. Even if every Nevadan chooses not to do that, it leaves the choice for someone to vote early, go to the voting center or use other alternatives the Center for Disease Control and Prevention recommends. Hopefully, this will significantly reduce the amount of people standing in line congregating and putting themselves at risk of transmitting this virus. This bill uses tools already put in place but makes these tools available for everyone in order to save lives.

Is that basically what you are asking for, Mr. Gloria?

MR. GLORIA:

Yes.

SENATOR SPEARMAN:

Let me begin with a couple of names: Viola Liuzzo, Michael Schwerner, Andrew Goodman, James Chaney. We do not know their names independent of an incident that happened in Mississippi. These were four people, three of them white and one a local African-American. They were trying to register people to vote. I was young, but I remember the news account of four little girls who were killed in Birmingham. I remember asking my mom why they got hurt at church. My mom said some people do not want colored people to vote, and this was trying to send a message.

In the 70s, 80s, 90s, all the way up to 2004, we were never concerned about voter fraud. It was not until 2009 that we heard "rampant" voter fraud. Maybe it was just a coincidence. The end of 2008, Barack Obama was elected President. I do not know. I will say that theory was birthed at that time. The things we are talking about here, you said we already had in place. They were in place in the 2014 election, correct?

MR. GLORIA:

You broke up on the connectivity here. Can you please repeat the last piece?

SENATOR SPEARMAN:

I am following up on my colleague's statement that the only thing we are doing is making what is currently in law available to everybody. By the way, is there a difference between absentee and mail-in ballots?

MR. GLORIA:

Not previously, the way we handled them. It is a tally type we call Type T, but the language in this bill does define them differently, absentee and mail.

SENATOR SPEARMAN:

Is there is a process for absentee ballots that has been perfected? This is not some apple that fell off of the tree from Mars. We are already doing this, and the same procedures for absentee ballots were in place in 2014. Is that correct?

MR. GLORIA:

Yes, Senator, that is correct.

SENATOR SPEARMAN:

It is a good thing all of you know how to do your job. Our Secretary of State was elected in 2014. Apparently, you got it right.

I take issue with my colleague from Senate District 20. Maybe it was not intentional, but this is what I heard, casting aspersions on people who are "vulnerable" and live in some communities and may not be as "sophisticated," I take issue with that.

For people who will have this option, many times, in the military when you move, whatever mail was sent to you does not necessarily follow you. We could have active-military people who were supposed to go to Bahrain, but three days before they were to leave, they were ordered to come to Nevada. They are a citizen of Nevada with a Nevada driver's license. They pay their taxes, pay their vehicle taxes in Nevada. If they were not disabled or not 65, this may not have been available to them.

Understand, this is taking place in our veterans' homes in northern and southern Nevada. We have infirmed veterans who honorably served their Country in World War II, Korea, Vietnam, the Gulf War and all through the Cold War. We have veterans who are under the age of 30 and disabled. They had the misfortune of riding over an Improvised Explosive Device. Excuse me if I seem impatient, but I have heard this before in other ways.

If I go back to those 4 little girls, they would be in their 70s and 80s now and glad to have someone help them with their ballots. The Bible tells us as someone thinketh in their heart, so are they.

SENATOR OHRENSCHALL:

In the bill's section that allows someone to return a ballot on someone else's behalf, under the Clark County system used in the Primary, a person who requested help with their ballot could track that ballot online and see whether it was turned in or not. Is that correct?

MR. GLORIA:

That is correct. For all of the ballots processed in Clark County, when someone logs into Voter Registered Services, they can check it on their own or call our office and ask one of the clerks to check for them.

SENATOR OHRENSCHALL:

If this bill becomes law and I need someone to turn in my mail ballot because I am too sick to get to a post office or buy stamps, and I have a neighbor, or a friend, willing to drive it down to the Election Department, I can check to see if it did not get turned in. Hopefully, it is just an honest mistake, and there is no criminal intent for not turning the ballot in. It is a category E felony hanging over this person's head. It is a strong penalty for not following through.

In the past, voting polls were located in grocery stores around the valley. Can you talk about the recent challenges you have had in finding private locations for these early voting sites?

MR. GLORIA:

We put together a proactive plan to prevent anything from happening to affect our voting schedule late in the election process. We cannot control what privately-held businesses do, although we have a fantastic relationship with Albertson's, Vons, La Bonita and all of the other supermarkets who support our early voting programs. If there was a spike in the pandemic, we did not want to be put in a position of them being uncomfortable with us voting at their location. The same is true for three of our most popular sites with the longest voting history, The Boulevard Mall, Meadows Mall and Galleria Mall. We will not be voting indoors there.

