

**NEVADA LEGISLATURE**  
**Thirty-second Special Session, 2020**

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**SENATE DAILY JOURNAL**

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**THE FIRST DAY**

CARSON CITY (Friday), July 31, 2020

Senate called to order at 10:29 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, many challenges, let us be thoughtful in our approach and consideration and listen to them, 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 and 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  
 MAJORITY WHIP—  
 SENATOR JOYCE WOODHOUSE  
 ASSISTANT MAJORITY WHIPS—  
 SENATOR YVANNA CANCELA  
 SENATOR PAT SPEARMAN  
 MINORITY FLOOR LEADER—  
 SENATOR JAMES A. SETTELMEYER  
 ASSISTANT MINORITY FLOOR LEADER—  
 SENATOR JOSEPH P. HARDY  
 MINORITY WHIPS—  
 SENATOR HEIDI SEEVERS GANSERT  
 SENATOR SCOTT T. HAMMOND  
 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; KKOH: 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; KRNV-TV: Shah Ahmad, Miles Buerger, 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 Girnus; 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 Securing 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:

(To be entered at a later date.)

SENATOR CANNIZZARO:

(To be entered at a later date.)

SENATOR HANSEN:

(To be entered at a later date.)

SENATOR CANNIZZARO:

(To be entered at a later date.)

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 Settelmeyer:

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 Senators Cannizzaro and Hardy.

SENATOR CANNIZZARO:

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

SENATOR HARDY:

(To be entered at a later date.)

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, that the reprinting of all bills and resolutions 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 preprint 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.

Remarks by Senators Cannizzaro and Hardy.

SENATOR CANNIZZARO:

(To be entered at a later date.)

SENATOR HARDY:

(To be entered at a later date.)

Motion carried.

## MOTIONS, RESOLUTIONS AND NOTICES

Per Senate Standing Rule No. 31, Senator Settelmeyer gave notice of protest regarding the action whereby Senate Resolution Bill 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

Senator Cannizzaro presiding.

Senate Bill No. 1 considered.

The Committee of the Whole was addressed by Supreme Court Justice James Hardesty.

(Names to be entered at a later date.)

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 CANNIZZARO:

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



SENATOR HANSEN:  
(To be entered at a later date.)

SENATOR CANNIZZARO:  
(To be entered at a later date.)

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

Senator Cancela seconded the motion.

Motion carried. Senators Hansen, Seevers Gansert and Settelmeyer voted no.

SUPREME COURT JUSTICE JAMES HARDESTY:  
(To be entered at a later date.)

(Names and remarks to be entered at a later date.)

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.

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

Motion carried.

Senate in recess at 12:50 p.m.

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 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

Senator Cannizzaro presiding.

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

The Committee of the Whole was addressed by:

(Names and remarks to be entered at a later date.)

SENATOR CANNIZZARO:

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

(Remarks to be entered at a later date.)

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

Senator Cancela seconded the motion.

Motion carried. Senators Hammond, Hansen, Pickard and Settlemeyer 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 concludes 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.<sup>1</sup> 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.”<sup>2</sup> 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.

<sup>1</sup> See, e.g., 1869 Nev. Stat., File Nos. 1 & 2, at 307 (“Proposal to Amend the Constitution”); 1877 Nev. Stat., File No. 6, a 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”).

<sup>2</sup> 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).<sup>1</sup>

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.<sup>2</sup> 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).<sup>3</sup> 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 interpretive 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).<sup>4</sup>

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.

<sup>1</sup> Available at:

[https://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/2011/SJR15.2011\\_2013.pdf](https://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/2011/SJR15.2011_2013.pdf)

<sup>2</sup> 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”).

<sup>3</sup> 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. Redfean, 54 S.E.2d 791, 793-98 (S.C. 1949); Moffett v. Traxler, 147 S.E.2d 255, 258-60 (S.C. 1966).

<sup>4</sup> 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*

SENATE CANNIZZARO:

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

(Remarks to be entered at a later date.)

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

Senator Cancela seconded the motion.

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.

(Remarks to be entered at a later date.)

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

Senator Cancela seconded the motion.

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.

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

Motion carried.

Senate in recess at 6:13 p.m.

#### SENATE IN SESSION

At 6:19 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.

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

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 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

Senator Cannizzaro presiding.

Assembly Bill No. 4 and any other matters as outlined in the Governor's Proclamation considered.

The Committee of the Whole was addressed by:

(Names to be entered at a later date.)

SENATE CANNIZZARO:

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

(Remarks to be entered at a later date.)

Senator Brooks moved to do pass Assembly Bill No. 4.

Senator Cancela seconded the motion.

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

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

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

Motion carried.

Senate in recess at 11:50 p.m.

## 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*