We have set up voting tents, and if you are from Clark County, you are familiar with how we have provided access all over the County. It also gives Americans with Disabilities Act access on

a hard surface. We proactively revised our early voting schedule that took it to the County Commission, and they approved it. We could not take the chance if the pandemic got worse, privately-owned facilities could deny us access. Ninety-five percent of the venues we are focused on to provide our in-person access for voting are government facilities and schools.

SENATOR OHRENSCHALL:

During this pandemic, as you have tried to recruit poll workers, are people who worked the polls in the past hesitant to be at an in-person polling location? Is this a new challenge for your office?

MR. GLORIA:

Without a doubt. It has always been tough to get workers to work the polls. Particularly now, our older poll workers are not willing to serve. Through our recruiting efforts, many people who have a history of working at the polls are beginning to come back. We hope it stays that way. We have a full slate of training scheduled for the next two-and-a-half months, which begins Monday. We will have to monitor this. The Commissioners and my management team have committed to do whatever is necessary to make sure resources are in place, but none of us can tell the future. We will do our best to provide exactly what the general public expects. In all of our schedules, we are listing that schedules can change contingent upon anything to do with COVID-19.

SENATOR OHRENSCHALL:

I can see this creates uncertainty for you, the office and the election.

Mr. Powers, in section 19, there are no criminal penalties for the person who assists someone disabled or 65 years of age in marking their ballot. The person must sign a form attesting they are assisting the voter. If the voter believes they were coerced to vote a certain way or bullied to change their vote, are there sections of NRS which subject that person to criminal prosecution and penalties, whether it is forgery, coercion, elder abuse or offering a forged document to a public agency, even though it is not stated in this bill?

MR. POWERS:

That is correct. There are a series of penalties for criminal acts ranging from misdemeanors to category E felonies at the end of Chapter 293 of NRS. If the act itself qualified under any criminal statute, you mentioned fraud or elder abuse, it would be criminally prosecutable. There are existing penalties both under ordinary criminal law and NRS Chapter 293 to prohibit certain criminal acts involved with taking advantage of elderly or disabled individuals.

SENATOR CANNIZZARO:

We will now open the hearing to those in support of Assembly Bill No. 4.

CHRISTINE SAUNDERS (Policy Director, Progressive Leadership Alliance of Nevada):

I grew up in Oregon, a state that has voted by mail since 1987. Time and time again, it has been shown that vote by mail increases turnout and is not fraught with fraud. My eighteenth birthday occurred days before a presidential primary. I remember completing my ballot alongside my mom being able to ask her questions about the process. We simply took the ballots down the block to our county library which had a drop box right outside.

In 2008, the Progressive Leadership Alliance of Nevada held get-out-to-vote events at many tribal places. We saw it brought the community together and made voting a part of their tradition. As tribes have been disproportionately impacted by COVID-19, it is essential to extend the deadline to request polling places and allow people to turn in ballots for others. Many homes on the reservations do not have mailboxes, requiring individuals to travel to a post office box. This means mail is often not checked or sent every day.

During the Primary Election, a number of tribal members requested a port for returning their ballots but were unable to be offered a solution. By removing restrictions on returning ballots, everyone will have the option of allowing someone they trust return their ballot for them. No one should have to choose between their health and voting, between staying in line to vote and making it to their job on time. No one should have to choose between violating their tribal lockdown orders and exercising their right to vote. Assembly Bill No. 4 is a common-sense solution, and we urge your vote in favor.

LINDSEY HARMON (Executive Director, Planned Parenthood Votes Nevada):

Our organization supports Assembly Bill No. 4. This bill provides voters the opportunity to vote by mail and have access to multiple polling places and ballot drop boxes. The pandemic has brought unprecedented challenges to Nevada's voting system. The Legislature can make sure that eligible voters are able to exercise their right to vote, continue with vote-by-mail elections and guarantee registered voters will automatically be sent a mail ballot. Nevadans should not have to risk their health to exercise their fundamental right to vote. This Body must implement solutions to deliver a transparent voting process that is adaptive for voters and will protect election integrity as well as the health and safety of Nevadans. Everyone's vote counts in this election.

EMILY PERSAUD-ZAMORA (Executive Director, Silver State Voices):

I support Assembly Bill No. 4. We have 95 days before the election. We need to make sure all Nevadans will be able to cast their ballot in an accessible and safe way. For the June 9th Primary, my organization ran an election-protection program. We stationed nonpartisan volunteers at both centers to assist voters and be our eyes and ears on the ground. What we heard and saw was unacceptable. Voters were waiting six, seven, eight hours to cast their ballots. Mothers with their babies were waiting past midnight. The last voter cast his ballot at 3:08 a.m. the next day. Currently, Nevada has no protocols to handle elections in case of a natural disaster or State of Emergency like COVID-19.

Assembly Bill No. 4 provides direction for the Secretary of State and county registrars to administer elections under these circumstances. Nevada voters need multiple mechanisms to participate in their right to vote, which include increasing the amount of vote centers. It means sending a ballot to every registered voter with paid postage. By extending the deadline for tribes to request a polling location and removing the penalties on submitting mail ballots, tribal leaders can make decisions for their communities without risking COVID spread. This bill allows county registrars the flexibility to start counting ballots sooner than four days before the election date.

A few weeks ago, we lost the voting rights champion, Representative John Lewis. He risked his health and safety when he walked the Pettus Bridge in Alabama just for the right to vote. Now, 55 years later, we cannot ask voters to risk their health and safety for that same right to vote. Representative John Lewis was a champion for all of us. You can be a voting rights champion for the State of Nevada by voting "yes" on this bill.

GUILLERMO BARAHONA (Civic Engagement Director, Chispa):

I support Assembly Bill No. 4. Nevadans need to cast their ballots safely and accessibly in November. As the Civic Engagement Director at Chispa, my work is centered on improving civic life in our community by developing a combination of skills and trade that will make a difference in the lives of our residents. By inspiring the community, people can take an active role by casting their ballot. Voting allows everyone to develop their knowledge and use their skills and voices to cultivate a positive change in their communities.

COVID-19 has severely impacted all of our lives. Graduates are unable to walk. The children are unable to go to school. Many people have lost their jobs. There are many consequences from the virus, but the ability to vote should not be one of them. Many voters are unable to wait in line to cast their ballot, and they rely on vote by mail. Clark County needs to provide multiple drop-off locations. Voters should not have to drive an extended period of time just to drop off their ballot. As elected officials, it is your responsibility to insure voting is accessible and safe for Nevadans by mandating at least one drop-off location in Clark County.

ADRIENNE MICHELSON:

I live in Senate District 9. I do not currently work in politics, but I have six years' experience working with Democratic campaigns statewide. While I am in support of Assembly Bill No. 4, I want to clarify some things. Republican colleagues in the Senate Chamber imply there are rogue elements trying to "harvest ballots" which would endanger someone's personal vote. Having been a city director for a presidential campaign in the State of Nevada and working on data in field states like Ohio, I am confident that any Democratic political campaign would expect each organizer to talk to people, get them to register to vote and cast their ballot. This process is done with integrity and is compliant with the law. Anything else would be a fireable offense and not meet any Democratic campaign standards and values for turning people to get out and vote.

The Senator from District 14 commented that people intentionally extort data relevant to getting voter information from vulnerable people. From my experience, having knocked on doors and turned out voters, it is people who seriously need help who struggle to get ballots in. Information harvested online is just trying to get them to turn their ballot in regardless of their political preference. Campaigns are based on data. Most likely, Democrats will try and turn out other Democrats which is public information. I support Assembly Bill No. 4. I do not believe it will harm the integrity of the election to ask everyone to vote by mail during this pandemic.

CECIA ALVARADO (Nevada State Director, Mi Familia Vota):

I am testifying in support of Assembly Bill No. 4. Nevadans need to safely cast their ballots. The coronavirus pandemic has disproportionately affected Latinx communities in Nevada. This pandemic has changed our lives. Assembly Bill No. 4 will assure that all communities can safely cast their ballot and vote this fall. Older Latinx, who have a higher rate of contracting COVID and Latinx with disabilities need mail-in ballots automatically sent to registered voters to make their voting experience much easier. I want to uplift the part of the bill that allows signature assistance. People with disabilities and the disenfranchised should be allowed to have assistance to mark and sign their ballot. I ask this Body to support Assembly Bill No. 4.

CHRIS DALY (Nevada State Education Association):

We have been the voice of Nevada educators for over 100 years. The Nevada State Education Association (NSEA) supports Assembly Bill No. 4 to insure both vote-by-mail and sufficient in-person voting options are available during elections impacted by emergencies or disasters. Educators ask students to use their voices and build their own agency. Our politics and electoral system should strive for greater enfranchised participation. Every person and every vote is important. The NSEA has a long and rich history supporting greater democracy, from past NSEA president, Charles Orman Williams, getting Tennessee to ratify the 19th Amendment in 1920 to the students affiliated with the California Teachers Association who started the campaign to extend the vote to 18 year olds back in 1967.

COVID-19 has changed everything. Given these circumstances, Assembly Bill No. 4 is both measured and fits well into the historic effort for greater democracy and participation. It is a good bill, and you should pass it.

CHRISTI CABRERA (Policy and Advocacy Director, Nevada Conservation League):

The long-term health of our planet is linked with the health of our democracy. Passing strong laws to protect our environment depends on open and fair elections. It is time for our State to embrace vote-by-mail as an option for Nevadans who want to vote but also stay safe at home. This bill will provide a safe way for voters to turn in their ballot while providing proper voting security through a signature verification process. If the signature on the ballot is questionable, the county clerk will contact the voter through multiple means of communication including mail, telephone, text message and email if the voter has provided that information. The voter has until November 10 to provide signature confirmation. It is critical every vote counts. Due to COVID-19, the reforms of this legislation will ensure every Nevadan's voice is heard on Election Day. We urge your support.

ERIC KENG (Director, Outreach for Asian Community Developmental Council):

I urge your support for Assembly Bill No. 4. There is a critical need to extend and create a number of vote centers in Clark County and the State as a whole. Voters should be able to travel to a nearby, convenient vote center without a significant burden on their time and resources.

During the June Primary, I volunteered from 7:00 a.m. to 1:00 a.m. to help voters cast their ballots. The last voter in line was a young Chinese-American woman. She waited six hours, not because she had nothing better to do that day, but it was her first time voting. She understood the stakes at hand and how much sacrifice others have made for her to be able to cast that vote. She understood the sacrifices made during the Civil Rights Movement, as the Senator from District 1 mentioned. She understood the sacrifices her family made for her to be able to immigrate to America. It took a year, then another five years, for her to get her green card and then to become a naturalized United States citizen. She understood she is the first in her family line to cast her

ballot and elect who is to represent her. This is why we are here. This is America. We pledge, not to the voting act nor the voting privilege act, but to the Voting Rights Act.

I urge your support for Assembly Bill No. 4. Let us secure access for voters by creating vote centers and observing social distancing under the Centers for Disease Control and Prevention guidelines during early vote and Election Day. We can do better for our State and pass Assembly Bill No. 4.

MARLENE LOCKARD (Nevada Women's Lobby):

We urge your support for Assembly Bill No. 4. This bill is essential in this extraordinary and difficult time to ensure the safety of all Nevadans.

WILLIAM LEDFORD (Director, Lutheran Engagement and Advocacy in Nevada):

I represent the Evangelical Lutheran Church in America for our State. Our organization and denomination has historically supported efforts to enfranchise as many people as possible. In a time like this, the polls are difficult or unsafe. The burden of voting weighs heavier on some demographics than others. We take issue with that. Assembly Bill No. 4 will help everyone have an equal chance to exercise their right to vote.

MATTHEW KIMBALL:

I urge your support of Assembly Bill No. 4 for the above-mentioned reasons. This bill will increase our access to voting during this election cycle, which is critical in this and every election. As someone who has worked hard to ensure people are registered to vote, know where their polling location is and know all of their opportunities to cast their ballot, Assembly Bill No. 4 is critical for our success in this up-and-coming election.

J.D. KLIPPENSTEIN (Executive Director, ACTIONN):

Our organization supports Assembly Bill No. 4 and is deeply committed to building a strong, inclusive democracy that engages all citizens actively. Since 2019, we have registered thousands of voters and have seen the barriers disenfranchised communities face when it comes to voting. COVID-19 has increased those barriers. A healthy democracy is a key part to our recovery from COVID-19 and the reason we support Assembly Bill No. 4. We need our General Election to be all mail-in, just as our 2020 Primary was. We need a significant increase of polling and ballot drop-off locations. This will give our neighbors necessary options for their ability to vote safely and comfortably. Support Nevadans and our democracy and vote "yes" on Assembly Bill No. 4.

BRIANA ESCAMILLA (Nevada State Director, Human Rights Campaign):

I support Assembly Bill No. 4. No one should have to choose between their health and putting the health of their families at risk, for their constitutional right to vote. During the June 9th primary, staff and volunteers supported election protection efforts by working as poll monitors. Since there was only one vote center in Washoe County, voters waited for long periods of time to cast their ballots. The average wait time was 1 hour and 40 minutes and many waited up to 3 hours. This is challenging, especially during a global pandemic. During our get-out-to-vote efforts, we spoke with voters in the "at-risk" population who did not receive their ballots and were uncomfortable voting in person. These voters were disenfranchised and had to accept the fact they were not going to be able to vote. This is unacceptable. Nevadans need Assembly Bill No. 4. Voting should not cost anyone their life, take several hours, nor be a significant burden. We can make sure voting is safe and accessible by providing Nevadans poll-voting options this fall. We urge your support.

HOLLY WELBORN (Policy Director, American Civil Liberties Union of Nevada):

We support Assembly Bill No. 4. This is a decisive moment for the State of Nevada. November will soon be upon us. By providing robust voting options, this bill ensures Nevadans can safely participate in our democracy. This moment requires urgent action. According to a report from Public Integrity, Nevada is in the red zone, which means we have more than 100 COVID-19 cases per 100,000 people per day.

We must figure out how to protect our election during this pandemic. If we revert to the status quo, communities may be forced to choose between their health and their vote. Vote-by-mail is critical for our election access. Mailing ballots to all registered voters means Nevadans do not have to gamble their health with large crowds. Long lines at voting locations violate the

fundamental right to vote. Assembly Bill No. 4 will reduce Election Day crowds and waiting times by opening up more in-person polling places for those unable to vote by mail or who need to register on Election Day. Waiting eight hours to vote is unacceptable.

Nevadans must also deliver solutions for the State's 27 tribes who do not have traditional mailing addresses or nearby post offices. Nevada will continue to face more challenges before this pandemic is over. Passing practical solutions to protect our right to vote can only make our democracy stronger. We urge your support on Assembly Bill No. 4.

BEVERLY HARRY:

I support Assembly Bill No. 4. To my knowledge, we are still in a pandemic, and the virus has not disappeared. It is a Legislator's responsibility to protect every Nevadan from this contagious virus. Today, 48,150 confirmed cases have been reported, 831 deaths and 38,000 recoveries. It is my opinion if public-health directors recommend to boil water to remove a pathogen, the public follows the health direction. If we are told the coronavirus is a contagion, it is the science that recommends the State Public Health Director to protect the public's health and welfare. Legislators do not qualify as virologists and every year tend to overstep their role. It is a violation of the oath you have taken.

We do not know what the viral caseload will be on Election Day. Make a decision for the protection of public health and keep every voter safe. When COVID hit in mid-March, the safest place we could be to eat, sleep, be schooled and work was in our homes. It still is. The State has not funded Internet access within tribal lands or rural communities. Voter registration should be accessible to tribes. We are at a crossroad with voter disenfranchisement. Common-sense decisions need to be made by the Secretary of State to ensure all voters have a safe environment in which to vote, but it appears not to be available on November 3, 2020. Tribes continue to be locked down with tribal and closed curfews. It is imperative for tribes to utilize tribal ... (unintelligible statement) ... and transport ballots on the day of election. Voting at the precinct can only be considered a violation of the Voting Rights Act. I know a State of Emergency ... (unintelligible statement). Please vote in favor of Assembly Bill No. 4.

SENATOR CANNIZZARO:

We will now open the hearing to those in opposition to Assembly Bill No. 4.

JIM DEGRAFFENREID (Vice Chairman, Nevada Republican Party):

We stand in opposition to Assembly Bill No. 4. This bill is presented as a way to improve safety and accessibility and it is unnecessary. Nevada has one of the most extensive processes anywhere for allowing any voter who is concerned about their safety and does not want to vote in person to be able to safely vote at home.

Many of us observed disenfranchisement of voters in our Primary Election. Proponents of this bill refused to disclose how many ballots could not be counted in our Primary Election due to deficiencies. We know from talking to voters and hearing testimony earlier this evening in the Assembly, that many votes were not counted due to errors. Joe Gloria testified when many of these voters failed to sign their ballot or sent the envelope off and did not put the ballot inside, they could not be contacted to secure their vote. Had these voters cast their ballots in person at a voting machine, their votes would have been counted and not thrown away. This is not a partisan issue. Democrats and Republicans are equally able to make mistakes in an unfamiliar process that has disenfranchised them.

It has been argued that if voters mailed their ballots in, it will eliminate the long lines experienced in our Primary Election in Clark County. Those long lines were caused by the complete and absolute failure of Clark County to handle an all-mail-in election in a timely way. If you recall, that election only had a 30-percent turnout. The unprecedented and inexplicable hours of long lines experienced in our Primary Election should be a warning for us to return to our traditional combination of mail-in and in-person voting, which Clark County has proven they cannot handle. This bill is a solution in search of a problem. Our existing system allows everyone who is comfortable of doing so to stand in line. With masks and social distancing, you cast a secure, secret ballot on a voting machine while allowing those who feel they are put in danger by in-person voting to vote safely and securely by mail.

We urge a "no" vote on this rushed and flawed bill that will disenfranchise Nevada voters whether they are Democrat, Republican or nonpartisan.

DAINER BAILEY:

Your job is to protect our rights and not our health. The left is repeatedly saying voter fraud does not exist, but members of ... (unintelligible statement) ... criminally prosecuted, as have many others, for voter fraud in this State. If people are afraid of COVID or are disabled, let them absentee vote. If people can go to Walmart, a casino or a protest, they can take themselves to the polls. Voting is a civic duty. Laziness should not be a valid excuse. If a voter is not able to vote in a timely manner, that is between them and whoever is in charge of their polls. It should not give license to compromise the integrity of an election.

The Attorney General in this State is a Democrat who did not know the definition of "larceny." I feel he will not know what voter fraud is or be willing to prosecute if it is discovered. I keep hearing about how ... (unintelligible statement) ... ballot or commit voter fraud. It is also illegal to murder or deal drugs, but criminals do it. This bill endangers the integrity of the election, as there is nothing in place to assure mail-in ballots are legitimate.

I would like to remind the people who have spoken about democracy, that the United States is a constitutional republic and not a democracy. Their failure to understand this explains what is wrong with this Country today. I am fed up with elected officials forcing rules down our throats by ... (unintelligible statement) ... in the Legislature. I urge you to oppose Assembly Bill No. 4.

DAVID GIBBS:

If people can stand in line at grocery stores and other businesses, we can do the same at voting locations. We have over three months to figure it out and make the necessary preparations so it is safe for all. For those who feel uncomfortable voting in person, the process already exists for them to get a mail-in ballot. You do not need to change anything. We have an inclusive democracy. Every eligible person who wants to vote is able to do so. Everyone has access to the ballot, either mail-in or go in person regardless of demographics. This bill does not change any of that.

In the June Primary Election, I read that approximately 10,000 ballots were declared void due to invalid or void signatures. That is more than 2 percent of the ballots cast. When they expect an 80-percent turnout in November, that means over 25,000 ballots could be voided. That is enough to change the outcome of many races, including the Presidential race. Some of you Senators who are running in tight districts, this could impact your race. It would not happen with in-person voting. This will take over a week to resolve signature problems and to count all of the ballots in a mail-in election. This is what happened in the Primary with only a 29.5-percent turnout. We expect to have almost two-and-a-half times the number of ballots in the General Election. I do not have confidence the counting will be done properly and be finished by the deadline. The entire Country will be waiting to see Nevada's results. How embarrassing would that be?

If you care more about power than valid secrecy, security and the people's confidence in the voting process, you will vote "yes." If you care more about power than the faith and competence people have in the tabulation results, you will vote "yes." If you care more about the most basic, sacred privilege we have in our constitutional Republic, a secret and fair voting process, faith and confidence in the tabulation results, you must vote "no" on Assembly Bill No. 4.

LOGAN GIFFORD:

I speak in opposition to Assembly Bill No. 4. The *Review Journal* came out with an article stating that about 6,000 ballots could not be verified through the signature process. These ballots were scrapped. The integrity of our elections and the normalcy the Nation is trying to restore by allowing sports to continue, although with no observers, is momentum moving in the right direction. Unfortunately, COVID-19 is not going anywhere.

The ridiculous spending increases to fund elections are unnecessary when we have many other pressing issues at the moment. The Clark County School District is \$38-million short this year, and they are doing distance education. The Secretary of State said she could put on a safe and secure election. Providing more money toward this system, does not make sense to me as a citizen. I do not work for a partisan agency. I am not anyone in particular, just a Nevada citizen. I do not understand why Assembly Bill No. 4 is necessary.

JOE ACOSTA:

There are weaknesses in vote by mail, and there are plenty. The logistical complications provide leverage for voter fraud, coercion, increased ballot rejection and decreased voter turnout. A fully transitional vote by mail for a Presidential election in six months will only increase these risks. Vote-by-mail fraud can be achieved in numerous ways. Consider duplicate voting. In the smaller states in the eastern region, voters only need to drive a few hours to register in an additional state and receive two ballots in the mail. Consider the forwarding process the United States Postal Service has which could take up to 21 days. If a resident has not put a forwarding address into the mail system, they will not receive that mail-in ballot. Consider the time period validations for signatures will take. Consider the fact the majority of the signatures were Democrat voters rejected for lack of signatures versus Republicans even though this is a Democratic-led bill. I urge you to vote "no" on Assembly Bill No. 4.

JESSE LAW:

Nevada citizens are losing their jobs and their businesses. None of you supporting this bill are pushing to fix the biggest, broken unemployment program in the Country during the largest economic crisis of our lifetime. For those who work or are looking for work, their children will not be going to school but for a handful of days at a time. This will cripple the lives of Nevada families. Parents are feeling like failures before the school year has even started, not knowing what to do for their children and teaching different ages. Their children are at risk of missing critical developmental milestones. This Governor shut down their churches, stealing their First Amendment right to assemble and worship God.

Nevada, your constituents are losing everything without the ability to address their grievances. Who is the voice? My two-minute public comment? There are thousands of letters not being read. Instead of calling a Session to work on these many issues and reining in the Governor gone mad with power, you are passing legislation in the middle of the night to fix a perfectly working voting system against the advice of the chief election official of the State and without her input or participation.

This is the middle of the night. The public received no official notice. The Governor and his party know what you are doing here, stealing an election. You are making sweeping changes. You are adjusting ballot security and signature verification protocols, allowing ballot harvesting and allowing people other than the voter sign their ballot. Suffering Nevadans will think you stole the vote from them. This is more than shameful. Let me put it in terms you will understand: your actions tonight will resonate in every fearful home in Nevada, and Nevadans will remember that you tried to steal their vote. I urge you to vote "no."

KIMBERLY FERGUS:

The people who previously testified took the words right out of my mouth. I am speaking for hundreds of people who have called crying and saying they are scared to death of this mail-in ballot. Their representatives will not return their calls. People have been writing and calling.

Do not listen to your party. Listen to the people. You are elected by your constituents, and they want to vote in person. People 80 years old have never seen this happen. Please vote "no" on Assembly Bill No. 4. We have a great system. Let them vote in person. They are adults. Voting is their civic duty and their right. If they want to wear a mask, they can put on a mask and social distance. People fought for this Country and the right to vote. Please oppose Assembly Bill No. 4.

JOHN YOUNG:

Earlier, Oregon was used as an example. Oregon has been the failure of mail-in voting and ripe with fraud. Thousands of ballots were not delivered by the postal service, and voters were robbed of their right to vote disenfranchising many voters. It is unfortunate Assembly Bill No. 4 is being pushed through in the dark of night. Unfortunately, it will reinforce the belief in those who have not taken the pandemic serious that the emergency was only used to push a flawed voting system forward leading to fraud and tally results not believed by either Democrats or Republicans. Every time mail-in voting has been used, it has failed and been fraudulent. Absentee balloting exists for those who need it. Assembly Bill No. 4 is an unnecessary action.

LEE HOFFMAN:

I am from Elko and oppose Assembly Bill No. 4. My testimony is futile. Real debate is no longer a feature of our Legislature. The outcome is fixed, and you have already decided. I do, however, feel as though I need to make this statement.

Assembly Bill No. 4 is unnecessary. The process exists for anyone who chooses to receive an absentee ballot and not put their health at risk. In 2016 and 2018, about 50 percent of the voters voted early to avoid long lines. Assembly Bill No. 4 is not wise. Undeliverable ballots and ballot harvesting create huge opportunities for fraud, and it costs millions of unnecessary dollars. It also creates a dangerous concentration of power in a single elective office. The elections are under the control of the Secretary of State not the Governor for good reason. It is a huge mistake to pass a 100-page bill without the opportunity for Legislators and the public to fully review and understand it. That is unless you believe in the famous quote, "We have to pass the bill so that you can find out what is in it."

As a fourth-generation native Nevadan, I cherish my right to vote. You talk about disenfranchising voters, there are other ways to be disenfranchised. I am disenfranchised when someone else votes twice or when ineligible voters vote.

Assembly Bill No. 4 is not an example of open, transparent government. It is an obvious power grab conducted under the cover of an unjustified COVID panic at the behest of a dictatorial Governor. I urge you to vote "no" on Assembly Bill No. 4.

MATTHEW MYNTOGNEST:

I am a native Nevadan and oppose Assembly Bill No. 4. I support absentee ballots. I have not had the chance to read this 100-page bill as I have been listening here. I support American liberty and the right to vote in person on Election Day as we did during the Spanish Flu of 1918. Our schools will be partially open. I wish more schools in Washoe County could, so should ballot boxes be.

I personally received two mail-in ballots. I responsibly destroyed them both and voted early in person. I did not contract the virus. The booth was manned responsibly, preventative measures were used and I was using personal protective equipment.

Let us encourage people to be responsible.

GAIL COMBS:

I am a registered Nevada voter and urge you to oppose Assembly Bill No. 4. This bill puts the integrity of our election at risk of fraud and makes ballot harvesting legal. It makes it possible for anyone to go door to door collecting ballots, taking them in, changing them or whatever they choose to do. We have safety precautions in place to allow those who do not want to vote in person to receive an absentee ballot and vote by mail. We do not need to put something in place that is already there. For the people who are afraid, if you can shop and send your kids back to school, you can surely go to the polls, social distance and vote. We have masks to protect ourselves. This is our constitutional right. I urge you to vote "no" and not take away our constitutional right to vote.

ANDREA YOUNG:

I am requesting a "no" vote on Assembly Bill No. 4. To only allow mail-in voting is to assume voting should never be an inconvenience. Safety in life is never guaranteed, you could die in a car accident on the way to your mailbox. No one should have their freedom taken away because a select group claims we cannot be free due to a virus. This will occur every flu season during an election year. The government could manipulate all of our rights for the sake of our health. The fact you are holding this meeting this late at night tells all Nevadans everything they need to know.

MAUREEN MORRIS:

I ask you to vote "no" on Assembly Bill No. 4. Our system is great and it works. Mail-in voting encourages fraud. We are being disenfranchised as voters by denying us the right to vote in person. The State needs to recover from the effects of the Sisolak shutdown. It should be a nonpartisan issue. Please vote "no" on Assembly Bill No. 4.

JIMMI MCKEE:

I oppose Assembly Bill No. 4. Anyone who requests an absentee ballot can do so and vote by mail. Those who choose to early vote in person or on Election Day can do so as well, and we should be able to.

All of the people I heard for the bill were lobbyists. This does not represent the people of Nevada nor does rushing this bill in the dark of night, 11:40 p.m., when most are sleeping. This process indicates corruption and lack of transparency. People are out there. Traffic is terrible. People are shopping, going to the gym and doing everything else. They can go out and vote. Most people want to go to the polls. Assembly Bill No. 4 is a perfect opportunity for fraud. True, there are penalties, but like ... (unintelligible statement) ... there are not enough cops to arrest criminals. It is our right to vote and this bill violates our right. Stop using COVID as a political pawn. Let those who want to vote at the polls do so, and those who do not can vote using an absentee ballot.

THERESA DEGRAFFENREID:

I oppose Assembly Bill No. 4. The Secretary of State's office earlier testified in the Assembly that their plans were in place to safely and effectively hold an election. With a combination of early voting, in-person, Election Day voting and mail-in ballots for anyone who wants one. Maybe last March, for the Primary Election, it made sense to be cautious not knowing how widespread the virus would be or if our medical facilities would be able to keep up. We see, by social distancing and wearing masks, that we are able to go to work, Walmart and Home Depot. We buy groceries and patronize restaurants, casinos and other businesses. There is no reason we cannot cast our vote.

Even though Assembly Bill No. 4 was introduced late this afternoon, there are already over 650 opinions and only about 20 support this bill. The vast majority of Nevadans are opposed. I am opposed. Please vote "no" on Assembly Bill No. 4.

JANET FREIXAS (President, Nevada Federation of Republican Women):

Our organization is over 1,200 women strong, and we oppose Assembly Bill No. 4. We support Barbara Cegavske and her committee to run a safe and fair election. There is plenty of early voting time. If you are afraid and wish to request an absentee ballot, you can. Ballot harvesting is a felony in the State of Nevada. How can this subject be swept under the rug and changed in the middle of the night? If someone can receive incoming mail, they can send outgoing mail. There is no need for ballot harvesting. Please vote "no" on Assembly Bill No. 4.

SENATOR CANNIZZARO:

We will now open the hearing to those neutral to Assembly Bill No. 4.

UNIDENTIFIED TESTIFIER:

I am neutral on this bill. Will there be any hearings on hydroxychloroquine in Nevada before the elections? What is the state of direction from the United States Food and Drug Administration (FDA) on that chemical drug? This drug has been used for 60 years for malaria and was not noted as being dangerous to people's hearts until this year. That is my concern, I do not know if you could postpone this vote until next week. I understand this vote was decided today to be taken up tonight. Nevada citizens need to be informed of this vote. I hope you make the right decision. I do not personally know which decision would be right. Work without hysteria and have more information about drugs that can help. The information from frontline doctors, the FDA and BRCA is confusing, all not knowing what to report in a clear manner about hydroxychloroquine.

FRANCES DEANE (Nonpartisan Network of Nevada):

There are 367,000 nonpartisan, registered voters in Nevada. I stand neutral on Assembly Bill No. 4. I know the decision has already been made. After listening to the Assembly and Senate, I do not believe the Legislature is prepared or skilled enough to maintain my safety and health. You are not doctors. Nowhere in NRS does it state that your role in my life is to keep me safe by controlling how I vote. We have contact tracers, and many people on the list of contact tracers have recovered from corona. They have already recovered from the virus and, perhaps, could be pressed into service. We can call it their patriotic duty.

I stand with the Secretary of State, Barbara Cegavske. The fact this is heard in the middle of the night, with little notice, says more about this Legislative Body than it does her office's ability

to handle an election. It appears Assembly Bill No. 4 is a pure power grab, and I oppose that. I applaud Barbara Cegavske for her honest answer about when she received a copy of this bill. She is the only Republican Constitutional Officer. The Governor's attempt to undermine the Secretary of State's authority on elections is clear. You are strong-arming her decision making, otherwise, it would be the Secretary of State, not the Governor's Office. Prove you are a nonpartisan body and vote "no" on Assembly Bill No. 4.

Senator Brooks moved to do pass Assembly Bill No. 4.

Senator Cancela seconded the motion.

Remarks by Senator Hansen.

Like many people have reflected, it is a disgrace we are hearing this bill in the middle of the night. Assembly Bill No. 4 is 62-pages long involving 84 sections of law, and we are rushing it through in a hearing like this. The whole thing stinks to high heaven. This is not necessary in a Special Session. Assembly Bill No. 4 is a huge change in law. The idea it was delivered to the Secretary of State's office only one hour before the Assembly Session began is bizarre. I urge my colleagues to vote "no" on this bill. This is an embarrassment to the legislative process and brings dishonor to this Body.

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 11:52 p.m.

President Marshall presiding.

Quorum present.

REPORTS OF COMMITTEE

Madam President:

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

NICOLE J. CANNIZZARO, *Chair*

Senator Cannizzaro moved that the Senate adjourn until Saturday, August 1, 2020, at 11:00 a.m.

Motion carried.

Senate adjourned at 11:53 p.m.

Approved:

KATE MARSHALL
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate