

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

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**SENATE DAILY JOURNAL**

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**THE THIRD DAY**

CARSON CITY (Sunday), August 2, 2020

Senate called to order at 9:41 a.m.

President Marshall presiding.

Roll called.

All present.

Prayer by Senator Joseph Hardy.

Our Father, who art in Heaven, we are grateful for this Country and the opportunity for all of the people in it. We are grateful for this government for and by the people. We are thankful for the conflicts leading to compromise and even consensus. We are appreciative of the safety we enjoy. We are thankful for the opportunity to develop our humility and our dependence on Thee, our Higher Power.

Please hear our pleas, that we might be considerate of the needs and trials of all people. We need Thy help for balancing the resources and needs of every demographic and every person. We know that Thou art aware of the pandemic. We pray it will end through some of our own efforts and those of science, and we recognize Thou art is all powerful and mighty. We humbly pray for the resolution of this pandemic. Please help us. We need Thee every hour.

In the Name of Thy Son and our Savior,

AMEN.

Pledge of Allegiance to the Flag.

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

**MOTIONS, RESOLUTIONS AND NOTICES**

Senator Harris has returned to full participation in the Senate Chamber, and is no longer using remote-technology systems to attend, participate, vote or take any other action in the proceedings of the Senate and the Committee of the Whole as was previously authorized on August 1, 2020, pursuant to Senate Standing Rule No. 53.

**SECOND READING AND AMENDMENT**

Senate Bill No. 2.

Bill read second time and ordered to third reading.

Assembly Bill No. 3.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 1.

Bill read third time.

Remarks by Senators Denis, Pickard, Hansen, Seevers Gansert, Hammond, Cancela and Hardy.

SENATOR DENIS:

Senate Bill No. 1 relates to eviction proceedings. Senate Bill No. 1 authorizes the Court to stay certain residential-eviction proceedings for no more than 30 days to allow the parties to participate in an alternative-dispute resolution program established by the Supreme Court, District Court or Justice Court by rule. If you recall, there is a possibility of 100,000 evictions being due at the same time. This will allow the Courts to be able to deal with the evictions in a timely manner. They already have the authority to do this, but Senate Bill No. 1 provides clarity in the law. I urge your support.

SENATOR PICKARD:

I rise in opposition to Senate Bill No. 1, not because I am insensitive to those in need of help, but this was inappropriate the way it was brought. We had a Supreme Court Justice who was presenting on policy. It is inappropriate for the judiciary to make a position on policy, number one, when they already have authority to do this, and we have seen it in the past. Secondly, there were critical questions he could not answer because it would create an opportunity for an advisory opinion, which is not allowed under the Court's judicial ethics. They cannot give us opinions or positions on particular policy choices. As a result, the presentation was flawed, and it was incomplete. We do not know what the unintended consequences will be. I believe this is a taking of the *Nevada Constitution*, and we are depriving someone of their property rights without due process or due compensation. This is a noble goal, but the Courts already have authority on their own. This is the wrong approach. I will be voting "no."

SENATOR HANSEN:

In 2011, the Assembly Judiciary Committee placed me on a subcommittee with the Senator from District 18, at that time, and the current Speaker. We set up the mediation program in conjunction with Chief Justice Hardesty. It was especially urgent then because there was great concern over banks foreclosing on people who were upside down in their mortgages. After a decade, those same mediation programs are in place today. This is what the Supreme Court Justice was referring to when he said he already had authority. We have a decade of information on what this actually does.

When we heard the testimony and reasoning behind this, there is a false narrative implying landlords are anxious to evict, when it is the exact opposite. Landlords are desperate to find good tenants and will work with people who cannot consistently pay their rent. In using the Court system to interfere with these processes, what it consistently shows in the long run is less housing becomes available and the vulnerable people in our society are forced to pay higher rates to offset losses that occur when people are unable to pay their rent. This is not the right mechanism to help people in the long run.

As far as Senate Bill No. 1 being narrowly tailored, the bill is wide open. Section 1 essentially turns over and gives carte blanche authority to the Court systems to set this thing up. The 30 days sounds reasonable, but it is 30 days on top of what is already in the law. People have 6 months to use various negotiation tactics to avoid paying rent or become evicted, which then adds an additional 30 days to it. Sometimes, we make things substantially worse over the long run when we come up with these temporary, legislative fixes. The private sector should be working this out as much as possible making it as fair as it can be. There are long-term consequences of these things. Many states have tried similar programs and ultimately experienced rising costs, less available housing and fewer investors for rental housing. I urge my colleagues to vote "no" on Senate Bill No 1.

SENATOR SEEVERS GANSERT:

I rise in support of Senate Bill No. 1. COVID-19, and the resultant closures of many businesses across our State, have put people in extreme, difficult situations. Many people have lost their jobs. Housing is a fundamental need. Senate Bill No. 1 clearly brings parties together to find solutions. There has been \$30 million of CARES Act money set aside to help these tenants. Recognizing the strain on households and the need to minimize homelessness and family displacements in the near term, while facing extremely high unemployment rates, this measure will expedite the process to bring landlords and tenants together and create an economic bridge for families to remain in their homes.

SENATOR HAMMOND:

I struggle with Senate Bill No. 1. In 2011, I was on the subcommittee with the Senator from District 14. The tools are right there for this program to go into place. It was testified to in the hearing that we are looking at north of 100,000 people who might need mediation, but that already exists. This particular bill brings uniformity to a program across the State, but I am not sure it is necessary. Sometimes, there needs to be differences for different jurisdictions. This does not rise to the level of need for a special session bill. I cannot support this.

SENATOR CANCELA:

I support Senate Bill No. 1. There are three reasons why I support this bill. The first is my gratitude for the Court who recognizes the need to ensure, as quickly as possible, that every Nevadan has the opportunity to stay in their home, despite the economic hardships this pandemic has created. As people lose their homes and look for new housing, they also incur dramatic changes to their lives, whether it is their children losing the opportunity to be in the same school or the inability to find new housing timely rendering the family homeless, unable to retain continuity. This virus spreads upon contact with others. Having a home, a safe place to quarantine, is incredibly important, and now, more than ever, housing is essential. I am grateful the Court has created a program that allows people to keep their homes.

Secondly, this bill allows tenants to directly talk with their landlords. In the State of Nevada, since many landlords live out of state, most tenants have to deal directly with property-management companies. The authority for tenants to be able to speak to their landlord about a repayment plan and to keep their home is important. A trained mediator can direct a focused conversation to lead to positive outcomes for both parties. That is what this bill does.

The final point speaks to how mediation operates. Judicial proceedings and eviction hearings can be intimidating to access and navigate for those who have never been part of the Court process. Mediation takes that process into a manageable setting where people can present themselves without needing legal representation. In a mediation setting, they can have conversations without being in front of a judge and talk about the need for housing. They will have the opportunity to explain why payments have not been on time and why there will be timely payments in the future. This allows tenants to speak directly to the situation they are facing and allows landlords to talk about issues they are facing and explain why it is important for them to receive payments on time. We may see over 100,000 Nevadans potentially lose their home. This is a good and essential program that is important to the citizens of Nevada. I urge this Body to support Senate Bill No. 1.

SENATOR DENIS:

I need to clarify the record. It was mentioned this is foreclosure mediation. This is a separate program of residential evictions, not foreclosures. This is the residential-eviction portion of the law where the tenant and landlord within 30 days are given the opportunity to resolve their issues.

SENATOR HARDY:

I like mediation. I have to come down on the side of compassion yet hope this will bring people together at the mediation table and get things accomplished. Yes, it has its challenges. There are two sides to this. Hopefully, this mediation opportunity will be broad enough so people can remain in their homes and safely stay where they need to be.

Roll call on Senate Bill No. 1:

YEAS—18.

NAYS—Hammond, Hansen, Pickard—3.

Senate Bill No. 1 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 1.

Bill read third time.

Remarks by Senators Woodhouse and Hansen.

SENATOR WOODHOUSE:

Assembly Bill No. 1 makes various technical corrections to legislation passed during the 2019 regular Session. The bill amends provisions in A.B. 431 of the 80th Session, which is now in chapter 255, Statutes of Nevada, 2019, to clarify that the right to vote is immediately restored to a person who was placed on probation, granted parole or granted a pardon. The bill also clarifies that a person's right to vote can only be suspended if the person is incarcerated. That right to vote is immediately restored to any person convicted before the effective date of A.B. 431 of the 80th Session who is not incarcerated and who has not already had his or her right to vote restored.

This bill also amends provisions in Senate Bill No. 15, chapter 600, Statutes of Nevada, 2019, concerning applicable time periods within which a tenant who is in default on payment of rent must pay the rent or surrender the premises.

The bill amends provisions in S.B. 161 of the 80th Session, chapter 611, Statutes of Nevada, 2019, to include the word "business" within the phrase "internet lender" to clarify that an "internet business lender" is defined as a person who makes business loans exclusively through the Internet is subject to the applicable provisions of law regarding licensing and the conduct of certain business.

SENATOR HANSEN:

This would normally follow under a typical cleanup bill for language when we have our regular Sessions. It does not need to be in the Special Session. I have voted "no" on the idea that people who have not completed their sentences are being allowed to vote. Persons who are still on parole should not be granted that right as it is part of the sentence. I will be voting "no."

Roll call on Assembly Bill No. 1:

YEAS—18.

NAYS—Hammond, Hansen, Settlemeyer—3.

Assembly Bill No. 1 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 2.

Bill read third time.

Remarks by Senators Washington and Settlemeyer.

SENATOR WASHINGTON:

Assembly Bill No. 2 relates to the Legislative Department of State Government. It authorizes the Legislative Commission, and other statutory and interim-study committees operating during the Legislative Interim, as well as other commissions or committees, which are supported primarily by legislative staff, to use an authorized remote-technology system to conduct their meetings during the public-health crisis caused by the Coronavirus Disease of 2019. Meetings may be conducted in this manner, regardless of whether a physical location is made available. Reasonable efforts must be made to ensure the public can hear and observe such meetings and

participate during public-comment periods. Assembly Bill No. 2 declares the obstruction or interference of a remote-technology system as interfering with the legislative process.

Assembly Bill No. 2 also makes adjustments to the structure of the Legal Division of the Legislative Counsel Bureau (LCB) by clarifying the role of the Legislative Counsel and creating the position of General Counsel within the Division. The measure clarifies the duties and qualifications of General Counsel and provides that the Legislative Counsel and General Counsel serve as Chiefs of the Legal Division.

Finally, Assembly Bill No. 2 provides that if the Legislature first approves any State constitutional amendments during a special session held in an even-numbered year, the Director of the LCB shall immediately publish a separate printed volume of advance sheets of statutes, which includes the full text of the approved, proposed amendments. This publication shall be deemed to be the publication of proposed amendments as required by the *Nevada Constitution* and no additional publication is necessary.

SENATOR SETTELMAYER:

I am concerned with section 17 of this bill. This changes our publication concepts which goes against what the *Nevada Constitution* indicates. It has to be published for three months, next proceeding the time of making of such choice, and that choice is who is going to be voting on it in the next Session. With the change of this, that means that during early voting, we will not meet that timeframe. This change is unconstitutional, and I am in opposition.

Roll call on Assembly Bill No. 2:

YEAS—15.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Pickard, Settelmeyer—6.

Assembly Bill No. 2 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 4.

Bill read third time.

Remarks by Senators Ohrenschall, Settelmeyer, Seevers Gansert, Spearman, Hammond, Hansen, Pickard, Ratti, Harris, Cannizzaro, Goicoechea and Hardy.

SENATOR OHRENSCHALL:

Assembly Bill No. 4 provides for the conduct and operations of elections in Nevada during a state of emergency or disaster declaration as proclaimed by the Governor or by resolution of the Nevada Legislature. The measure sets forth the circumstances under which an election is deemed an "affected election" during an emergency situation for the purposes of triggering provisions allowing for voting by mail, establish certain polling places and conducting early voting.

During an affected election, every active voter must receive a mail-in ballot. A minimum number of polling places for early voting must be established, and polling places for the purposes of registering to vote and voting on Election Day must be available. The bill sets forth the contents of the mail-in ballot and specifies that a mail-in ballot must be postmarked on or before the day of the elections and received by the county election office no later than 5 p.m. on the seventh day following the election in order to be counted. Each county or city election officer must also establish at least one location in the jurisdiction where mail-in ballots can be delivered by hand and collected during the period for early voting and on Election Day. The bill allows a voter to authorize any person to return his or her absent or mail-in ballot to the county or the city on behalf of the voter and prohibits such a person from willfully failing to return such a ballot. It provides for a category E felony, should this occur.

Assembly Bill No. 4 sets forth procedures for verifying and processing absent and mail-in ballots, including the review of a voter's signature on and the counting of ballots by electronic means. For any affected elections, the return of the mailed-ballot vote must be reported separately

from other votes that were not cast by mail. Mail-ballot results may not be released until all polling locations are closed and all votes have been cast on the day of the election.

Finally, county election officials must develop a procedure to ensure the secrecy of each absentee or mail-in ballot. I urge your support.

SENATOR SETTELMAYER:

I object to this bill on many points. According to this bill, the concept of affected elections during an emergency declared by a declaration of emergency or disaster is never-ending. Until the Governor or the Legislature declares the emergency is over, it is not. If we never get out of this emergency, all elections from this point forward will be an affected election. Vote by mail compromises the concept of a secret ballot. When you walk into a ballot box, it is your own opinion without influence or coercion. People do not always share the same viewpoint and will disagree. To deny people, young and old, the sanctity of the ballot box is unconscionable.

This bill will prolong the counting of ballots, and it will take weeks before we know who the winners are. We will not know who the leader of the free world will be for weeks. Are we going to allow individuals to start counting the mail-in ballots 15 days before Election Day? I am sure they will not tell anyone what is going on in these elections. That bothers me.

The front of this bill contains an unfunded mandate at a time when some counties have not yet received their CARES Act funds. These are desperate economic times. Now, counties will have another unfunded mandate on top of this. I cannot support this.

It is not necessary to mail every person a ballot when the State already has a default system in place. If someone wants an absentee ballot, they can request one from the Secretary of State. We have seen numerous studies to show the post office loses mail. Every vote should count.

I look at aspects that did not get into this bill. We are eliminating everything this Body has accomplished to prevent ballot harvesting. Family members are the only people that can be trusted to turn in your ballot. In current law, if someone brings 50 people to register to vote or to vote, they must give their name to ensure the election is not tampered with. This bill will give anyone the ability to potentially acquire hundreds and hundreds of ballots and turn them in, or not, with no similar protections. I oppose this bill.

SENATOR SEEVERS GANSERT:

My colleague from Douglas County made several points of concern. We want Nevadans to participate and vote. The last Primary Election was a mail-in ballot election. It was successful without this legislation. The ballot-harvesting piece of this bill is problematic and could damage the integrity of the election. While there was statute put in place in 1999, this bill would reverse it. We have spoken to our colleagues about taking the ballot-harvesting portion out of this bill and were unsuccessful to bring that change. Since we cannot bring amendments to the Senate Floor, there was no other way to do it other than having conversations. With the changes of statute in Assembly Bill No. 4, I will not support it.

SENATOR SPEARMAN:

My grandfather was a slave, and my grandmother was a member of the Cherokee tribe. My great grandfather on my mother's side was a slave, so was my great grandmother. My grandmother was barely born free. My dad was born free. I am only third-generation free. That is important to me because I remember talking to my maternal grandfather, who was a historian for a major bank in Pittsburgh. Although he could not read or write, he could read us the Bible. He wanted to have the right to vote. Before he passed away, he was sorry he would not live to see the day everyone has the right to vote. Every Election Day, my grandmother explained to us why it was important to vote.

I am supporting Assembly Bill No. 4. Although I am third-generation free, I am only the second generation to have, in law, the right to vote. This right is sacred to me. The only thing this legislation does is ensure people who want to vote but cannot get there, and those who do not want to put their lives at risk, have an opportunity to vote. We heard testimony from election officers that disabled people and those over 65 have been able to vote by mail for a long time. If there were strange and peculiar things that were to occur because of mail-in ballots, they would have already surfaced. People who run the voting system in Nevada have assured us they have the ability to make sure those things do not happen.

I was overseas in the military one time and did not have the opportunity to vote. I will never forget that. There are military members all over the world. Those in Taegu, South Korea, Yongsan, Pusan, the only way they can vote is by absentee ballot. Remember, absentee is mail-in voting. It is just called by a different name. A few years ago, our now Secretary of State was asked about voter fraud, and the response was there has been no voter fraud.

I understand there are many people in many counties and cities that have not received CARES Act funds or any support for running their government operations. The United States Senate went home last week. Tragically, this was never addressed. Hopefully, something will happen at the top so people get their money. Assembly Bill No. 4 should not be held hostage because of disagreements in Washington or for not having faith in the Secretary of State and her team. This is a bill where many people, like myself, who are third-generation free and born second-generation free with the right to vote, can. Anytime you are talking about voting rights and making sure everyone can vote, I hear and share the words of my grandfather, my grandmother, my father and mother, all of whom are now in Heaven. They did things that had to be done to survive long enough for us to have the right to vote. I will not desecrate their names or their memory by voting "no" on any bill that challenges someone's right to vote. Second-generation free with the right to vote, I am voting "yes."

SENATOR HAMMOND:

I stand in strong opposition to Assembly Bill No. 4. I have spent the majority of my career teaching, among other things, the *Nevada Constitution*. It is a document I respect and revere, which led me to run for public office. This Session, and this bill, in particular, is nothing short of an assault on that document. This institution has an obligation to defend the *Nevada Constitution*, our rule of law and the integrity of this Body every day we have the honor to call ourselves Senators.

Our Secretary of State endowed to run and manage our elections, yet had no input in drafting this legislation. She only first saw it when it was released to the public. This is abysmal and shameful. This legislation legalizes ballot harvesting, an issue that jeopardizes the integrity of our elections. Our *Nevada Constitution* calls for special sessions to be only held in extraordinary circumstances. This current Session comes on the heels of one just two weeks ago with nothing extraordinary on the agenda. That is abysmal.

My reverence for our *Nevada Constitution* and this Chamber requires me to cast a "no" vote and to encourage my colleagues to cast "no" votes. Let me share with constituents that Nevada, once a state who worked together to solve the problems of the day, has now become a political convention. Yes, I am aware my party affiliations have put me in the minority. Yes, I am aware feelings run strong on both sides. But all of us, regardless of party, should put our laws, our integrity and our institution first. It is our duty and our mission. Our voters sent us here to protect our State and its people from political overreach and the abuse of the Legislative Body.

I urge my colleagues to think carefully about this legislation and realize that once opening Pandora's Box, is not likely able to be closed.

SENATOR HANSEN:

Much of what I wanted to say has already been stated. I agree with my colleagues who spoke in opposition. If this is a true emergency measure, it must have a sunset. Mr. Gloria testified there were hundreds, if not thousands, of rejected mail-in ballots because of lack of signature. Many people had their ballots thrown away because the ballot was not filled in correctly. If we are concerned that every ballot is counted, this is not the way to do this.

If we are dealing with people in the COVID situation who feel their lives are threatened to stand in line and vote, the absentee system has been in place, is efficient and works fine. People can apply for an absentee ballot. The idea people will be in danger in the absence of passing this measure is nonsense. I urge my colleagues to reject Assembly Bill No. 4. This is a mistake. The fact our Secretary of State, whose proponents of the bill mentioned are the people who have been doing a great job, was not involved in its drafting. In her testimony, she said she received this bill one hour prior to the hearing in the Assembly. There is a backdoor effort in this bill to take away the legitimate powers of her office and transfer it to the Governor, which is a mistake and in violation of the *Nevada Constitution*.

SENATOR PICKARD:

I am moved by the comments made by my colleague from Senate District 1. I do not have family that has ever questioned their ability to participate in the political process. I strongly support the right to vote. I do not, however, see this bill as a contestation of a right to vote. No one has said this bill represents a denial of the right to vote.

My concerns, without repeating what my colleagues from Senate Districts 14, 15, 17 and 18 have said, except to say this is making the votes matter and is something we should be concerned about. To say nothing of the cast votes that were not counted due to a defect in their ballot, and the idea there is no evidence of voter fraud, is a losery. There is no enforcement arm and no investigation, other than someone reporting it. There is one, part-time investigator in the Elections Department. Yes, they can borrow seven sworn officers from the Security Division, but they have things to do also. Are we saying we will suspend any investigation of any security problems? Of course not, those go on. Any evidence of voter fraud is unknown because no law enforcement investigation of such has occurred.

The idea we are disenfranchising anyone is a canard. Absentee voting is accessible every day. Someone can request their ballot any time during the year. I had spent a couple of years in Japan, and I voted outside of the Country from Japan. I have lived overseas in a friendly environment, and I know how valuable our freedoms are here. This idea that we need to encourage by allowing those that would threaten the integrity of our votes simply because the politics looks good is offensive to me. We need to uphold and defend the Constitution and the integrity of our votes. If we do not defend that most fundamental element of our democracy, the rest of it loses its foundation and crumbles. I urge my colleagues to vote "no."

SENATOR RATTI:

Everyone will receive a mail-in ballot and have the opportunity to vote by mail. For those who want to vote in person through early voting or on Election Day, this proposal ensures there will be a certain number of vote centers open to give that opportunity. It intends to ensure no one loses their right to vote due to standing in line for a significant amount of time. It is an important piece of this legislation.

I want to speak to the piece about trusted family members and who we trust to deliver our ballots to the ballot box in a time when many people are staying home, are quarantined, may be ill, and it is in the public health's best interest for them to stay home. I come from a family I can trust, but unfortunately, not every Nevadan has that. Who people trust when it comes to this most important sacred right of voting is not always a family member. This bill gives the opportunity for those who may not be able to leave their home the ability to work with someone they trust to ensure their right to vote is executed. I strongly support Assembly Bill No. 4.

SENATOR HARRIS:

I speak in support of Assembly Bill No. 4. This bill is not the end of voting, as we know it. It allows more Nevadans to safely participate in our General Election. In Nevada, we already have no-fault absentee voting. Two-thirds of the states in this Country have no-fault absentee voting. Any person can request an absentee ballot be sent to their home for any reason. I hope we can agree the Primary Election was best handled by mail-in voting to keep our citizens safe while allowing them to exercise their right to vote. Unfortunately, coronavirus numbers are not any better in this State than they were when the Secretary of State decided to mail ballots for the Primary Election to all registered voters. This bill does not apply to every election, only if there is a state of emergency that affects the safety of our citizens. Why in the world would we not facilitate mail-in voting during a pandemic? We have a voting problem in this Country, and it is not voter fraud. It is a systemic underparticipation in the process. It is our duty to encourage our citizens to vote and make it as easy as possible. To those who are worried about the secrecy of their ballot, vote in person. Drop it off yourself. Fill out your mail-in ballot in your room and lock the door. This bill does not force anyone to vote by mail. To those who are worried that expanded mail-in voting will lead to a delay in election results, I submit there is no amount of time too long to wait for every citizen to have their voice heard, not in America.

To request an absentee ballot from the Secretary of State since the office is closed these days, you need a computer, access to the Internet and a printer. What populations are less likely to have access to those resources that we in this Chamber take for granted? It has been said on this Floor



we had a successful primary election conducted in the exact same way this bill is proposing. So, I ask again, why in the world would we not facilitate mail-in voting during a pandemic? In these extraordinary times, the least we can do is remove the barriers for requesting an absentee ballot to make it easier for everyone to participate in the electoral process.

In the immortal words of John Lewis, "Democracy is not a state. It is an act . . . ." With my vote on this bill, I am answering that call to act. I encourage my colleagues to do the same.

SENATOR CANNIZZARO:

I, too, support Assembly Bill No. 4. The right to vote is a sacred, constitutional right. Many individuals fought for this right. We should be doing everything we can to protect it, like so many other rights in the Constitution. This constitutional right to vote, as originally written, required several constitutional amendments for people to be given the right to vote. In the last Session, Nevada was the first Legislature to have a female majority serving in the Legislature. We are here because of the women who paved the way and fought for their right to vote. Earlier this year, there was a primary election, an election held by an all-mail-in vote. To exercise my constitutional right, I cast a mail-in ballot for that election. I filled it out and put it in the mail so my vote counted. We are facing a pandemic. We need to facilitate a safe environment so anyone who wishes to vote can and be able to vote safely.

This bill is not an opportunity to create election fraud or allow ballot harvesting. That is not what this bill is. We heard testimony about there being rejected ballots. We also heard there were no cases of voter fraud as a result of the all-mail-in Primary Election. It was a successful election where people were able to safely cast their vote without risking the realities of a pandemic. The idea there are rejected ballots supports the idea that this election is secure. This is not an opportunity for fraud. These ballots are being taken seriously. When a signature does not match, it is asked to be confirmed by the voter. If we cannot have faith in that ballot, it is not counted. That is exactly what we should be asking for. If it was a good enough process for the Primary, it should be a good enough process for the General Election. We have not mitigated the concerns of the pandemic or have created a place where people can safely wait in line, show up in person and be around other people. Today, we are living in that reality as we sit here with an empty Chamber upstairs, plexiglass between our neighbors and all wearing masks. We are taking safety precautions to wash our hands, use sanitizer and protect one another. We should be doing the same to enshrine and protect our constitutional right to vote.

I will do everything I can to ensure all Nevadans can safely exercise their right to vote. If that assuredly means saying "yes" to Assembly Bill No. 4, I will support it. I urge my colleagues' support as well.

SENATOR GOICOECHEA:

I oppose this bill. I have spoken with several county clerks in the counties I represent. Most of them feel their constituents want in-person voting. They will have polling places open, and I anticipate many people will access them. I want to confirm, on the record, that when you go to the polling place for in-person voting, the affidavit you would sign affirming that you are not using the mail-in ballot process does not need to be notarized. I expect in many of the smaller jurisdictions, people will continue to vote in person, as they always have. No, my constituents do not like and would not accept a complete mail-in mandate for the General Election. I am concerned about some of the discrepancies, and there were some, that we saw in the Primary are not exploited to where we have a fraudulent general election. I urge my colleagues to not support Assembly Bill No. 4.

SENATOR HARDY:

We are talking about two different things. There is a right to vote that should and will be protected, and there is a right to have my vote counted. When we look at the 6,700-some-odd votes that were cast out because of some circumstance with the signature, how many of those were actually cast out so the vote was not counted? So, there are two different things, the right to vote and the right to have your vote counted.

We are looking at different circumstances and problems in this bill. We heard testimony that you have a phone, you can call the Secretary of State and request an absentee ballot. You do not

have to have an Internet connection. Speaking of Secretary of States, I am aware of three female Secretaries of State. I am not sure where the gender thing about voting comes from.

We have come a long way in allowing people to vote for their representatives in this Body and every other body in the State. When we start looking at the reality of votes counting, it is just as important as the right to vote.

I am concerned about confidentiality. We have a right to vote confidentially. When we have somebody volunteering, helping someone vote, how many times is that person going to help people vote? How do we convince them of the accountability of being confidential when helping? So, they should have no right? In the bill, there is a punishment if you do not turn in someone else's ballot. There should also be some sanction or retribution if someone discloses so-and-so voted this way. That is inappropriate, and the secret ballot is not protected in this bill. This reverses that concept of family as opposed to random people being able to assist. Assembly Bill No. 4 has flaws and does not access the right to have my vote counted. I will not be supporting this bill.

Roll call on Assembly Bill No. 4:

YEAS—13.

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

Assembly Bill No. 4 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

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

Senate in recess at 10:42 a.m.

## SENATE IN SESSION

At 11:24 a.m.

President Marshall presiding.

Quorum present.

## MESSAGES FROM ASSEMBLY

ASSEMBLY CHAMBER, Carson City, August 2, 2020

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed Senate Joint Resolution No. 1; Assembly Joint Resolutions Nos. 1, 2.

CAROL AIELLO-SALA

*Assistant Chief Clerk of the Assembly*

## MOTIONS, RESOLUTIONS AND NOTICES

Assembly Joint Resolution No. 1.

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

Motion carried.

Assembly Joint Resolution No. 2.

Senator Ratti moved that the resolution be referred to the Committee on Whole.

Motion carried.

Senator Cannizzaro moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering Assembly Joint Resolutions Nos. 1, 2 and any other matters as outlined in the Governor's Proclamation, with Senator Cannizzaro as Chair and Senator Ratti as Vice Chair.

Motion carried.

#### IN COMMITTEE OF THE WHOLE

At 11:27 a.m.

Senator Cannizzaro presiding.

Assembly Joint Resolutions Nos. 1, 2 and any other matters as outlined in the Governor's Proclamation, considered.

The Committee of the Whole was addressed by Senator Cannizzaro; Bryan Fernley, Legislative Counsel, Legal Division, Legislative Counsel Bureau; Senator Hardy; Senator Pickard; Russell Guindon, Principal Deputy Analyst, Fiscal Analysis Division, Legislative Counsel Bureau; Senator Goicoechea; Senator Brooks; Senator Settelmeyer; Senator Hansen; Senator Ohrenschall; Senator Ratti; Chris Daly, Nevada State Education Association; Christine Saunders, Progressive Leadership Alliance of Nevada; Carmen Andrews, Vice President, National Education Association of Southern Nevada; Alexander Marks, Nevada State Education Association; J.D. Klippenstein, Executive Director, ACTIONN; Patrick Donnelly, Nevada State Director, Center for Biological Diversity; Christi Cabrera, Nevada Conservation League; Annette Magnus, Executive Director, Battle Born Progress; Aaron Ibarra, Deputy Director, Mi Familia Vota; Selena la Rue; Aluna Fessler; Erika Minaberry; Tara Tran; Laura Hale; Dan Price; Vera Miller; Carolina Chacon; Natalie Hernandez, Deputy Political Director, Make the Road Nevada; Marlene Lockard, Nevada Women's Lobby; Dexter Lim, Sunrise Movement; Maria Neisess, President, Clark County Education Association; Paul Enos, Chief Executive Officer, Nevada Trucking Association; Dagny Stapleton, Executive Director, Nevada Association of Counties; Janine Hansen, State President, Nevada Families for Freedom; Bryan Wachter, Senior Vice President, Retail Association of Nevada; Paul Moradkhan, Senior Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce; Susan Fisher, Nevada Mineral Exploration and Cynq Energy; Christina Erling, Barrick and Nevada Gold Mines; Mary Walker, Lyon County; Andrew MacKay, Executive Director, Nevada Franchised Auto Dealers Association; Tyre Gray, President, Nevada Mining Association; Lynn Chapman, State Vice President, Nevada Eagle Forum; Pam Robinson, Hecla Mining Company; Thomas Erwin; Amanda Hilton; James Wadhams, Newmont Mining Company; Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation; Christina Erling, Barrick and Nevada Gold Mines; Jim DeGraffenreid, Vice Chair, Nevada Republican Party; Randi Thompson, State Director, National Federation of Independent Business; Marcus Lopez, Americans for Prosperity Nevada; Allard Terex; Frances Deane.

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 LCB'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. Redfearn*, 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*

SENATOR CANNIZZARO:

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

BRYAN FERNLEY (Legislative Counsel, Legal Division, Legislative Counsel Bureau):

Assembly Joint Resolution No. 1 proposes an amendment to the *Nevada Constitution* to revise provisions governing the taxation of mines, mining claims and the proceeds of minerals extracted in this State. In most aspects, the provisions of Assembly Joint Resolution No. 1 are similar to the provisions of Senate Joint Resolution No. 1, which was recently heard and passed by the Senate, the exception being the manner in which the proceeds of the proposed tax on the gross proceeds of minerals is distributed. I will provide a brief overview of this resolution.

The constitutional amendment proposed by this resolution is doing five separate things. First, it would state in the *Nevada Constitution* that the Legislature shall provide, by law, for the taxation of mines, mining claims and the proceeds of minerals extracted in this State. This would give the Legislature the authority to enact laws to impose taxes on mines, mining claims and the proceeds of minerals extracted in this State.

Second, in addition to such taxes as may be imposed by the Legislature, the proposed constitutional amendment would impose a tax on the gross proceeds of minerals extracted in this State. The tax would apply to the proceeds of minerals extracted in this State during the calendar year beginning January 1, 2023, and each calendar year thereafter. The tax would be 7.75 percent of the gross proceeds of minerals extracted in this State during the calendar year, unless the

Legislature changed that rate in accordance with the procedures I will next describe. Under this proposed constitutional amendment, a provision of a bill increasing the rate of this tax or providing for the taxation of mines, mining claims and the proceeds of minerals in a manner that created, generated or increased public revenue would not require a passage of a two-thirds vote of the Legislature. Such a provision would require a majority vote of the Legislature. The Legislature could also provide exemptions or reduce the rate of the tax on the gross proceeds of minerals extracted by a bill approved by two-thirds of the Legislature.

Third, the constitutional amendment proposed by this resolution would remove two provisions of the *Nevada Constitution* relating to the distribution of the proceeds of the current tax on the net proceeds of minerals extracted. The proposed amendment would remove the requirement the Legislature appropriate to each county an amount equal to the property-tax rate imposed in the taxing district of a mining operation multiplied by the net proceeds of that mining operation. The proposed amendment would also remove provisions requiring counties to allocate that appropriation among the governmental units and districts in the county in the same proportions as those entities share in the property tax collected in the county. The removal of these requirements would mean the Legislature would have discretion to determine, by law, the manner in which the proceeds of the taxes on mines, mining claims and the proceeds of minerals are distributed to counties and local governments.

Fourth, the constitutional amendment proposed by this resolution would remove a provision of the *Nevada Constitution* requiring patented mining claims to be taxed in a certain manner. Currently, NRS 361.075 exempts unpatented mining claims from taxation and patented mining claims are assessed and taxed as other real property is assessed and taxed except that no value can be attributed to the mineral underlying the property and no value may be attributed to the surface of the mine or the claim if \$100 worth of labor has actually been performed on the mine or claim during the year preceding the assessment. The proposed constitutional amendment removes this constitutional provision requiring this method of property taxation of unpatented mines.

Finally, this proposed constitutional amendment would provide for the distribution of the tax imposed on the gross proceeds of minerals under this amendment. The distribution would require that 25 percent of the money collected from the tax on the gross proceeds of minerals extracted in the State would be kept separate from other moneys in the State Treasury. In accordance with appropriations made by law, it would be used exclusively for educational purposes, to provide for healthcare to the residents of the State, to provide assistance to the residents of this State or any combination of those purposes. The remaining 75 percent of the proceeds from the tax imposed on the gross proceeds of minerals extracted would be within the discretion of the Legislature to appropriate.

If Assembly Joint Resolution No. 1 is approved by the Legislature during this Special Session, it must be submitted to the next Legislature, either the 2021 Legislative Session or a special session held where the Legislature consists of the group of Legislators elected at the 2020 election. If approved again by the next Legislature, the proposed constitutional amendment would be submitted to the voters and become effective only if a majority of the voters vote in favor of the amendment.

SENATOR HARDY:

So, Legislators who are elected in November are immediately in and seated. Conceivably, we could have a special session in the middle of November with those Legislators and create the second hearing for this bill and its approval.

MR. FERNLEY:

Yes, that is correct. The next Legislature would be the group of Legislators elected in the 2020 General Election so the regular Session held after that election or any special session held after that election would be the next Legislature at which this amendment would be considered for the second time. The Governor or two-thirds of the Legislature would need to convene a special session.

SENATOR HARDY:

The geothermal would be protected and not subjected to the net proceeds, or the new tax, as it were, even though geothermal water comes out of the land and has minerals in it. It is not the intention to capture geothermal.

MR. FERNLEY:

Yes. The Legislature would have the discretion to tax geothermal in a different manner, or it would have the discretion to tax in the same manner. Under current statutes, geothermal is treated as a mineral subject to the tax on the net proceeds of minerals. It would be within the discretion of the Legislature to change that and not tax geothermal as a mineral under this gross proceeds construct, or it would be within the discretion of the Legislature to continue to tax it as a mineral for the purposes of the gross proceeds tax.

SENATOR PICKARD:

We do not have any idea how the 7.75-percent tax on the gross proceeds of minerals extracted would economically affect the marginal mines. Is that still the case?

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

As your economist, I will not know. Opposing this tax could affect mining operators. I will not be able to determine that until it is in place and see what adjustments they would have to do and which ones may be significantly, adversely affected and other ones would not.

SENATOR PICKARD:

That answer includes when you say you would have no way of knowing because you have not had time to talk to them. Is that correct?

MR. GUINDON:

I am not of that industry, and I do not have available to me the ability to contact all of the different mining operators and find out how this tax may affect them. That would be a difficult thing to do even with additional time because, as your staff, I do not have access to be able to talk with them. It is not that it could not be done. It would be a difficult exercise to perform.

SENATOR PICKARD:

I understand that. If we were to convene a meeting where they were all at the table, we could do that.

Mr. Fernley, to follow up on my colleague's question, when we are talking about the ability of the next Legislature to step in on a special session convened for the purpose of making sure we can do this on a sped-up timeframe, is there any precedent for this kind of constitutional rush in our history or history of any state that you are aware of?

MR. FERNLEY:

There are a couple of constitutional provisions that come to mind. I will have to go back and look how those were enacted. After I look at some previous constitutional amendments, I can let you know the answer to that.

SENATOR PICKARD:

I was under the impression we deliberately made it difficult to run bills changing the *Nevada Constitution* through within in a period of a year. We want to ensure to invest adequate time to vet what we are doing to change our constitutional document, our foundational document, that taking two or three years' time to do this was an advantage. If that is the case, what is the legal precedent, if one exists? I do not see the legal justification, but if there is a legal precedent in our past, or any other state, that will then beg the question: how did that turn out? This is a monumental mistake.

MR. FERNLEY:

I looked back at some constitutional amendments. Article 10, Section 5, the current provisions governing the net proceeds of minerals, was proposed and passed by the 1987 Legislature, and it was agreed to and passed by the 1989 Legislature. It was immediately submitted to the

Special Election held May 2, 1989. That process was approximately two years of the current provision of the *Nevada Constitution* related to mining to be enacted.

SENATOR PICKARD:

This would take less than one year if we pass Assembly Joint Resolution No. 1, correct?

MR. FERNLEY:

If the Legislature were to pass the proposed amendment the first time at this Special Session, and it subsequently would go to the next Legislature, then, yes. The amendment could be placed on the 2022 ballot, or they could have a special election before the election in 2022 and place this before the voters.

SENATOR GOICOECHEA:

On the geothermal side, how do you assess the net proceeds to tax? The product is electrons, and they lose their identity the minute they hit the wire. Is it assessed at that point, or how does that work? The infrastructure on the ground surface, is that taxed as personal property?

MR. GUINDON:

I am not an expert on the geothermal taxation. I can look into that in terms of pulling up the information the Department of Taxation provides to geothermal for the purposes of figuring their net-proceeds-of-minerals tax return. It would seem the construct of selling the geothermal proceeds and the value to that is the gross proceeds. They are entitled to the same statutory deductions that other nongeothermal types of mining get. It is not a definitive answer, but this would work the same way for geothermal in terms of the deductions they would be allowed to take against those gross proceeds. The gross proceeds are somewhat unclear to me. It is my understanding the equipment and the infrastructure is personal property subject to property tax in terms of being assessed.

SENATOR GOICOECHEA:

This is going to be an ongoing debate as we look at these bills. If, Mr. Guindon, you could provide a limited breakdown how geothermal is taxed, and if it is, how much different it is from gold or any other mining operation. I believe there is a big difference, and this needs to have a continued dialogue.

MR. GUINDON:

I will try, Senator, and look into that information to see how the gross proceeds for geothermal is determined. As Mr. Fernley stated, geothermal is, as a legislative decision, taxed like the nongeothermal mining operations. Geothermal is under the provision that they do not pay any more than the combined property-tax rate on their net proceeds, unlike other types of mining that could be assessed at a 5-percent maximum rate. If this were approved and became part of the *Nevada Constitution* with regard to taxing geothermal at 7.75 percent of the gross proceeds, the Legislature would have the ability to tax geothermal differently because they are not bound by these constitutional provisions.

SENATOR BROOKS:

Mr. Fernley, could you again explain how the process by which this original 5 percent was put in back in the 80s?

MR. FERNLEY:

The current provision providing for the taxation of net proceeds of minerals was first passed in the 1987 regular Session. It was passed for the second time in the 1989 regular Session and submitted to a vote by the people May 2, 1989.

SENATOR BROOKS:

Was that Special Election called in May of 1989 for the sole purposes of passing the 5-percent cap in the *Nevada Constitution*?



MR. FERNLEY:

I believe it was. Although, I do not have that ballot in front of me, I am not aware of any other issue that would have been on that ballot.

SENATOR BROOKS:

So, that Special Election was after the regular Session to approve the constitutional cap on mining.

MR. FERNLEY:

Yes. The Special Election was during that Session, May 2, 1989, and it was to consider the current constitutional provision governing the net proceeds of minerals.

SENATOR BROOKS:

That was less than two years, and the Special Election was held just to put in place a constitutional cap on mining revenues.

SENATOR SETTELMEYER:

We have had several questions regarding the mining industry. Would it be acceptable to contact a representative from the Mining Association to follow up as a witness so we can have some answers for the Committee of the Whole?

SENATOR CANNIZZARO:

I will note, right now, we are listening to our LCB staff walking us through this bill. We would all be capable of contacting them. They are available and ready to talk to any of us about all of these things. We are not intending to call them as witnesses in the Committee of the Whole.

SENATOR HANSEN:

The Assembly had Tyre Gray of the Mining Association available to answer many of these technical questions that, clearly, our staff is either not capable of answering or it is not their job. Is there no possibility that we could have someone from the mining industry here to ask questions about these issues? If they did it in the Assembly, I do not see any logical reason why we could not do the same here.

SENATOR CANNIZZARO:

I am sure Mr. Gray would be happy to speak with you about any questions you have. I am sure you can contact him to ask any of those questions.

I want to thank our capable staff of doing a remarkable job and be willing to participate in answering our questions. They have not only been able to conduct research on the fly but also work through the night, get us answers and make sure we have all of the information and be helpful.

SENATOR HANSEN:

I appreciate that and agree everyone here loves our staff. This is a hearing on a specific bill about a specific industry that will be dramatically affected. The idea that we would not allow someone from that industry to testify is just ...

SENATOR CANNIZZARO:

Is there a question to the members?

SENATOR HANSEN:

Yes, there is. The question is: why would this be held in a ram-and-jam session like this and not have someone from the mining industry here? This is totally inappropriate.

SENATOR CANNIZZARO:

Are there other questions from the Committee?

SENATOR OHRENSCHALL:

I also want to thank our staff for their incredible work during the last and this Special Session, during the Interim and regular Sessions.

Mr. Guindon, I heard some of yesterday's testimony and referred to the bulletin on net proceeds of minerals and read some of the data. There are 40, or so, mines in the State that are not operating at a profit. Do we have any information on those 40 mines that are not producing enough ore to counter what they put in? Are they owned by companies that own more profitable mines, or are they independent? A business might have a certain office that is not profitable now, but they hope it will be in the future. They have more profitable locations. Are any of those 40 mines owned by the more profitable mines in our State?

MR. GUINDON:

I do not have that information available to me at this point in time. What you can get from the Net Proceeds of Minerals Bulletin is the name of the mine and the mine's operator. Not being an expert on the ownership structure of mines to know that some of those mines ended up having zero-cashable, net-taxable proceeds because their deductions were greater than their gross, I would not have the ability to directly answer your question.

SENATOR RATTI:

Assembly Joint Resolution No. 1 is similar to Senate Joint Resolution No. 1 on everything having to do with revenue collection. Everything we discussed and debated in the prior resolution applies to this resolution, and the only distinction in this resolution is how the revenues are distributed. Is that correct?

MR. FERNLEY:

Yes. The distribution portion is the only difference between Assembly Joint Resolution No. 1 and Senate Joint Resolution No. 1.

SENATOR RATTI:

The distribution allows these revenues to become an ongoing source of revenue for education, healthcare and other programs. Is that correct?

MR. FERNLEY:

It would be for education, healthcare and economic assistance to residents of the State or any combination of those three.

SENATOR CANNIZZARO:

We will now open the hearing to those in support of Assembly Joint Resolution No. 1.

CHRIS DALY (Nevada State Education Association):

As the voice of Nevada educators for over 100 years, we support Assembly Joint Resolution No. 1. This resolution will generate critical, new revenue for Nevada by increasing the mining tax of 5-percent net proceeds to 7.75-percent gross proceeds. We appreciate that 25 percent of these dedicated revenues could be spent for educational purposes.

On the first day of the previous Special Session, hundreds of educators put on red-faced coverings and lined both sides of the street from the Legislative Building to the Capitol with a clear call to fund healthy schools. We chanted, "Be brave. Be bold. New revenue is the way to go." Educators mobilized for new revenues. The Governor presented hundreds of millions of dollars in painful cuts, including \$156 million cuts to K-12 public education. The effort to amend mining-tax deductions was blocked by a minority of this Body. We are left with education cuts to the bone, including class-size reductions and to programs like weighted funding and Read by Grade 3, affecting our most vulnerable students. Now, just days away from back to school, we know how difficult the ... (unintelligible statement) ... heading to the start of new school year, whether districts are going back to distance learning, a hybrid model or reopening buildings trying to follow the State's multiple guidelines. Additional resources are necessary to just get back to school. Unfortunately, those resources are not available.

Nevada is the world's fifth largest producer of gold, which hit a record high at \$1,931 per ounce last week, yet the mining industry pays little in State taxes. Assembly Joint Resolution No. 1 would generate a half-billion dollars of new revenue for Nevada. That is the right-sized treatment of an industry that has enjoyed its sweetheart deal since Nevada's beginning. This proposal is significant

enough to move the needle on chronic underfunding of Nevada's schools and other vital health and human services. Be brave. Be bold. Pass Assembly Joint Resolution No. 1.

CHRISTINE SAUNDERS (Progressive Leadership Alliance of Nevada):

We support Assembly Joint Resolution No. 1. Just weeks ago, you heard from Nevadans demanding the Legislature to take bold action and reform our State's revenue system by making mining pay their fair share. At that time, the price of gold skyrocketed to \$1,800 per ounce and has continued to increase over \$1,900. The State's budget was decimated just weeks ago with severe cuts to health and education. We had the option to prevent some of these drastic cuts but did not. Assembly Joint Resolution No. 1 will put this issue to the voters who can show they believe mining needs to be held accountable and fund our State's social services and education. I urge your "yes" vote.

CARMEN ANDREWS (Vice President, National Education Association of Southern Nevada):

I speak in favor of Assembly Joint Resolution No. 1. This resolution will provide a new-funding stream that education and Health and Human Services need. Mining does not pay its fair share of taxes in Nevada. When you hear people who refer to mom-and-pop mining makes up to \$20-million per year, it is a giant slap in the face to the majority of Nevadans who do pay our fair share. It is much more than my grandparents made in their mom-and-pop grocery store trying to support a family of seven. Without new revenues, we will continually fall short of our goal to adequately fund education in Nevada. Ensure greater educational equity and move closer toward providing adequate funding. Do the right thing and pass Assembly Joint Resolution No. 1.

ALEXANDER MARKS (Nevada State Education Association):

As my colleague said, "Be brave. Be bold. New revenue is the way to go." Educators helped launch the 31st Special Session. We wore red and lined the streets at six feet with one simple call, "Fund healthy schools." Teachers, educational support professionals and other licensed professionals marched outside of your building. We have made hundreds of calls. We have sent thousands of emails in that effort to fund healthy schools. We have pushed for new revenues in lieu of draconian education cuts to help us through this crises.

Team education allies, like the Progressive Leadership Alliance of Nevada and others, have been pushing for the mining industry to pay their fair share of taxes for years. Joining together our hard work and advocacy seem to be paying off in the form of Assembly Joint Resolution No. 1. You have already heard Nevada is the fifth largest producer of gold in the world and reached its record high last week. Assembly Joint Resolution No. 1 will generate \$1 billion in revenue each biennium, and it is the right-sized treatment for an industry that has enjoyed its sweetheart deal since Nevada's beginning. The proposal will move the needle of chronic underfunding of Nevada's schools and other vital health and human services. We have called for bold policies and new sources of revenue, and here we are. This is a good resolution. You should pass it and pass it again in 2021. Then we, the people, will take it from there.

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

I support Assembly Joint Resolution No. 1. This resolution takes the necessary first step to amend the *Nevada Constitution*. It removes the 5-percent tax cap on net proceeds enjoyed by the mining industry. This resolution will raise revenues for education and other State services. It is time the mining industry pay its fair share of taxes. This was the case before the COVID-19 pandemic and more so today. Nevada's budget has been balanced on the backs of students, educators, workers, communities of color and other marginalized groups for too long. We have routinely cut budgets for education and Health and Human Services while protecting low, effective tax rates enjoyed by this billion-dollar industry. This has left Nevada with one of the poorest-funded educational systems in the Country while the mining industry reaps millions of dollars from our State's natural resources. We must stop choosing corporate welfare over the well-being of everyday Nevadans. It is time to bring this issue to Nevadans. Let the people decide how to move forward and how the mining industry should be taxed. It is time to put people first. Build a new normal and vote "yes" on Assembly Joint Resolution No. 1.

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

Nevada faces a desperate hole in our budget. Our State makes sacrifices for mining. We sacrifice our drinking water and our public lands. We sacrifice sacred cultural sites from our Native American Nation. Meanwhile, the mining industry makes off like bandits with their pockets full of loot paying a pittance of taxes. Our schools and public health rank among the worst in the Country due to willful underfunding. Those burdens disproportionately fall on disadvantaged communities and people of color. The time has come for mining to contribute to our society and pay its fair share of compensation for the steep price Nevadans pay so the mining corporations can send profits out of State. Assembly Joint Resolution No. 1, taxing mining in this way is environmental justice. This is how we begin to address the inequities in our society. Assembly Joint Resolution No. 1, in particular, of the proposals we have seen thus far is the most effective tool for achieving those ends. The idea of taxing gross versus net makes sense. The deductions mining is currently allowed to take on the net proceeds are so outlandish that they are barely taxed on any of their revenue. Moving to a gross-tax revenue brings us into alignment with how other businesses are dealt with, and it will be an effective means of correcting those structural inequities in our tax system. As far as the small mines issue, if the liquor store down the street is not profitable, they do not get out of paying taxes. No small business in the State can avoid paying taxes if they are not making money. The small-mines issue is a red herring, and all of the mines need to pay taxes. Assembly Joint Resolution No. 1 is superior to all of the other resolutions we have seen. We will fight to see this pass and get through the ballot box. We encourage you to support Assembly Joint Resolution No. 1.

CHRISTI CABRERA (Nevada Conservation League):

We support Assembly Joint Resolution No. 1. Mining operations negatively create significant environmental impacts that exist long after the mining has ceased. The current system allows too many profitable mining companies to pay little to nothing in taxes from the resources they extract from our State. Assembly Joint Resolution No. 1 would change this calculation so Nevada will be fairly compensated for the taking of our natural resources. Less than 1 percent of the General Fund is spent on conservation and environmental protections. Passing Assembly Joint Resolution No. 1 will allow Nevada to invest and protect our outdoor spaces while providing funding for other critical programs. It is time for the mining industry to pay its fair share.

ANNETTE MAGNUS (Executive Director, Battle Born Progress):

I support Assembly Joint Resolution No. 1. This resolution is closer to what we have been requesting for several years. We are excited to have these revenue options on the table and potentially on the ballot. We agree mining should pay its fair share especially at a time when they are doing better than ever. All corporate welfare should not be allowed in our State. We look forward to further conversations about all of these bills.

AARON IBARRA (Deputy Director, Mi Familia Vota):

We need to stop making our children and healthcare professionals shoulder the burden of ... (unintelligible statement) ... shortcomings. The mining industry has made millions of dollars off of the backs of Nevadans. They have not paid their fair share of taxes, and we need to start holding them accountable. Let us put the well-being of Nevadans over the well-being of the mining industry. I urge you to vote "yes."

SELENA LA RUE:

I support Assembly Joint Resolution No. 1. This resolution is far overdue. Evidenced by thousands of emails, hundreds of protestors, hours of public comment and overwhelming polling results, this resolution is popular with Nevadans. Nevada mines make a fortune from our resources while paying a pittance in taxes to support the State that makes their profits possible. It is time the mining industry start to pay its fair share just like the rest of us.

We are in a time of crises, a time which demands sacrifice. Healthcare workers, educators and essential workers sacrifice their health, safety and lives to keep our community safe and functioning. We ask mining corporations to share in that sacrifice. It seems small to ask mining corporations to sacrifice a miniscule portion of their record-high profits to help fund education and healthcare services. We are often quick to cut our essential community programs but slow to

ask the mega-rich to chip in a small amount. Education cuts are second nature. Mining taxes are for it. This is backwards, wrong and harmful.

It is time to abandon budget-balancing measures of the past and seek a new path. All Nevadans need to do their part to improve our State. We must all share the sacrifice, not just the most vulnerable. It was easy for this Body to vote for devastating cuts in education, asking educators and children to sacrifice even more. Will you be just as quick to ask a multi-billion dollar industry to chip in a little bit as well? I urge you to pass Assembly Joint Resolution No. 1.

ALUNA FESSLER:

Change is hard, and I know this decision is not easy. Nevada is in financial trouble. Our schools and healthcare are in trouble. It is not easy to ask the mining industry to contribute more, but we need it. This is the right thing to do, to ask them to help when Nevada and our children need it most. Please pass Assembly Joint Resolution No. 1.

ERIKA MINABERRY:

I am a fourth-generation Nevadan. My children are fifth-generation Nevadans. I thought I was pretty upset last night when I heard the hearing on the resolution knowing that the mining companies do not rely on the Nevada market. The Nevadans who rely on the Nevada market are struggling, but nobody seems to care about us. Then I got really upset when I heard all of the people in opposition to this resolution; President of the Mining Association, different CEOs, aka robber baron. They all say the mining companies do so much good for this community, but our communities still struggle. My grandmother was one of the first female miners in Nevada, and she died in a trailer in the back of Sun Valley. The mining companies do nothing for the people down here at the bottom. The people down here at the bottom are the ones who vote for you.

TARA TRAN:

I fully support Assembly Joint Resolution No. 1. It is time we prioritize people and land instead of corporations and private interests. Any vote against this resolution is a blatant disregard and betrayal of the people's interests and shows favor to corporations and corruption.

LAURA HALE:

It is time mining pay its fair share of taxes. I support Assembly Joint Resolution No. 1 and directing those much-needed funds to education and healthcare.

DAN PRICE:

I support Assembly Joint Resolution No. 1 and appreciate this will go toward education and healthcare to benefit everyone. These mining companies take money from our State and take it out of the Country. These companies do not contribute to the State, and it is time the mining industry pay their fair share.

VERA MILLER:

Yesterday, we were talking about police reform, and many people in opposition called in and said resources are scarce. This was not predestined. Resources and lack of funding for schools and mental-health care are intentional policy choices. These choices were already made before COVID. We must show up for our community, and we must tax mining and other big corporations. I urge you to vote "yes" on Assembly Joint Resolution No. 1.

CAROLINA CHACON:

I support Assembly Joint Resolution No. 1. Mining is one of the largest industries in Nevada, but it is barely taxed, unlike other industries. We need to add this money to our General Fund and improve public education and social services. Mining damages the environment and has detrimentally affected indigenous lands, people and their communities. These damages need to be addressed, and it is time mining paid its fair share.

NATALIE HERMANDEZ (Deputy Political Director, Make the Road Nevada):

We support Assembly Joint Resolution No. 1. The small businesses for our State's economic drumbeat are suffering while the mining companies continue to thrive. Nevada is better than this. We must do better, and the mining companies need to do better. It is time to be bold and for mining

to pay their fair share. Our healthcare and education depend on this, and we urge you to vote "yes" on Assembly Joint Resolution No. 1.

MARLENE LOCKARD (Nevada Women's Lobby):

We support Assembly Joint Resolution No. 1 for all of the reasons previously stated.

DEXTER LIM (Sunrise Movement):

I support Assembly Joint Resolution No. 1. It is imperative we assign justice to reform antiquated and inequitable, mining-tax policy for new revenues. During the 31st Special Session, your constituents demanded mining justice, and we need it. We have suffered through these sacrificial and extraordinary times. Even without factoring in the environmental devastation, the invasion of sovereign and indigenous lands, the depletion of our social services that were under threat before the pandemic, and the mines not paying their fair share, we need this legislation. Your constituents are suffering and are in need. The federal rollback of public assistance in August will prove to be catastrophic. We cannot wait until February nor another day. (Unintelligible statement) ... mining corporations are not a person with a wallet. The mining industry is a capitalistic entity with too much power over people, politics and Nevada's well-being. The time to change this injustice is far overdue. Stand for the needs of your constituents and make steps toward a stronger and equitable Nevada. Pass Assembly Bill Resolution No. 1.

MARIA NEISESS (President, Clark County Education Association):

I am speaking in favor of Assembly Joint Resolution No. 1. For too long educators' and students' backs have carried the burden to balance the budget. Last Special Session created a tremendous impasse for education that will negatively affect all students. This resolution could be a beginning toward moving forward. Vote "yes" on this resolution.

SENATOR CANNIZZARO:

We will now open the hearing to those in opposition to Assembly Joint Resolution No. 1.

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

I am speaking in opposition to Assembly Joint Resolution No. 1 for the same reasons I opposed Senate Joint Resolution No. 1. This pandemic has been tough on several sectors of our industry. My members who touch every sector have experienced an uneven impact. The people who haul for the big-box stores tend to do all right. Those who haul for casinos, resorts, the smaller businesses that closed, all had a tougher time. In rural Nevada, the mines are the trucking industry's biggest customer. They were keeping their employees working and off of the unemployment rolls. The mining industry takes care of their communities and its employees, whether it is the trucking industry, car dealerships, restaurants, hotels, casinos or hospitals. I was born a mining kid and grew up in Elko. We lived in a single-wide trailer with a tip out a block away from the brothels. The mining industry enabled my sister and me to be the first in our family to graduate from college with a degree. This resolution will change the economics of the mining industry in Nevada, and it will drive mining elsewhere. When the price of gold went down in the 90s, and it was no longer economical to mine in Nevada, the mines moved their exploration elsewhere to Ghana, to Afghanistan, South Africa or Australia. My dad went to Indonesia. This resolution will not only hurt mining but also the communities and businesses that rely on the mining industry. I ask you do not pass this major resolution.

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

Our opposition today is specifically based on section 5.2 of Assembly Joint Resolution No. 1. This language would eliminate the portion of net proceeds that go to Nevada's counties. As the resolution is written, it removes all of the existing, net-proceed revenues to counties. For some of Nevada's rural counties, net proceeds are one of their primary revenue sources. We appreciate the statements that the Senators from Districts 3 and 13 have made by ensuring local governments are kept whole through companion legislation in the next Session. We look forward to working with them.

As the resolution is written now, however, there is no language to that affect and no other bill that would do that. We wanted to put on the record today how this resolution as currently written would impact counties. Counties, like the State, are seeing a significant reduction in revenue

sources. To take away net proceeds for some counties would impact a broad range of services those counties provide including emergency response, indigent and senior services and critical county infrastructure. Humboldt County has a diverse local economy with a large mining base. In 2019, 21 percent of their total revenues came from net-proceeds tax. Elko County also relies on net-proceeds taxes. The County's fire district, which provides local fire protection to a large area that has seen increasing wildfire threats to local lives and property, receives 17 percent of their funding from net proceeds. In 2021, White Pine County will depend on net proceeds revenue to make up 15 percent of their General Fund. Lander County received 55 percent. Over half of their total revenues came from net proceeds in 2018, and 38 percent of their revenue came from net proceeds in 2019.

JANINE HANSEN (State President, Nevada Families for Freedom):

From testimony given by Tyre Gray, we learned that Assembly Joint Resolution No. 1 increases mining taxes 382 percent, from \$123 million to \$670 million. This is preposterous. Many mines will go out of business. Mining and associated business provide 37,000 jobs across all 17 counties. Up to 11,000 jobs will be lost which provide \$917 million in salaries to families. Families and businesses that depend on mining will be devastated. Rural communities will be ruined. Counties will no longer receive the net-proceeds tax for their counties, which they depend upon. In Eureka, 97 percent of the jobs are mining. Other counties have up to 60 percent of jobs in mining. Assembly Joint Resolution No. 1 is a perverse reversal of the constitutional requirement for a two-thirds vote to increase taxes. Instead, it would now only require a majority vote to increase taxes and a two-thirds vote to lower taxes on mining. This is horrible.

Mining pays for the Margins Tax, Modified Business Tax, Sales Tax, grocery receipts tax, Commerce and Property Tax. You will kill the golden goose and devastate Nevada. Increasing taxes depress the State's economy. We see a feeding frenzy of the tax users, but we need to encourage tax producers, not users. We will become California East and find ourselves in exodus. There will never be enough money for the failed government's schools. Freedom of choice in education is the only answer for the spiraling costs of education. Choice will increase student achievement. We need to protect mining to protect jobs, to protect families, to protect independence and freedom and not create more government dependence. I am a resident of Elko and have 16 grandchildren. I am against this perverse resolution. We should not be destroying our mining industry by this incredible tax.

BRYAN WACHTER (Senior Vice President, Retail Association of Nevada):

Mining is the bedrock of Nevada's rural communities. We do not have to search far and wide to see an example of what happens when a bedrock part of the community disappears overnight. Right now, our tourism economy in Clark County is gone. Thousands of businesses have closed and hundreds of thousands of Nevadans have lost their jobs. What happens in Vegas is not likely to stay in Vegas if you vote "yes" on Assembly Joint Resolution No. 1. If this resolution becomes law, mines will close overnight. Closed doors on restaurants that litter Clark County will be commonplace everywhere else as workers who made \$80,000 a year are suddenly forced to retrain for jobs that do not exist.

We need to manage expectations of what Assembly Joint Resolution No. 1 does. We have heard much about how the data is available and how these estimates are based on 2019 numbers. In 5 of the last 7 years, gold was closer to \$1,200 an ounce which would take the net from \$570 million to \$352 million. Assembly Joint Resolution No. 1 will reduce the allotment for education and healthcare to \$88 million.

To attempt to solve Nevada's revenue problems and address the hundreds of lines of NRS that need to be reviewed, in order to do so cannot be addressed in the few hours this Body will take to deliberate on this measure. All parties should be at the table and part of a comprehensive conversation on the ways and means this Body acquires revenue to appropriate. The Retail Association urges the Body to vote "no" on Assembly Joint Resolution No. 1 and to begin looking at Nevada's revenue structure.

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

The Vegas Chamber opposes Assembly Joint Resolution No. 1. This is an industry-specific tax. Relying on specific-industry sectors makes our tax base more vulnerable and less diverse. This tax increase is significant, and we urge you to not pass this resolution during an economic crisis. Good paying mining jobs will be lost, and this will directly impact Nevada families and the communities that need those jobs. As many of you know, year reports this week showed an 18-percent increase in initial claims, and Nevada's unemployment rate is 24.9 percent. Nevadans cannot afford additional job losses because of this resolution. This resolution will negatively impact several counties and their residents.

We oppose any lowering of a tax rate that requires a two-thirds vote. This is an unprecedented change in State policy which will harm Nevada businesses. Employers need support during this economic crisis. This type of tax policy will have the opposite effect. Nevada citizens are the economic engine of the State. This week, the federal government recorded that the gross domestic product fell by 34.3 percent, or \$2.1 trillion. Our State's crisis should not be compounded with additional taxes. Sustainable taxes should be broad-based so the burden is fairly shared. Industry-specific taxation is volatile and not the way to go. The Vegas Chamber supports important services to education and healthcare, but without careful, thoughtful analysis, we will leave our communities and our State without the ability to pay for these services.

SUSAN FISHER (Nevada Mineral Exploration Coalition and Cyrg Energy):

We oppose Assembly Joint Resolution No. 1. This rushed process without full data is not the appropriate way to initiate a constitutional change. Yes, gold prices are now high. This is not just about gold, silver, copper or lithium. This is also about silica, gypsum, magnesium, geothermal energy and heat, diatomaceous earth, borax, sand, decomposed granite, all of the non-hefty stuff, some with low-profit margins. These resources are used every day in home construction and commercial processing here in Nevada. Both the Nevada Mineral Exploration Coalition and Cyrg Nevada are made up of geologists who spend years looking for marketable resources. If they find a viable resource, then they spend more years wooing international investors who pump millions of dollars into the Nevada economy to fund testing and claim costs. If a claim proves up, then there are years of public hearings and environmental permitting before beginning extraction and production.

Mineral exploration has already taken a hit due to the worldwide pandemic as international investors who fund exploration have pulled back. This legislative action causes more uncertainty in the worldwide financial market. If it is important to examine a future constitutional change, wait until you have more information. If you want to push ERPs in Nevada, if you want to push energy battery storage, then pump the brakes on this resolution.

CHRISTINA ERLING (Barrick and Nevada Gold Mines):

We oppose Assembly Joint Resolution No. 1. Nevada Gold Mines has a workforce of over 7,000 Nevadans based in rural Nevada where there is little, alternative employment. They have high-paying careers with retirement and benefits for their families. Barrick indirectly employs thousands for multiple supply chains and contractors. Many of our employees are third-generation miners. This State, especially the north, has been built on mining.

As a joint venture between Barrick and Newmont, we have been a proud partner with the State of Nevada for decades and will continue to be so for our local communities. Our community efforts focus on education, environment, healthcare, food security and Native American programs throughout Nevada. We see it as our duty in these challenging times to provide immediate support to all of Nevada's communities. In the time of crisis, we have been there to provide that support for the State when others could not. We have contributed both financially and logistically to Nevada's COVID-19 Task Force, specifically as the largest, single donor. We created and recently launched the I-80 Fund designed to help small businesses along the I-80 Corridor recover from the effects of this pandemic, thereby, relieving the State of additional burden.

The health of the mining industry is countercyclical to the economy. We do well and make significant contributions during crisis when the rest of the economy is struggling. Commodities are global and cyclical. It cannot pass on higher taxes like other industries. For us to be there the next time there is a crisis, we need a viable, profitable, long-term industry.



Assembly Joint Resolution No. 1 will severely impact the mining industry's ability to do so. The mining industry is here for Nevada. We want to and are willing to contribute more in a meaningful way that will not threaten the viability of the industry. We have been at the table to discuss how we could help. We hope you continue to work with us and not against us.

MARY WALKER (Lyon County):

We oppose Assembly Joint Resolution No. 1. We are concerned about the loss of well-paying jobs in our community. This would harm our rural communities. In some rural counties, mining is the only industry rurals have. There is nothing that could replace it. Tesla is not coming to Eureka or Humboldt. These rural counties have relied on mining revenues to fund local services for their citizens for over 150 years. How is that revenue replaced? This is not defined in the resolution.

There have, however, been several comments made on the Senate Floor about Senate Joint Resolution No. 1 and Assembly Joint Resolution No. 1 by both Republican and Democrat Senators about their intent in keeping the rural communities whole. The rural-mining communities have only one lifeline. It is Article 10, Section 5, of the *Nevada Constitution* which requires the net proceeds of mines to be appropriated to each county. Assembly Joint Resolution No. 1 deletes this one lifeline, section 5.2. If Assembly Joint Resolution No. 1 were to proceed, I look forward to working with all of you to ensure rural local governments would be held harmless.

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

We are the trade association that represent all new car, light-duty and heavy-duty truck dealers throughout the State of Nevada. We oppose this resolution of an industry-specific tax for several reasons. The solution with respect to proper revenue streams is to have broad-based tax and buy-ins from respective industries. We have grave concerns of the volatility this contemplates. The mining industry operates in a cyclical manner. When the price of minerals drop, this will lead to serious, budget shortfalls resulting in revenue problems down the road.

The mining industry employs thousands of individuals. Last night, Tyre Gray testified every job in a mining operation leads to 1.7 jobs. Of those 1.7 jobs, those are dealership jobs. These are dealerships that serve thousands of employees of the mines themselves, the mining operations and all of the ancillary businesses driven by the mining industry. If this resolution becomes law and is enacted, it will drive the employment numbers down. We encourage the Body to vote "no" on Assembly Joint Resolution No. 1.

TYRE GRAY (President, Nevada Mining Association):

The Nevada Mining Association is comprised of over 550 members representing every link of the mining supply chain. As Nevada's original and largest industry 100 years ago, mining has played an important role in the founding of Nevada. Over the years, other industries have grown and developed. Mining splits less than 2 percent of Nevada's gross domestic product behind 11 other industries, yet mining pays 5 percent to the General Fund.

Assembly Joint Resolution No. 1 will have the twelfth largest industry in the State pay a tax that is equal to, or in excess of, Nevada's 2 broad-based taxes, the Modified Business Tax and the Commerce Tax. Mining pays all of the same taxes, fees and charges imposed on businesses generally: Modified Business Tax, Property Tax, Consumer Use Tax, Commerce Tax as well as this industry's specific tax. This resolution changes the current rate from 5 percent on the net to 7.75 percent on the gross. It represents a 385-percent increase while no industry in the history of Nevada has faced such a tax increase. No other state in the Union taxes on pure gross of minerals. There are so-called "gross taxes," but they are a modified gross, meaning the taxes levied upon a percentage of the gross with allowable deductions.

Approximately, 37,000 directly-induced jobs are spread across all 17 counties of Nevada. They are the highest paid in the State with health benefits and retirement, keeping Nevadans off of social safety-net rolls. As Assemblywoman Carlton said yesterday, "Mining jobs are the American dream." This resolution puts these jobs at risk. The mining industry is here for Nevada and happy to be a part of the solution to help Nevada, yet Assembly Joint Resolution No. 1 amounts to an unfair share.

LYNN CHAPMAN (State Vice President, Nevada Eagle Forum):

I was appalled none of the mining people were brought in to testify on this resolution. They are the experts. We just heard from some of the mining people, and they brought forward information you better pay attention to. I am going to ask the question I usually ask: How much is enough? The answer is always the same: there will never be enough money, ever.

Mines pay taxes and should not be subjected to higher taxation than other industries. What will happen if mining is put out of business? What other industries will you go after next? Remember, mines give a lot of money to their own communities. I am worried if this terrible taxation passes, jobs will be at stake. It is important to work with mining.

We, the people, wanted the two-thirds majority to pass tax bills in this State. We want it to stay as it is. We worked for it. Now, you want to take it out. This is not good business with the people.

PAM ROBINSON (Hecla Mining Company):

Hecla Mining Company is in opposition to Assembly Joint Resolution No. 1. Amending the *Nevada Constitution* to change the tax on mining from a net proceeds to a gross-receipts tax and to eliminate the county portion will cripple mining in Nevada. The local economies of our rural communities will suffer. The voting mechanism for raising and lowering taxes should not be amended for Assembly Joint Resolution No. 1.

Hecla has gold operations in Lander and Elko County. It is involved in new exploration with the potential to provide more jobs and resources to these communities. Assembly Joint Resolution No. 1 would have a chilling effect on that exploration. This would jeopardize new financing investments in Nevada as well as impact their contributions and participation in the local communities where they operate. There would be a huge ripple effect on the supply-chain businesses that rely on and benefit from the mining industry. We have heard about a number of those today. The obvious businesses are not only large equipment companies and tire shops but also small, family enterprises. All of the restaurants, coffee shops, hardware stores and grocery stores will suffer from the loss of mining.

Mining pays high wages and provides great benefits to their employees. If those wages and benefits are taxed away, these workers who sustain and contribute to the social-services safety net in Nevada may become users of those services. This would further strain Nevada's severely impacted budget caused by this pandemic.

The 31st Special Session was called to fill a budget hole created by the COVID-19 pandemic. Mining immediately stepped up, as it has in the past, to do its part and help fill that hole by prepaying its taxes. I urge you to consider the life-changing decisions Assembly Joint Resolution No. 1 proposes in a reasonable and transparent process better suited for the regular Session of this Body. We urge you to vote "no" on Assembly Joint Resolution No 1.

THOMAS ERWIN:

I am a lawyer in Reno, Nevada. I have been a resident of Reno since 1964. I have worked in the mining industry since I was in high school. I represent a number of experts who come in and explore for, discover and lead to the development of the mines you will be taxing. The instability presented by this proposed tax rate, which is tentative, may cause some of these experts who come in to consider alternatives such as other states, tentatively Mexico and elsewhere. This should be considered as a long-term consequence.

There are deficiencies in the resolution that need to be addressed. Which minerals will be taxed? The term "minerals" is not defined. Currently, under Nevada law, sand and gravel are not subject to tax, and geothermal is. Will sand and gravel operators now be taxed under the net proposed as minerals? The resolution does not distinguish mineral royalties from operating-production revenues. Royalties are presently taxed at 5 percent. Under this resolution, it will be taxed at 7.75 percent in addition to the operative 7.75 percent. That is 14.5 percent, double taxation. Royalty owners in Nevada include ranchers, farmers and prospectors. These are citizens of Nevada who have been directly fed by the operations of these mines. The royalty rate is twice more the rates applicable to other states. It is punitive.

I prepared a report last year for the United States General Accounting Office that I submitted to the Committee of the Whole. You can see those comparative rates. Gold and other metal prices are volatile. In 1979, gold was \$850. In 1997, it was \$250. The expectation that gold and other metal prices will stabilize and provide a long-term, steady source of income at this rate is

unfounded. The fixed, ridged provision in the amendment deletes the Legislature's opportunity to address changes in prices, operating costs and other economic conditions. This does not have the flexibility the Legislature should have. I suggest a more thoughtful, reasonable approach with a flexible vision for the amendment of the net proceeds of mines provisions of the statutes be considered.

AMANDA HILTON:

I am a copper minor in White Pine County and a fourth-generation Nevadan. White Pine County is home to Nevada's largest copper mine, and the largest employer in our county. Copper is currently trading at \$2.88 per pound. We are not a high-margin industry. Mining companies have to accept the market rate when selling our products. We cannot pass any taxes along to our customers. A tax on the gross would adversely impact the viability of copper mines in our State. This potentially would put hundreds of miners out of work. Please oppose Assembly Joint Resolution No. 1. Instead, develop an alternative to maintain stability of mining operations in our rural counties.

JAMES WADHAMS (Newmont Mining Company):

Newmont Mining has been in Nevada since 1965. It is a minority partner in the Nevada Gold Mine's joint venture. Over the years, Newmont has invested hundreds of millions of dollars in Nevada. It has supported a constitutional amendment which doubled the rate of property tax. It supported a modern reclamation bill to keep the environment clean. Newmont currently pays the highest property-tax rate. It is listed in the top ten of property taxpayers on the State's schedule. Newmont pays the highest rate on the Modified Business Tax. Newmont, along with the industry, has responded to prior requests to find ways to raise additional money to support Nevada, but in a way that would allow the business operation to continue. This could save jobs, but mostly save production so that the likelihood of the tax revenue could be sustained.

Newmont is opposed to this resolution. It sets a tax burden at a level at which the business will not be sustainable. Never have we seen a tax increase of this magnitude in any jurisdiction and especially one directed to a single industry. The increase is over 300 percent. In the past, Nevada has called upon mining to help when the general economy was down. The level of this tax burden will eliminate that countercyclical balance point. Unless Nevada diversifies its tax base, it will remain heavily dependent on the hospitality and tourism economy. The Great Recession and now the COVID-19 pandemic have shown us how dangerous single-industry taxation is. This may make that dependency greater.

While Newmont has serious concerns about the language of the resolution, due to the shortness of the permitted time, I will conclude.

DOUG BUSSELMAN (Executive Vice President, Nevada Farm Bureau Federation):

Our organization is opposed to Assembly Joint Resolution No. 1 for changing our State's *Constitution*. Using the 32nd Special Session as a vehicle to launch this process for changing the *Nevada Constitution* is wrong. We are troubled by the end-around included in the language to void the voter-approved constitutional requirement for a two-thirds majority vote for raising taxes. Targeting the mining industry for this unfair tax scheme is troubling. Those who support the destruction of mining to an onerous tax on the gross revenue of mining production will harm those whose livelihoods depend on this industry. It will harm the State's economy. The consequences on rural Nevada will be devastating as you set out to deliberately cripple a productive and important sector of our economy.

Nevada Farm Bureau is opposed to Assembly Joint Resolution No 1. The families that will be harmed by your actions need your consideration and responsible actions.

SENATOR CANNIZZARO:

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

MS. ERLING:

We rise in neutral to Assembly Joint Resolution No. 1. This resolution is representative of the industry's commitment to come to the table and work with the Legislature on short- and long-term revenue solutions for the State of Nevada. We hope to continue this productive discourse with the Legislature.

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

Senator Schieble seconded the motion.

Remarks by Senators Hansen, Settelmeyer, Cannizzaro and Mr. Fernley.

SENATOR HANSEN:

It is hard to know where to start. This does not belong in this Special Session. There is nothing extraordinary about this. It does not meet the constitutional requirements. Listening to some of the testimony in favor was almost shocking. Somehow, they are all robber barons, capitalistic enterprises, greedy fat cats. These mining companies are publicly-traded companies. Some of the largest purchasers of those stocks are the teachers unions and various governmental entities who invest their pension and retirement funds in those very portfolios. These are not companies that are owned by J.P. Morgan and J.D. Rockefeller. I remember in the 1970s when the President of the United States said we were running out of oil and only had a ten-year supply. How is that pertinent to this? It is the same attitude we have with gold in Nevada; they do not have anywhere else to go. The world, just like with oil, is swimming in gold.

The gold industry is in Nevada because we have protected their ability to invest in both the exploration and extraction of those minerals. Once that protection is removed, we will see an exodus of those industries. There are many places around the world that have substantial quantities of gold. Nevada is not unique. Nevada appears unique being the fifth largest producer in the world. The protections in the *Nevada Constitution* encourage investment in these types of enterprises. We will destroy this industry and the willingness to invest long term. The idea you could mathematically calculate how much tax revenue you are going to have by simply redoing the numbers ignores the fact you will drive the investment out of business. Mining will not be paying those monies. We will see a net loss in revenue to the State.

The constant criticism about how gold mines are greedy and getting \$1,900 an ounce let us recognize how fortunate Nevada is when the rest of the economy is collapsing around us. We have a countercyclical industry that helps pay the revenues we are now scrambling to get. We are fortunate to have those industries, and we want to drive them out?

I am grateful this bill will ultimately end up on the ballot. I have confidence in the common-sense citizens of this State. This is such an extreme measure with ripple effects and will drive out basic economies throughout the State. This will have a backlash effect when it comes to the ballot. It is wrong for us to deny the opportunity for the experts and the people most affected to be directly involved in the Committee hearing. In the past decade that I have served, I have never seen this, and it is unprecedented. I urge my colleagues to consider carefully the long-term ramifications for all of Nevada, especially rural Nevada. We will drive out high-paying, great industries out of existence and into other states and other nations.

SENATOR SETTELMAYER:

I oppose Assembly Joint Resolution No. 2. Mining will be the only industry in the State of Nevada to pay on pure gross. Everyone else is allowed to deduct some expenses. This will take the only industry in the State of Nevada to pure gross at an increase of over 300 percent.

In 1989, this went to a special ballot to tax mining and increase our public indebtedness. The concept of increasing mining passed by 78 percent and increasing our debt only increased by a 54 percent vote. Strange that is how it worked back then.

MR. FERNLEY:

After my testimony, I found the ballot for 1989. The Senator from District 17 is correct. There were two ballot questions on the May 2, 1989, Special Election Ballot. The questions were tax on mining and the increase of the State's debt limit.

Motion carried. Senators Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Seever, Gansert and Settelmeyer voted no. Senator Pickard was absent for the vote.

SENATOR CANNIZZARO:

We will open the hearing on Assembly Joint Resolution No. 2.

MR. FERNLEY:

Assembly Joint Resolution No. 2 proposes an amendment to the *Nevada Constitution* to revise provisions governing the tax rate on the net proceeds of minerals. This proposed constitutional amendment would not change the existing provisions of the *Nevada Constitution* requiring the Legislature to impose a tax on the net proceeds of minerals and to provide for no other tax. This amendment would increase the maximum rate of tax on the net proceeds the Legislature could impose from 5 percent to 12 percent. The proposed constitutional amendment would not effectuate an increase in the rate of tax on the net proceeds of the minerals extracted. The Legislature would have to enact legislation to increase the tax effective when the constitutional amendment became effective.

This proposed constitutional amendment would establish an explicit minimum-tax rate on the net proceeds of minerals. Currently, the *Nevada Constitution* does not require a minimum-tax rate on the net proceeds of minerals. The *Nevada Constitution* does require the Legislature to appropriate to counties the amount equal to the net proceeds of minerals extracted by a mining operation multiplied by the local property-tax rate in the taxing district where the operation is located. To effectuate this requirement, the Legislature has established this rate as the minimum-tax rate on the net proceeds of minerals. This constitutional amendment would place that minimum-tax rate in the *Nevada Constitution*.

If this joint resolution is approved by the Nevada Legislature during this Special Session, it must be submitted to the next Legislature, either the 2021 Legislative Session or a special session which must consist of the Legislators elected at the 2020 election. If approved again by the next Legislature, the proposed constitutional amendment would be submitted to the voters and become effective only if a majority of the voters vote in favor of the amendment.

SENATOR BROOKS:

Is there anything in the new language that affects section 5, subsection 2, as far as the taxes paid to local governments?

MR. FERNLEY:

No. This constitutional amendment makes no change to the provisions requiring the Legislature to appropriate an amount of money to the counties that is equal to the property-tax rate in a taxing district of a mining operation multiplied by the net proceeds of that operation. There is no change in this proposed constitutional amendment regarding that.

SENATOR GOICOECHEA:

What kind of analysis was made to impose up to 12-percent tax?

MR. FERNLEY:

As legislative staff, I am not aware. I did not create this proposal so I am not aware of what analysis was done to get to those rates.

SENATOR GOICOECHEA:

We know it is probably just an arbitrary number. There is no fiscal impact to local government. There may be to the State, not impact, but definitely an improvement.

SENATOR SETTELMAYER:

Instead of being in the *Nevada Constitution*, it looks like we would be guaranteeing counties a certain amount of money. Is that correct? Not through the *Nevada Constitution* but through NRS?

MR. FERNLEY:

Under this proposed joint resolution, the *Nevada Constitution* would continue to contain the requirement for the Legislature to appropriate the amount of money equal to the property-tax rate in the taxing district multiplied by the net proceeds from mining operation. That guarantee would continue to be in the *Nevada Constitution* so the Legislature would not be about to change that distribution.

SENATOR SETTELMAYER:

I am concerned by changing it to where it is done through revised statutes. It may not be as much of a guarantee to the counties and could affect their ability to secure bonds. If it is in the

*Nevada Constitution*, some of it is less likely to go away. If it is within NRS, it could jeopardize some of their bonding authority.

MR. FERNLEY:

Assembly Joint Resolution No. 2 would maintain the constitutional guarantee you are referring to. Assembly Joint Resolution No. 1 was the proposed amendment that would remove that constitutional provision and place it within the discretion of the Legislature.

SENATOR GOICOECHEA:

I would like to get on the record that this language would not impair the county's ability to tax up to the \$3.64 cap. A number of these counties are \$2 a share or barely over. The statutory cap is \$3.64. They would still have the ability to increase their property taxes and that, in turn, would increase the tax to the net proceeds.

MR. FERNLEY:

Yes, that is correct. This joint resolution would not change the current provisions of the *Nevada Constitution* which provide that a county's set property-tax rate can go up or down, but it cannot go over \$3.64 by statute. That amount would continue to go to the county.

SENATOR OHRENSCHALL:

Is there anything in this proposed constitutional amendment that would change the enumerated statutory deductions that the mining companies can take in chapter 362 for their business costs?

MR. FERNLEY:

No. There is nothing in this constitutional amendment would change that or the Legislature's ability to adjust that. This provision would not affect the deductions.

SENATOR CANNIZZARO:

We will now open the hearing to those in support of Assembly Joint Resolution No. 2.

MS. SAUNDERS:

I want to thank the Legislature for listening to their constituents' concerns about holding mining accountable, versifying our State's revenue system seriously and putting forth multiple options to continue to discuss. We look forward to being an active partner in conversations and in the legislative process for mining to pay their fair share, fund our State services and put Nevada's revenue system on the right track.

MS. CABRERA:

We support Assembly Joint Resolution No. 2. It is time we call the mining industry to pay their fair share. This resolution creates flexibility to both increase the rate that mining revenue is taxed and continues the discussion of which deductions support the values of Nevadans and which do not. We look forward to continuing to be part of this discussion. We urge your support on this resolution.

SENATOR CANNIZZARO:

We will now open the hearing to those opposition to Assembly Joint Resolution No. 2.

JIM DEGRAFENREID (Vice Chair, Nevada Republican Party):

We stand in opposition to considering these constitutional amendments, Assembly Joint Resolution No. 1 and Assembly Joint Resolution No. 2 during this Special Session. We are riding on a high bar for changes to our State's Constitution. The intent of the people of Nevada is that changes to our bedrock, governing documents should be carefully considered by two different Legislative Sessions and the vote of the people.

In this hearing today, and the hearing for Assembly Joint Resolution No. 1, it is clear your intention is not to hold hearings with proper notice or any expert testimony as would be held if these resolutions were heard in a regular Session, not a Session where the subject is not quoted in the proclamation authorizing the Session. It was stated this constitutional change could be passed this Session and passed again less than a year from now and placed before the voters in a special election. All legislation contains the words the people of the State of Nevada represented in the

Senate and Assembly do enact as follows: the people of the State of Nevada do not feel represented in this Special Session. The special interest groups who provided all of the support for these bills and resolutions are well-represented. The refusal ... (unintelligible statement) ... for this resolution as well as most of the others ... (unintelligible statement) ... is appalling. When legislation is rushed through without proper hearings or ... (unintelligible statement) ... it is clear, the thousands of Nevadans who are negatively impacted by these attacks on our rural communities and on our way of life in Nevada, these are not legitimate bills or resolutions. If changing the method or changing mining's rate of taxation is a good idea, then it can withstand the sunlight of a legitimate process. This should be considered in a regular Session under regular order as our *Nevada Constitution* requires.

MS. HANSEN:

We oppose Assembly Joint Resolution No. 2. It is incredible to think a tax rate could be going from 5 to 12 percent. That is an amazing increase. It would be a good exercise for those supporting this resolution that they would pay their fair share by voluntarily increasing their taxes to the State from whatever they are paying to another 7 percent. It would be a good financial exercise.

This whole process has been incredibly difficult to participate in. Regular people have not been able to participate with the incredible hours we have been meeting. The hearing went on last night until after one o'clock in the morning. Ordinary people cannot arrange their lives to participate. I object to the manner in which this has been conducted.

We need to protect jobs. We need to protect mining, their jobs and families. We need to protect independence and freedom and not create dependency on government. The mines allow people to be independent and take care of themselves. When we overly tax businesses, we put them in a position of determining who to fire, whether they can expand or have to leave our State. We have heard testimony many mines are not profitable and would have to close. We should increase taxes on other people by 7 percent. It is incredible this is happening. Right now, the average family in Nevada pays more in federal, State and local taxes by 50 to 60 percent. It is more than they pay for their home, education, healthcare, food and entertainment. We cannot stand more taxes. We oppose increasing taxes on one of the most important industries in our State.

RANDI THOMPSON (State Director, National Federation of Independent Business):

I represent small businesses across the State. The SpaceX crew splashed down in our ocean. Those astronauts would not be able to make it to space without the minerals produced in Nevada. Nevada makes space exploration possible. This tax, and ones we previously discussed, will have a chilling impact on our mining companies in the State. As Mr. Guindon talked about earlier, he did not have an answer on how this tax would impact mining. You cannot understand the impact it will have on the 2,500 small businesses that rely on mining. According to the Governor's economic development, while every one job is created in mining, four support jobs that are created. We are looking at 12,000 direct jobs specifically related to mining. The impact on small businesses will be huge. The impact on Clark County may not be felt, but the impact in 15 other counties will be. We talk about Newmont and Barrick, but there are many small mines in Nevada and many small businesses that rely on mining. We urge your opposition to this resolution.

MARCUS LOPEZ (Americans for Prosperity Nevada):

The over 50,000 advocates for Americans for Prosperity Nevada ask you to reject all of these proposals. This would do very little to our tax system and our tax code. Good tax policy is simple and transparent, neutral and equitable, predictable and permanent. Nothing about these proposals and little in our current system meets where it should be. We need comprehensive tax reform that keeps to these principles and eliminates taxes that target one industry or another or favor certain behaviors over another. We need to wean off of our dependency on single-industry taxes like gaming and mining. Our current budget crisis has been supercharged due to overreliance on these specific-industry taxes. While we do not endorse everything, a solid framework to start and build upon what was put together by the tax foundation in 2015 is necessary. Please vote "no" on Assembly Joint Resolution No. 2.

MS. CHAPMAN:

We oppose Assembly Joint Resolution No. 2. Listening to those in favor of this resolution, they keep saying mines need to pay their fair share. In fact, the mines pay more than their fair share already. Look at those facts. It is a terrible shame these resolutions are rushing through this Special Session. This is not the way to do a tax increase. The people need to be involved in this more than they can be at this time. We need to protect families. This should be our number one concern. A tax increase will affect families in the whole State of Nevada. Maybe we should start looking for more money in the Public Employees' Retirement System. Of course, that is a sacred account so we cannot. I will be working hard to defeat all three of these tax increases to mines. This is not right for Nevada nor Nevada's families.

ALLARD TEREX:

I oppose this resolution, not because it is Democrat or Republican, because it is wrong for the government to thrust such taxes on mines. It is worthy to be called "theft." To tax the mines in such a way as these three resolutions propose would be detrimental to our State. Many counties depend on mines as their sole source of income. Gross revenue and net receipts are extremely two different things. Anyone in the Senate who has been in the trades will understand that such a tax will ruin our State and its businesses associated with mining.

It is said far more taxes will be collected, and it will be beneficial. It will not be. The mining industry stays in Nevada because there is an incentive to stay. Such incentive is making a decent profit and having the opportunity to expand through hard work paired with good management. This is the American dream. This tax removes that incentive. The mines have many places to go to: South Africa, Ghana, Australia and countless other countries around the world. You will not make more money with this tax but will take it away from yourselves. Once this resolution goes into effect, the mines will close, and the workforce will lose their jobs and be forced to relocate. This not only will affect the mines but also all of Nevada. Our once prosperous towns and communities will be empty. They will become abandoned, dilapidated ghost towns, like so many others in Nevada. Our already dying economy will fail completely, and it will not recover.

We should not embrace the ravenous wolf that is government spending; it will never stop lusting for more and will never sleep. It will never rest, and it will never stop. The more you feed it, the more it grows. The mines do not need Nevada; Nevada needs the mines. If this tax passes, rather than millions of dollars of revenue you now receive from mines, you will not see one penny. If you want to increase revenue, decrease spending. Should this resolution pass, it will be the death of our State and not be good for anyone, politicians included.

SENATOR CANNIZZARO:

We will now open the hearing to those neutral to Assembly Joint Resolution No. 2.

MS. MAGNUS:

I speak in the neutral position for Assembly Joint Resolution No. 2. All revenue options should be on the table. This is critical for our State. We agree mining should pay its fair share especially at a time when they are doing better than ever. All corporate welfare should not be allowed in our State. We appreciate the efforts on this resolution and look forward to further conversations about all of these resolutions.

To the caller in opposition to this resolution who offered us the challenge of paying more taxes personally, I would be happy to do so. Everyone should pay their fair share in this State and stop passing the burden of our aggressive tax structure to people who are already struggling. I believe in a fair tax structure, especially for wealthy corporations like mining that take and take and do not give much back to our State in return.

MR. GRAY:

The Nevada Mining Association represents 550 members and rises in neutral position to Assembly Joint Resolution No. 2. Assembly Joint Resolution No. 2 represents the good-faith effort to preserve current, net proceeds mechanisms and hold local governments harmless. It bears mentioning the top rate would increase by 140 percent. This is a large jump and could threaten smaller operators ... (unintelligible statement) ... investment into the State. The industry is committed to being at the table and help the Legislature navigate through the process of crafting



the best solution for the people who rely on the mining industry for their livelihood as well as all of the residents of Nevada who benefit from the mining industry.

MR. WADHAMS:

Newmont has been in Nevada since 1965 and is currently a minority partner in the Nevada Gold Mine's joint venture. We are neutral on this bill because we respect the opportunity to have continuing dialog about the proper way and proper level for payment of taxes, in particular, in a manner that allows the industry to continue sustainability and be a long-term taxpayer as opposed to eliminating the opportunity for the revenue going forward.

MS. WALKER:

We rise in the neutral position for Assembly Joint Resolution No. 2. The concern we had in opposition to Assembly Joint Resolution No. 1 and Senate Joint Resolution No. 1 was the elimination of net proceeds of mines' revenue to rural local governments. Assembly Joint Resolution No. 2 retains that revenue to local governments. The rural communities have relied upon this revenue for 150 years. Assembly Joint Resolution No. 2 retains this long-standing policy. We support retaining section 5.2 in any of the resolutions you are considering at this point in time. Rural mining counties have only one lifeline, Article 10, Section 5, in the *Nevada Constitution*. Retaining this language is important for the mining industry and all of the communities it supports.

MS. ERLING:

Nevada Gold Mines is a joint venture between Barrick and Newmont. We employ over 7,000 Nevadan employees in rural Nevada. We rise neutral to Assembly Joint Resolution No. 2. Assembly Joint Resolution No. 2 is representative of the industry's commitment to come to the table and work with the Legislature on short- and long-term revenue solutions for the State of Nevada. We hope to continue a productive discourse with this Legislature.

FRANCES DEANE:

I rise in the neutral position of Assembly Joint Resolution No. 2. When we start using the words "fair share," it raises concerns. Is it "fair" for the State to rely on mining to provide school buses for several counties? Is it "fair" for mining to financially support 15 counties? Is it "fair" for mining to build playgrounds and ... (unintelligible statement)? What if mining leaves? What happens to Nevada then?

Senator Brooks moved to do pass Assembly Joint Resolution No. 2.

Senator Cancela seconded the motion.

Motion carried. Senators Goicoechea, Hammond, Hansen, Kieckhefer, Pickard, Seevers Gansert and Settelmeyer 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 3:52 p.m.

#### SENATE IN SESSION

At 3:55 p.m.

President Marshall presiding.

Quorum present.

## REPORTS OF COMMITTEE

*Madam President:*

Your Committee of the Whole, to which were referred Assembly Joint Resolutions 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 Assembly Joint Resolutions Nos. 1, 2, just reported out of Committee, be placed on the Resolution File and considered next.

Motion carried.

## MOTIONS, RESOLUTIONS AND NOTICES

Assembly Joint Resolution No. 1.

Resolution read.

Remarks by Senator Brooks.

Assembly Joint Resolution No. 1 proposes to amend the *Nevada Constitution* to eliminate the requirement for the Legislature to impose a tax upon the net proceeds of minerals extracted at a rate not to exceed 5 percent of the net proceeds and eliminate the appropriation of a portion of those proceeds to each county in this State. Instead, Assembly Joint Resolution No. 1 would amend the *Nevada Constitution* to impose a tax on the gross proceeds of all minerals extracted in this State at a rate of 7.75 percent of the gross proceeds and would authorize the Legislature to provide, by law, for the taxation of mines and mining claims and the proceeds of all minerals extracted in this State.

Assembly Joint Resolution No. 1 provides that the 7.75-percent tax on the gross proceeds of minerals would be imposed on minerals extracted during each calendar year beginning on or after January 1, 2023. Twenty-five percent of the proceeds of the tax on the gross proceeds would be required to be used exclusively for educational purposes, to provide for the healthcare of the residents of this State or to provide economic assistance to the residents of this State, or any combination thereof. The use of the remaining 75 percent of the proceeds of the tax would not be restricted by the provisions of the *Nevada Constitution*.

The amendment to the *Nevada Constitution* proposed by Assembly Joint Resolution No. 1 would also provide that a majority of the members elected to each House is necessary to pass any provision of a bill that enacts or amends a law providing for the taxation of mines, mining claims or the proceeds of minerals extracted in this State in a manner that creates, generates or increases any public revenue in any form. An affirmative vote of not less than two-thirds of the members elected to each House is necessary to pass a bill to reduce the rate or to provide an exemption from the tax on the gross proceeds of minerals extracted by a particular class of taxpayers or imposed on a type of mineral extracted.

If Assembly Joint Resolution No. 1 is passed during the 32nd Special Session of the Legislature, it must also be passed by the next Legislature and then approved and ratified by the voters in an election before the proposed amendments to the *Nevada Constitution* become effective.

Roll call on Assembly Joint Resolution No. 1:

YEAS—13.

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

Assembly Joint Resolution No. 1 having received a constitutional majority, Madam President declared it passed.

Resolution ordered transmitted to the Assembly.

## Assembly Joint Resolution No. 2.

Resolution read.

Remarks by Senators Dondero Loop, Hansen, Kieckhefer, Hardy, Goicoechea, and Seevers Gansert.

SENATOR DONDERO LOOP:

Assembly Joint Resolution No. 2 proposes to amend Article 10, Section 5, of the *Nevada Constitution* to increase the maximum-allowable rate of the tax on the net proceeds of minerals extracted in this State from 5 percent to 12 percent. It will also establish the minimum rate on the tax on the net proceeds of minerals extracted in the State as the property tax imposed in the taxing district in which the extractive operation is located. If Assembly Joint Resolution No. 2 is passed during the 32nd Special Session of the Legislature, it must also be passed by the next Legislature and then approved and ratified by the voters in an election before the proposed amendments to the *Nevada Constitution* become effective.

SENATOR HANSEN:

There have been many complaints that the large companies do not pay their fair share. We have been focusing on all of the companies. These giant companies use, potentially, Nevada's regulatory processes to eliminate their competition. When they are a giant company like Barrick or Newmont, they have the available resources and deep pockets to absorb these kinds of things. This law will enable them to squeeze out their competition. Smaller companies will be forced to sell their interests to bigger companies. The big get bigger, and the rich get richer. It is disappointing to see these industries sell out the smaller guys when these kind of fights come into play. I am voting "no."

SENATOR KIECKHEFER:

I oppose Assembly Joint Resolution No. 2 for the same reasons I opposed Assembly Joint Resolution No. 1 and Senate Resolution No. 1. Our tax policies guiding a single industry do not belong in the *Nevada Constitution*. It should be the Body's prerogative to decide the method of taxation on those industries as well as the rates, the deductions and everything else. Whether it is net or gross, this proposal we are dealing with and what we dealt with in the prior Session demonstrates this is a farce. In the past three days, this will be the third constitutional amendment we have passed dealing with the same industry, the same tax, the same sections of the *Nevada Constitution*. Ultimately, this is to no effect.

Let us look at one specific mine out in Elko County. It is the first one on the Tax Bulletin list, Mico Mine. This is one of Barrick's properties out in Elko County. Mico Mine grossed \$60 million, deducted \$42 million and had a net of \$18 million. In 2018 and 2019, at the 5-percent rate, they paid \$900,000 in tax total between the State and local governments. The proposal that would tax them at 7.75 percent of gross would take that up to \$4.65 million. If this 12-percent net goes into place, it would be \$2.16 million. We could, however, go back and reduce their deductions like Mr. Powers told us we could to 50 percent. Then their net-proceeds tax would be \$4.68 million which is actually higher than the 7.75 percent on the gross.

We should have the flexibility to do this as the Legislative Body. We may decide this is not the right way to tax the industry. It may be that we should incorporate their mining proceeds in their Commerce Tax liability. We would not be able to do that if these resolutions pass. Maybe we want to keep it as a property tax. Maybe we want to set up a severance-tax method of taxation for this industry. We are eliminating our flexibility by not processing a straight strip out of the *Nevada Constitution* to make those kinds of decisions. This is not what we should be looking to do as we create tax policy in the State. We should have the flexibility to set those policies, understand the industry, understand the implications to those tax decisions and then move accordingly.

This is doubling down on something people have long complained about. The same people advocating for this have long complained about having tax policy in the *Nevada Constitution*. Now, they want to take it from a reward system to a punishment system. Either way, this is bad. I encourage my colleagues to reject this resolution.

SENATOR HARDY:

The voters are ultimately going to decide this. The next time we see it as a Legislature will be the time we get to have input because I do not think the input we have had today is adequate. I do not think this was appropriate. We need more time. I would like to see this resolution in a real session with real witnesses and real people to talk about this. I feel badly that people who are neutral may have alternative agendas. Of the three resolutions, Assembly Joint Resolution No. 2 is the least worst.

SENATOR GOICOECHEA:

I rise in opposition to Assembly Joint Resolution No. 2. It is a reaching effort, and we have accomplished much looking at it. I am concerned some of these larger projects with significant reserves may well be able to absorb a 135-percent tax increase. The smaller, base metals, down to the gypsum and silica operations, will not be able to bear this burden. We need balance, and with balance comes more time to discuss this. Passing this resolution will be on a path to a constitutional amendment. The resolution cannot be changed, but it does start a dialogue. I think it would be effective, but I cannot support this. The industry is still tiered. There are exploration companies that cannot afford to take this hit. Maybe the majors can, but we need to have that discussion. I urge this Body to reject Assembly Joint Resolution No. 2. Let us have the discussion in a full, open session.

SENATOR SEEVERS GANSERT:

Special sessions provide little opportunities for public input. It reduces the give and take required to craft better legislation and significantly reduces transparency. With the COVID-19 pandemic, the Legislative Building has been limited to only Legislators and essential staff. Those shortcomings are substantially amplified. Senate Resolution No. 1, Assembly Joint Resolution No. 1 and Assembly Joint Resolution No. 2 are all contemplating changes to the *Nevada Constitution* in tax increases. Using this Special Session to change the *Nevada Constitution* and increase taxes on any industry sets a bad precedent given the lack of public input, information and transparency. We know that because when we asked legislative staff if the geothermal industry is taxed, we could not get an answer.

I am open to looking at legislation during regular sessions. Constitutional amendments need to be fully vetted and discussed so that industry has the opportunity to come to the table. Public input is important as well. The industry was limited to two minutes during public comment to offer their input. This is not the place to amend the *Nevada Constitution*. This is a time to take care of urgent business. We have a lack of input, transparency and availability of information. For those reasons, I oppose Assembly Joint Resolution No. 2.

Roll call on Assembly Joint Resolution No. 2:

YEAS—14.

NAYS—Goicoechea, Hammond, Hansen, Kieckhefer, Pickard, Seevers Gansert, Settlemeyer—7.

Assembly Joint Resolution No. 2 having received a constitutional majority, Madam President declared it passed.

Resolution ordered transmitted to the Assembly.

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

Motion carried.

Senate in recess at 4:14 p.m.

## SENATE IN SESSION

At 6:39 p.m.

President Marshall presiding.

Quorum present.

## INTRODUCTION, FIRST READING AND REFERENCE

By the Committee of the Whole:

Senate Bill No. 3—AN ACT relating to unemployment compensation; authorizing the electronic transmission of certain documents and communications relating to unemployment compensation; revising the procedures for the adoption of an emergency regulation by the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation; revising provisions relating to eligibility for unemployment benefits in certain circumstances; authorizing the Administrator to suspend, modify, amend or waive certain requirements under certain circumstances; revising provisions governing the payment of unemployment benefits for an extended period and increasing the total extended benefits payable under certain circumstances; revising provisions relating to disqualification for unemployment compensation; and providing other matters properly relating thereto.

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

Motion carried.

## MOTIONS, RESOLUTIONS AND NOTICES

Senator Cannizzaro moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering Senate Bill No. 3 and any other matters as outlined in the Governor's proclamation, with Senator Cannizzaro as Chair and Senator Ratti as Vice Chair.

Motion carried.

## IN COMMITTEE OF THE WHOLE

At 6:42 p.m.

Senator Cannizzaro presiding.

Senate Bill No. 3 and any other matters as outlined in the Governor's Proclamation considered.

The Committee of the Whole was addressed by Senator Cannizzaro, Francisco Morales, Office of the Governor; Senator Settelmeyer; Jessica Diss, Office of the Governor; Kimberly Gaa, Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation; David Schmidt, Chief Economist, Department of Employment, Training and Rehabilitation; Senator Kieckhefer; Senator Hardy; Senator Hammond; Senator Goicoechea; Senator Seevers Gansert; Senator Hansen; Senator Spearman; Senator Cancela; Senator Harris; Senator Pickard; Senator Ratti; Senator Denis; Lalo Montoya, Political Director, Make the Road Nevada; Alexander Marks, Education Support Employees Association;

Chris Daly, Nevada State Education Association; Vincent Nava; Christine Saunders, Progressive Leadership Alliance of Nevada; Lisa Guzman, Executive Director, Education Support Employees Association and Assistant Executive Director, Nevada State Education Association; Jasmine Margarita Tobon; Autumn Tampa; Melody Judilla, Silver State Voices; Ariel Guezara, Civic Engagement Coordinator, Mi Familia Vota Nevada; Holly Ramella; Annette Magnus, Executive Director, Battle Born Progress; Maria-Teresa Liebermann-Parraga; Nia Banks; Terri Shuman; Felipe Silva, Make the Road Nevada; Cheyenne Kyle; Kathy McDonald; Lilith Baran; Kennisha Bray; April Vermey; Marion Berry; Jackyline Coleman; Yesenia Moya; Monique Newkirk; Andrew Henry; Shane Simmons; Breanna Lowney; Erika Minaberry; Matthew Wilkie; Aluna Fessler; Sean Stuart; Meriam Berrick; Sandra Owens; Brittany Sheehan.

SENATOR CANNIZZARO:

We will open the hearing on Senate Bill No. 3.

FRANCISCO MORALES (Office of the Governor):

These unprecedented times require unprecedented measures to ensure that Nevadans who are out of work, through no fault of their own, are able to access their unemployment benefits as quickly as possible. Since this pandemic, the Office of the Governor has worked closely with the Department of Employment, Training and Rehabilitation (DETR) to try and identify as many flexibilities and waivers to expedite these benefits for Nevadans. Ultimately, we know that many of the requirements are laid out in statute. We are thankful to have worked with the Legislature to identify further areas in State law where we can provide DETR further flexibility to remove some barriers that have hindered their ability to pay claimants quickly. At a high level, this bill will allow us to be prepared for any economic turmoil in the coming months. It will allow DETR to take full advantage of any additional aid that is provided by the federal government. At a high level, some of the important provisions of the bill include changing the statutory triggers so we can get an additional seven weeks of federally funded, extended unemployment benefits for Nevadans.

This bill not only addresses some of the common issues surrounding deductible income which create delays for claimants but also provide a massive workload for DETR. In this bill, we are including some provisions that are intended to provide employers with employer-charging relief so that they will not see their overall tax liability increased because they had to lay off people and put them on unemployment.

I want to go over certain provisions of the bill and then turn it over to my colleagues to give you a more in-depth overview. Section 4 is one of the major provisions we are changing, a policy change. Section 4 is intended to strengthen our statutory provisions around unemployment benefits and defining somebody as unemployed. One of the things we saw over the past 5 months, particularly at a time when we had the extra \$600, is that often people would have to choose between going back to work and collecting the extra \$600. Generally, if someone in any given week collects more wages than they are entitled to in the weekly-benefit amount, then they are not eligible for any unemployment benefits. If someone makes \$10 over the weekly-benefit amount, then they were precluded from accessing the extra \$600 that was being given to them by the federal government. By changing that formula to 1.5, we are going to allow more Nevadans to stay connected and attached to the employer. We are going to continue to allow them to earn a little more hours in their work and not have to choose between their jobs or stay on unemployment benefits. I use it as an example knowing that the \$600 has expired, but we just want to be ready in case the federal government decides to extend that benefit even if it is at a reduced amount. There is speculation about what that would be. We want to make sure we not only incentivize low-wage workers to continue to go to work but also access that federal plus-up provision.

The bill also includes a process that we were able to work out with LCB and the Legislature to promulgate emergency regulations to adapt our statutory requirements for unemployment benefits with the ongoing changes by the federal government. Over the last five months, since the pandemic started here, and the shutdown happened here in Nevada, the Department of Labor (DOL) has issued dozens of different guidance documents ... (unintelligible statement) ... and the intent is to equip the ... (unintelligible statement) ... Administrator with the flexibility to make necessary changes in order to conform with those requirements by DOL and be able to change our statutory requirements to take advantage of additional flexibility that is provided.

Sections 6 and 7 of the bill modifies triggers which are required to be able to get an additional seven weeks of federally-funded, extended benefits.

Sections 8, 9 and 10 generally talk about deductible income. In ordinary times, it is fine to have these statutory provisions. We saw that many workers were paid some deductible income, whether it was severance pay, vacation pay or wages in lieu of notice pay. The way the statute reads right now, DETR has to adjudicate those claims and figure out how many weeks of wages that payout covers. This creates delays and more barriers before a claimant can access their unemployment benefits. This is important because, again, taking into account what we saw over the last few months, you had employers who paid the workers' wages in lieu of notice, severance pay or other types of payments to help. We do not want those payments to delay someone's benefits. To the contrary, we want employers to incentivize workers to help workers when they are getting laid off without having to think whether or not that will have an implication and delay their unemployment benefits.

Another provision in the bill we are addressing is the issue of what could and may constitute good cause in the event someone who fits into one of the vulnerable categories and refuses to go back to work. We have laid out guidance in the bill. Ultimately, the Administrator will have to promulgate regulations with more specific scenarios of what is in here. This is just a guide. That regulation will have to be scrutinized and submitted to DOL for approval. The intent here is to begin to give some guidance and some legislative intent as to what constitutes good cause for refusing to return back to suitable work. Let me mention we are not the first state to have done this. Many other states have done this. It is a critical part of the bill given vulnerable populations and the rest they may have to take before going back to work. Those are the major provisions of the bill.

SENATOR SETTELMAYER:

This is a 33-page bill that was just introduced to us. Under section 2, will this allow you to start utilizing app-based programs for individuals to file or remedy some other employment claims or problems? I look at some of the other states, such as New Mexico, and they have the ability to switch to app-based programs which allowed them to go from processing 250 to 3,000 claims a day. Would this bill allow for that type of technology?

JESSICA DISS (Office of the Governor):

This section contemplates utilizing the existing electronic processes the UInv and the EmployNV website use to create ... (unintelligible statement) ... and employers through that system. The Department of Employment, Training and Rehabilitation already uses those systems to communicate electronically. (Unintelligible statement) ... employers will allow them to do so in any case that is not prohibited by law.

SENATOR SETTELMAYER:

So, we are not doing anything to speed up or allow more individuals to be able to have their claims processed? We have received many calls, so have you, from individuals trying to apply. Unfortunately, bad actors are out there trying to swamp the system with fraudulent claims. You are doing your best to clear those out. Is there anything we can do in this bill to help you process claims from desperate people who need this assistance? Are there CARES Act funds available in this bill or anything to give you necessary resources to investigate the fraud perpetrated so we can clear that part out and begin to help those individuals who our backed out of the system because of the fraud cases? Is there anything in this bill that helps resolve this issue?

MR. MORALES:

This bill will help speed up claims and roll back some requirements that are in statute. There is further authority to go through the statute in detail and promulgate emergency regulations to modify some requirements claimants must go through to receive benefits.

To your point about using app-based, third-party solutions, section 2 does not speak to that. Section 2 specifically pertains to DETR and their ability to send claimants electronic notifications. We have not considered using those third-party vendor apps because of the potential for fraud. They overpromise in what they can do. We have our own system, our own servers and interface. The only way people could apply for unemployment using a third-party app is by connecting them to our system. We would never do that because it could impose risks to the integrity of the system and potentially subject us to other cyberattacks.

To your point about the fraud and the robocalls, I would like the people at DETR to address that. It is an on-going issue. We have taken probative steps to ensure we strengthen our system with more protections so it is not taken or hijacked by those roboscammers. I will let DETR speak to this issue.

SENATOR SETTELMAYER:

What type of funds, through the CARES Act or anything, would be necessary to hire enough individuals to investigate and resolve this fraud issue?

KIMBERLY GAA (Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation):

We have a need for resources. I am putting forward a ... (unintelligible statement) ... plan and forwarding it to the Governor's Office. The LCB, Fiscal Division, will then receive this plan to add more staffing. Additional CARES Act funding would help. I know the federal delegation has brought up instances where they are trying to figure out ... (unintelligible statement) ... for potential legislation that would provide integrity-based resources specifically for information-technology security pieces and administrative funding for staffing.

SENATOR SETTELMAYER:

Regarding the ability of claimants to apply without being kicked off of the system, if we leave the system as it is without adding more individuals who are not able to qualify, what is your estimation of how long the current funding levels will potentially last? Do you have a concept of a date, two months, three months, two days? With the system DETR currently operates, it is inevitable we will have to borrow money from the federal government.

DAVID SCHMIDT (Chief Economist, DETR):

We currently have approximately \$450 million in the State's Unemployment Trust Fund. With expenditure rates of about \$100 million per week, it would be 4 weeks of current pay-out rates before the Unemployment Trust Fund would be exhausted. We expect new revenues within the next two weeks. Employers will still be paying people through the April to June quarter and will be making their quarterly contributions into the State's Trust Fund. Those funds would take us through September before we would need to start borrowing. The provisions of Senate Bill No. 3 would not have any significant impact at the rate in which those expenditures would be going out.

SENATOR KIECKHEFER:

Section 15 imposes the requirement to create regulations and "... establish justifications related to COVID-19 that may constitute good cause for a person to refuse suitable work." It gives some examples that you may include but are not required. What process will you go through to establish and define those "good causes"?

MS. GAA:

The section is permissive with what examples would be considered. This language would go through DOL to ensure anything we promulgate conforms to both the CARES Act and the Unemployment Insurance (UI) program language requirements that we receive in guidance.



SENATOR KIECKHEFER:

I do not think it is "permissive." It says "... the Administrator of ESD of DETR shall, by regulation, establish justifications ... ." Have you started talking to DOL for guidance of what conditions a refusal of work would be justified?

MS. GAA:

We have had several conversations with them. This bill draft is the most recent. We sent it to DOL late this afternoon asking for their input. We do not expect a response this evening.

SENATOR KIECKHEFER:

The language in section 12 mirrors section 13 and provides the ability to make certain waivers. Section 12 specifically relates to rate setting. What does this change do, and how would it impact future-rate setting?

MR. SCHMIDT:

Section 8 amends NRS 612.551. It is intended to work with the provisions of the Families First Act, which provided two allotment of funds, one of which was dependent upon the State taking action to relieve benefit charges to employers who were affected by COVID, to affect their tax-rate setting. This is something that went back and forth several times. To provide the most flexibility and accomplish its purpose, this section's language is fairly broad.

SENATOR KIECKHEFER:

We dealt with that in the Interim Finance Committee, right, that we were accepting a federal grant that would require certain hold-harmless provisions on UI rates charged to employers. It is maybe not on the entirety of the rate but not to move people up or down bands based on their experience rating. Is that fairly stated?

MR. SCHMIDT:

Yes, Senator.

SENATOR KIECKHEFER:

This does not prevent the actual rates from going up or down, right?

MR. SCHMIDT:

That is correct. Taking action to relieve employers of their benefit charges would change the potential distribution of employers with respect to one another. It does not put any cap on what the potential contribution rates for employers would be.

SENATOR KIECKHEFER:

Further toward the front of the bill as we talk about expanded eligibility, what assessment has been done to see how this bill would affect changes to our trust fund and average weekly-benefit payouts and how much we would need to borrow to meet our benefit obligations?

MR. SCHMIDT:

We have done some analysis. Section 4 provides some additional eligibility for people if there is a further extension of the Federal Pandemic Unemployment Compensation (FPUC) program or something that similarly adds dollars on top of eligibility. This would provide additional benefits to people who earn above the weekly-benefit amount but who still receive a benefit amount of at least \$1. Currently, we have 10,000 to 20,000 people over the course of the pandemic who have what we call "excess earnings" where their earnings are above their weekly-benefit amount and, therefore, do not qualify for any benefits. Using some generous assumptions, if half of those people were to now become eligible under that provision and they were all earning the weekly-benefit amount, I would guess both of those numbers would be lower. To put a high figure on it, that would be approximately \$2.5 million per week in additional benefit payments or roughly 2 or 3 percent of our current payout levels. To extend that over a 13-week period, it would be about \$30 million. This is a lot of money, but in comparison to how much we were paying overall in that same period, we would pay out approximately \$1.3 billion in UI benefits.

SENATOR KIECKHEFER:

Have you done a similar analysis or set aside funds for changes to personal time off or severance pay?

MR. SCHMIDT:

I have no analysis for those sections at this time. Currently, we have approximately 14,000 outstanding deductible-income issues and pending resolutions. If you were to assume two weeks of paid benefits for that period, it might be affected by a little less than \$1,000 per person. Overall, this would put us at a little less than \$14 million.

SENATOR KIECKHEFER:

Is this an effort to clear out the current backlog, or as a policy matter, is this a process we believe should last indefinitely?

MR. MORALES:

There are several numbers being tossed around, and that does not necessarily lead to a good analysis. What we should anticipate is that for all of those people, and thinking there will be an extension to the supplement, whether it is \$200 or \$300, we are paying that from the trust fund, whether it is \$20 million or \$30 million overall. By expanding the floor a bit, we allow more money to come into the State in the form of a federal plus for Nevadans. This is a policy decision we can review over the next months and for the next regular Session. It is important to make this policy decision and make sure we take advantage of more federal dollars coming into the State. In regards to backlog, yes. We are making policy changes to deal with some of the outstanding pending issues.

SENATOR KIECKHEFER:

Relating to the emergency regulations in section 3, it empowers the Administrator to determine whether the emergency exists. What standards would be used to determine whether a specific type of emergency would initiate these emergency regulations? Is this designed to be related to an emergency within the system or an emergency amongst the populous? It is not clear.

MS. DISS:

Section 3 is closely coupled with sections 5 and 14. In section 3, the standard for traditional NRS 233B emergency regulation standards for ... (unintelligible statement) ... emergency regulations. The changes encapsulated here are to provide a process through which DETR can be a little more ... (unintelligible statement) ... than they currently can when the federal government allows for flexibility and changes in the stated emergency. Section 5 ... (unintelligible statement) ... pertains specifically to when there is an NRS 414 stated emergency. Section 3 relates to traditional 233B emergency regulations. It is establishing a new process for DETR.

SENATOR KIECKHEFER:

Mr. Morales, when you were offering your initial overview of the bill, you referred to sections 6 and 7 as "trigger language." I have not looked at the math on some of these new calculations. Can someone explain what is being changed and its impact on recipients or the system?

MR. MORALES:

Mr. Schmidt can go over the specifics. I know Ms. Jones is on the line. Section 5 and, in particular, section 6 for the triggers, we have done this a couple of times in the past during the Great Recession to be able to change the triggers and make it easier for the State to trigger extended benefits. This is not new. This is DOL's model standard. The State decided to use this trigger language to give us seven additional weeks of federally-funded extended benefits. Mr. Schmidt or Ms. Jones can clarify what those triggers are.

MR. SCHMIDT:

This language is largely modeled after what happened during the Great Recession, Assembly Bill 469 of the 75th Session. There is an optional provision within federal-employment insurance law. If a state has a trigger to begin a period of State Extended Benefits (SEB) based on the state's unemployment rate instead of the state's insured unemployment rate, the distinction

being that the insured unemployment rate is the ratio of unemployment claims to total employment in the state. Whereas, the overall unemployment rate that is added in this language as a trigger is the unemployment rate that the Bureau of Labor Statistics calculates once a month for each state. The state can enter into a high-unemployment period if you have a trigger based on the unemployment rate. Under this, the base trigger for SEB is the average unemployment rate of 6.5 percent over 3 months. The high-unemployment rate is a trigger of a 3-month average rate of 80 percent. The last 3 months of unemployment in Nevada have been about 30 percent, 25 percent and 15 percent. We are well in excess of that particular measure. What a high-unemployment period does is add an additional seven weeks of benefits to the SEB program. This brings the total potential period from 13 to 20 weeks depending on a person's base period of eligibility.

Another effect of this bill would be the Pandemic Unemployment Assistance (PUA) program. The number of weeks available in that program is based on the total regular UI plus the total SEB eligibility in a state. This trigger would also raise the number of weeks for PUA's program from 39 to 46 weeks.

SENATOR HARDY:

How much are we receiving from CARES funding? What is our unfunded mandate that will require us to borrow money? Who will we borrow this money from? What is the percentage of fraud and the gross amount? What will the additional staffing costs be? In section 7, "thirty-nine times" and "eighty percent" and "twenty times" the average, where are those numbers, and what do they mean?

MR. SCHMIDT:

The 80 percent of basic benefits is the eligibility for SEB program. This is based on a ratio of a person's eligibility in the regular UI program. The standard is 50 percent. If someone is eligible for the maximum 26 weeks of benefits, the extended period of eligibility is 13 weeks. Under the provisions of a high-unemployment period, that rises from 50 to 80 percent to include the additional 7 weeks. Someone eligible for 26 weeks would, instead, be eligible for up to 20 weeks of benefits, but that is a relative measure. Someone who is eligible for only 20 weeks of benefits would be eligible for an additional 10 weeks of benefits under the SEB program. It would be less than seven weeks and maybe add four to six weeks to that person's claim.

With respect to the total CARES Act money and how that funding is coming in, the CARES Act programs are funded in primarily two different ways. There are implementation grants for each of the various provisions including PUA's program, Pandemic Emergency Unemployment Compensation and FPUC. Those grants were requested in April. In addition for each of those programs, there is an ongoing reimbursement that functions in different ways. For the smaller programs, the ongoing expenses are requested for DOL on a reimbursement basis. For PUA's program, the ongoing expenses are primarily funded on a workload-driven estimate where we report the number of claims and applications that are coming in, and DOL applies a formula and tells us how much ongoing workload-driven funding we would be receiving.

SENATOR HARDY:

So, the 80 percent and the 20 times and the 46 times, where do those come from?

MR. SCHMIDT:

Those are DOL standards and the extended-benefit law. The provision for a high-unemployment period and the effect on benefits of each state are provided by DOL. The only way we can qualify for additional weeks of benefits is to meet the average unemployment rate of 80 percent over a 3-month standard that is in the law. It is also in Assembly Bill 469 of the 75th Session.

SENATOR HARDY:

Where will the money come from if CARES Act funds are not available?

MR. SCHMIDT:

The money for SEB, here, is paid through the Families First Coronavirus Response Act (FFCRA). The SEB program is funded 50 percent from the State Trust Fund and 50 percent by the federal government. For states that qualify for both allotments of additional funds from

FFCRA, there is a 100-percent payment of the SEB program. These additional weeks of benefits would be completely drawn down from the federal government.

SENATOR HARDY:

So, this is a loan that is forgivable. Is that what you are saying?

MR. SCHMIDT:

I would characterize it as a federally-paid program similar to the CARES Act programs like PUA. That money would be drawn down to the State directly from the federal government to then be paid out to claimants. It is not a loan. This is a temporary provision that fully funds the program instead of only partially funding it.

SENATOR HARDY:

So, this is not going to be a loan, not going to be a liability to the State? This is a funded mandate that Nevada will not have to financially support?

MR. SCHMIDT:

That is correct, Senator.

SENATOR HARDY:

The estimate of the percentage of the amount of fraud, any idea what that might be?

MS. GAA:

The fraud implications are different in the programs. We see significantly higher numbers in the federal PUA program. The federal constructs of that program do not have the same checks and balances as does our traditional UI system. That is for gig and independent contract workers. We do not have an employer-check mechanism so it becomes labor intensive for the staff to vet and validate some of these claims. We see significantly high numbers, in the tens of thousands, compared to what we see in traditional unemployment. There are sophisticated schemes of fraud in both programs. We are still working through this data to figure out how to report it and do not have any solid numbers to offer. At this point, it is still to be determined. It is, however, significantly higher than what we have ever seen in that program before.

SENATOR HARDY:

Are we talking 1 percent or 100 percent or in the middle?

MS. GAA:

We are showing the middle.

SENATOR HARDY:

So, we have fraudulent claims potentially at 50 percent.

SENATOR HAMMOND:

Several of my colleagues, as I, have received many phone calls and emails from people requesting help during this time. Many of them are from both UI and PUA programs. It was earlier asked about the backlog and pending issues. Looking at this legislation and reading it as quickly as possible, will this legislation help these people, especially those who have been waiting months to receive aid? At the beginning, many of those who signed up for PUA were eligible and have been waiting. Their applications were cleared with no problems to resolve, yet they receive a payment date that ultimately gets moved further back.

In regards to the backlog and the pending issues, will this legislation address this problem? Can you explain a few more "pending issues," or is this the only one? People need answers and clarification as to what is being done at your level.

MR. MORALES:

Yes, Senator. Many claims have not been resolved in the traditional UI system because the claims require adjudication. Adjudication requires them to get a set of facts, apply what is in statute and make a determination consistent with the facts and requirements involved. For example, you have 14,000 deductible-income issues. In this bill, we will have the ability to waive those requirements. There are many pending issues concerning people who cannot go back to work

because they have a medical condition ... (unintelligible statement). This bill will provide guidance to adjudicate these claims quickly. We are talking about claims that require applying these particular requirements to a set of facts. Our goal is to remove some of those barriers so DETR can quickly process these claims. At one point, we had upward of 30,000 ... (unintelligible statement). At the close-of-business stage, many people were paid vacation pay or paid wages in lieu of notice. I will let the people from DETR address the aspects of ... (unintelligible statement).

SENATOR HAMMOND:

Your testimony kept cutting out. You said something about "30,000." Can you go back and repeat what you said after "30,000"?

Let me reiterate, the people I spoke with had no indications or problems with their applications and nothing to adjudicate. Many of these cases sounded that a potential for fraud was preventing them from getting their cases approved and their payments made. My colleague from District 12 asked about CARES Act money to help with these fraud issues. If we could get more resources or CARES Act money to you, maybe these pending issues could be taken care of as well as others that could be quickly adjudicated and processed.

I do want to go back and hear your statement on the "30,000."

MR. MORALES:

I was going to say that at one point during the ... (unintelligible statement) ... we had upward of 30,000 deductible-income issues. That is the impetus of the sections that deal with vacation pay, severance pay, wages in lieu of notice because you had a situation where many workers were paid \$200, \$300, \$500, \$600 and vacation pay that had been racking up for some time for a safety net. The people at DETR had to adjudicate those claims and figure out how that lump-sum payment fit into the broader scheme of their wages. If someone received a payout of \$300 or \$500 or \$1,000, they might potentially miss weeks they would have received that \$600 because we were allowing vacation pay to cover for those wages. We have dealt with thousands of constituent cases in our office, and these cases get complicated. Sometimes people do not realize that they have something in a past claim. This is not a black-and-white issue. Some of these statutory requirements are difficult and require much work. For example, NRS 612.380, if someone voluntarily leaves their job, oftentimes they have to go not to just the last employer but to the second-to-the-last employer. Other states have tackled ... (unintelligible statement) ... modified or suspended wherever possible to speed up processing those claims.

SENATOR HAMMOND:

As you read the bill's language referring to backlog and pending issues, how do you see this bill helping you resolve the existing pending issues other than the one we just discussed?

MS. GAA:

If this was enacted, it would be effective upon passage and approval. This would include any reoccurring issues from that date forward and eliminate that process. For example, as Mr. Morales referred to the deductible income for that week, we would no longer have to adjudicate the specific claim week for that issue. It would be suspended.

SENATOR HAMMOND:

Would that, in effect, free up your time for you to address the current backlog?

MS. GAA:

That is correct.

SENATOR HAMMOND:

In regard to sections 8, 9 and 10 where it talks about personal time off, vacation time and so forth, the language discusses waiving or modifying a period of disqualification. In each one of those sections, you have the term "for good cause." This is a broad term. Can you explain what you have in mind that would constitute "for good cause"? Can you indicate, for the record, so it is clear how "for good cause" is defined and what it means for people under adjudication in this area?

MR. MORALES:

Good cause would be a pandemic or a state of emergency. We made this decision to not eliminate or modify that long-standing statute. Instead, we wanted to utilize some flexibility for times such as now, experiencing an unprecedented number of claims and be able to say, for this period of time, we will disregard those types of deductible income. The intent of these sections is not just because or for normal times. During a period of emergency or a pandemic health crisis, we will implement all three of these sections.

SENATOR HAMMOND:

In section 15, subsection 1, it says, "The employer cannot offer suitable means by which the person may work remotely ... ." Who makes the determination of whether it is suitable or unsuitable?

MR. MORALES:

Section 15 pertains to suitable work. It states generally and takes into account some of the factors that are laid out in federal guidance. The definition of "suitable work" and what constitutes suitable work is a state discretion. In terms of the mechanics, the determination of suitable work will be made by a claims examiner or an adjudicator.

SENATOR HAMMOND:

An adjudicator who works for DETR?

SENATOR GOICOECHEA:

I expected something different, something more out of Senate Bill No. 3. I, like so many of you, have received hundreds, if not more, calls from people who have not had their claims either handled, satisfied, is partial payment or suspended. There are thousands of pending claims and millions of dollars paid out in fraudulent claims. First and foremost, is there any way the federal government will audit how these fraudulent claims were paid? We are talking about PAU dollars. How much did we actually spend?

MS. GAA:

Yes, the federal government will audit us and determine the total amount of fraudulent dollars that has been paid out. They will have expectations and measures. We have already received a subpoena from the Office of the Inspector General to review the universe of datasets they are using to detect fraud and will follow up on this data. We are actively working with federal, State and local law enforcement on the COVID Fraud Task Force. We expect to be audited and expect a significant number of fraudulent filings and payments will be discovered. Based on the sheer volume, the State has reached a million filings between PUA and standard UI. With a population approaching 4 million, that means more than a quarter or a third of all the State's residents are, in some form or another, claiming a benefit. No state is escaping this situation.

As far as funding for this, there has been discussions at the health-federation delegation level, if they pass something like the Heroes Act or something to specifically carve out funding for fraud-integrity-program work. Currently, this is funded through our standard grant and the additional, above-base funding grants we receive. It is a component of the standard administrative grant. We do not receive a separate appropriation from the federal government for this work. That is the current methodology.

SENATOR GOICOECHEA:

To prompt the numbers, you talked about a million claims and approximately 500,000 being PUA with half of those claims being fraudulent. Are we talking about 250,000 fraudulent claims?

MS. GAA:

We do not know the total number of claims. We know the percentage of fraudulent claims PUA is significantly higher than traditional UI based on what we are looking at today. The Senator from District 12 inquired if it was 100 percent or somewhere in the middle. It is somewhere in the middle, but I am not certain of the exact percentage. There are ongoing investigations on large groups of claims in both programs. Is it possible there are 250,000 fraudulent claims? Yes, based on the volume we are seeing, anything is possible.

SENATOR GOICOECHEA:

In looking at Senate Bill No. 3, we are talking about expanding it and betting will we receive Heroes Act funds or a ton of new federal dollars. If we get new money, how are we to ensure it is distributed to the right places? Over the last four or five months, we have not done a good job of this. What staffing will be required to build up your Department to quickly move this money along and ensure its proper distribution? We need to do something different than just expand it. What do you need?

MS. GAA:

We have requested an emergency contract with an additional vendor to provide support services. This is a contractor similar to Alorica, but they have more communication, support and adjudication experience in multiple states, particularly overlapping in PUA and UI work. We have already committed to potentially 50 full time equivalence (FTE) staff members and amplifying that contract up to as many as 200 FTEs. This will be determined later because this contract is still a work in progress.

Additionally, there is a staffing plan in place to add 200 new staff members which predominantly will be placed in both call centers, north and south, for traditional unemployment assistance and PUA augmentation work on the back end. This expansion dramatically changes the constructs of our Fraud Investigation Unit. Currently, we do not have the necessary staffing so these are the two proposals to move us forward. One is already in play, and the other will be going in the next couple of days to the Governor's Finance Office for review.

SENATOR GOICOECHEA:

Let us know what we can do to help if it takes an appropriation. We must fix this. We appreciate the efforts of your work. No one anticipated this. I am not certain the expansion of benefits in this bill will solve our true problems.

SENATOR SEEVERS GANSERT:

It is clear the Employment Security Department is under-resourced and working very hard on this. No one anticipated over the last several months that we would have unemployment rates at 30 percent, 25 percent and 15 percent.

In the section regarding the proposed regulations and going through the Legislative Commission, are the proposed regulations sent to DOL first to see if they are conforming and then go to the Legislative Commission? Everything in Senate Bill No. 3 is set up through regulation.

MS. GAA:

Yes. Any proposed regulations or statutory changes are submitted to DOL to ensure conformity with federal law. The regulation and guidance we are receiving with the situation of being in special sessions, they are occurring simultaneously. In the normal course, we would first draft the language, submit it and then send it off to DOL to rule on its conformity. We then would make necessary adjustments to conform to federal law and regulation.

SENATOR SEEVERS GANSERT:

In section 3, subsection 1, there is an "and." It says it will transmit "... to the Legislative Commission to determine whether the emergency regulation is consistent with federal law, conforms to statutory authority and carries out the intent of the Legislature in granting that authority."

In section 4, it states that the Legislative Commission has 15 days to consider the proposed emergency regulation. If the Legislative Commission does not address the proposed emergency regulation in 15 days, but looks at it later, and it is not within the legislative intent, what happens? If it is taken up after the 15 days, maybe the Legislative Commission was not able to convene, but the emergency regulation does not meet the legislative intent, what happens then?

Section 4, subsection b, talks about a 15-day period, and if the Legislative Commission has not approved it, the proposed emergency regulation automatically moves forward. Sometimes, the Legislative Commission cannot meet. This is set up similarly to emergency regulations, but it is not because there is an automatic 15 days. Sometimes, the Legislative Commission looks at things outside of the 15 days, and they may reject something considered to be an emergency regulation.

MS. GAA:

I see where you are reading from, but I do not have an answer at this time.

SENATOR SEEVERS GANSERT:

Section 4 is the one and one-half times; you are still deemed unemployed if you make one-and-a-half times the weekly-benefit amount.

Is the benefit amount the State's benefit amount? Is that the benchmark? Say it was \$200, or is it the State's benefit plus the enhancement which is now \$600? What is the benchmark for the 1.5 times?

MR. SCHMIDT:

That would be the individual's weekly-benefit amount.

SENATOR SEEVERS GANSERT:

So, the State's level of benefit amount and not the enhancement.

MR. SCHMIDT:

That is correct.

SENATOR SEEVERS GANSERT:

When I looked at sections 4, 8, 9 and 10, it sounds like part of the reason for doing this is to clear up outstanding issues where people have not been able to obtain unemployment benefits. Are these retroactive? It does not read to mean retroactively. Is that correct? Will this help the people who are currently in the queue and facing delays because they are using vacation pay, severance pay or paid time off?

MR. MORALES:

When a claim has pending issues, it means the claim has to be adjudicated. Effective the date of the bill, the Employment Security Division (ESD) would have to take in account the new regulations and provisions and then process those claims.

SENATOR SEEVERS GANSERT:

When we pass legislation, it is not retroactive unless we say it is retroactive for something like this. Hypothetically, if there is indicated a date of March 18 the bill is effective, they could go back and adjudicate using the new rules of engagement. Can the Division retroactively process claims if the bill does not state you can go back retroactively?

MS. GAA:

That is correct. We would be looking at a per-week certification. If the bill was effective this week, we would take prior weeks out and current and future weeks would be included to conform to this. That is the way it is written.

SENATOR SEEVERS GANSERT:

The 150 percent has the same issues. The 150 percent, the severance pay, the paid time off only applies moving forward. Everyone who is currently sitting in the queue because they have an outstanding issue related to any of those things still remain. Senate Bill No. 3 will not clear that up.

MS. GAA:

Those who are already in the queue and are now being adjudicated for weeks that have passed would be based on the old language, or anything current or moving forward would be the new language and methodology.

SENATOR SEEVERS GANSERT:

The reason we are here for this bill is because we are facing extraordinary unemployment rates. There are triggers for extended benefits for unemployment under PUA's program. Is there a sunset for these claims where there are vacation pay, severance pay and so forth? Does the 1.5-percent times sunset when we are not facing an emergency or a pandemic and high unemployment rates?



MR. MORALES:

The 1.5 weekly-benefit amount does not sunset. The theory behind the 1.5 is to get us through the next regular Session. We will be able to look at the impact of that 1.5 increase in February. It is intended to get us through the next several months in hopes we will receive an extension even at a reduced benefit of \$200 or \$300. The provisions relating to deductible income, those have to be weighed by regulation and not straight out of statute. Our intention is to use emergency regulations, and those run for ... (unintelligible statement) ... days at a time with the option to be able to repeat the process.

SENATOR SEEVERS GANSERT:

It makes sense to use the regulations because the regulations should only be good during this emergent and pandemic time. During the near term, the 1.5 in section 4 will cost about \$30 million. If we have to go back on the retroactive and you choose to amend Senate Bill No. 3, consider submitting a sunset. It is reasonable to come to next Session and extend something, but to leave something permanent without a sunset will be expensive. It creates an incentive to remain unemployed and receive benefits one-and-a-half times whatever their benefit is. We may want to revisit section 4.

In section 12, subsection 12, the language is broad. It talks about "... the Administrator may, by regulation, suspend, modify, amend or waive any requirement of this section ... ." Can you give some examples of what would be suspended, modified, amended or waived in that section? That is the hold-harmless section as far as where you move within your rating versus the total rate.

MR. MORALES:

The reason we wanted to go by regulation is because DOL could say, for example, we had to hold them harmless for this period of time or for a certain amount of people. This is an ongoing conversation with DOL. We could see them change the requirements, and we want to be prepared to do that.

SENATOR SEEVERS GANSERT:

This is by regulation so it has to go to DOL.

The question was asked what you need for assistance. As a body, we need to consider this. It sounds like you have a plan for an additional 50 FTEs and maybe another 200 staff members for the call centers. When you were able to get a contract for the call centers, it sounded as though the people at the call centers could not actually do anything. They could respond and tell people they needed to provide more information, but the staff could not go online and input any information to make adjustments or make a claim go forward. If you add new people, will you be able to help people receive their benefits sooner? Maybe you can because this is coupled with the ability to receive information electronically. Will that help you expedite? Will the people you hire help with clearing claims as well as deal with the fraud?

MS. GAA:

Yes. That is the intent. We are attempting to hire necessary State staff because of the traditional State workload we expect moving forward in the next few years. Our fraud cases typically last much longer, potentially a number of years, compared to a standard claim life which is approximately a year if all benefits are exercised. We intend to hire for both PUA and traditional UI programs, the additional contract with the extra vendor. We are trying to get a vendor who can provide additional augmentation. We have launched the appeals module in PUA and other components that will require additional staffing with capacities and capabilities we do not have. It is envisioned for both systems. The idea is to speed things up.

SENATOR SEEVERS GANSERT:

One of the problems is that everything has been done by mail and not electronically. It is difficult to respond and augment whatever you have in your database. Have you been able to estimate what the overall rate increase will be because of the claims? I know you are trying to hold harmless within the different rate structure. We will quickly run out of our reserves and be borrowing from the federal government. Have you anticipated how much that may cost?

MS. GAA:

The CARES Act provisions allow us to borrow at a zero-percent interest rate through the end of this year. As Chief Economist Schmidt mentioned, we expect to expend our Trust Fund by late August or early September. We do not have receipts yet for the last collection of tax. We are awaiting those. This is the time we would convene the Employment Security Council to do the small business workshop. The next step would be to make a rate-setting recommendation, and they would convey that to me as the Administrator. The Legislative Commission would then adopt that rate. That is how the process exists at this time.

SENATOR SEEVERS GANSERT:

I am hopeful we will be able to get resources for you. I know this is difficult. We want eligible families in the State to receive their benefits.

SENATOR HANSEN:

Do you have an estimate of how much the State has paid out since the COVID crisis? What are the total dollars? I have heard estimates of \$4 billion to \$5 billion. Do you have an accurate number?

MR. SCHMIDT:

The number we used for our press conference last week was \$6.2 billion across all of the different programs. That includes both the regular UI and the federal extensions. For a comparison, this is about the total we paid out in 2009, 2010, 2011 and 2012 across all of the programs that were available at that time.

SENATOR HANSEN:

The 4 years you just mentioned, is that \$6.2 billion per year, or is that in the total 4-year window?

MR. SCHMIDT:

Senator, it is the total over those full four years.

SENATOR HANSEN:

In this brief window, we have already paid out as much money as we paid out in a four-year window.

If you are estimating 50 percent of the claims are fraudulent, we potentially have paid out over \$3 billion toward fraud? It seems as though you arbitrarily grabbed that 50-percent number when my colleague from District 12 gave the 100-number ratio. Regardless, \$3 billion is a large sum to put in the fraudulent category.

The issues we anticipated with this bill were to deal with the backlog and the fraud issues. Did you and your Department have any input in drafting language for this bill? I do not get the impression you are familiar with the bill itself.

MS. GAA:

The version you are currently looking at we saw for the first time at 3:30 p.m. There have been approximately five different drafts. Yes, we have had some input, but it has been in various drafts. I do know how to exactly answer your question.

SENATOR HANSEN:

You did answer my question. That is the impression I have from the hearing. If you did not receive this until 3:30 p.m., it explains why there are so many pauses between answering the questions.

There is \$6.2 million paid out, and half of those are potentially fraudulent claims. You need help. Is there anything missing in the bill that addresses your need for more staffing and the ability to handle internal investigations to accommodate this backlog of legitimate cases that are not being met?

MS. GAA:

There is nothing in this specific bill that addresses administration or to carve out additional funds for staffing. The forthcoming plan I will be submitting to the Governor's Office suggests

this be paid with our administrative dollars we have coming in. That is how it is traditionally funded.

SENATOR HANSEN:

Your Department has been thrown into a difficult situation. We have received a large number of emails from people who are unemployed and have legitimate needs for money. We want to help you solve this difficult situation for our constituents and for our State government. Maybe we can give you some relief before this Special Session ends.

SENATOR SPEARMAN:

I appreciate the job you are doing because it is one of "make more bricks without a whole lot of hay." What kind of technology was in place before the pandemic started that you were able to use to help you "right the ship" the first couple of months?

MS. GAA:

Our existing UI system was upgraded and launched in 2013. As UI systems go, ours is more modernized than some of the other states. After the passage of the CARES Act provisions, on March 28th, we started recoding our system to incorporate the provisions of the Act for sections 2102, 2104 and 2106. It included all of the extended benefits. Some additional provisions were needed for PUA. On an emergency contract, we purchased a module to our existing workforce system to set up that system. It went live in May. We did not have the resources to both code the new program, which was based on Disaster UI in our current UI system simultaneously with the CARES Act provisions that we were coding into UI's system. We did both of those in the same timeframe.

We are continuing to build out additional phone systems for the agency. The last component of those systems will be the call centers which are the most complex. We have an interactive voice-response system to provide relief to claimants making calls and for our staff. We are currently working with appropriations from the last biennium to translate the traditional UI system, UInv, into Spanish. That project is moving forward. We predict somewhere between October and December it will go live for our Spanish-speaking constituents to fully engage in a Spanish site. There have been a myriad of security projects to provide additional security to our systems. We continue to work with any changes or updates we receive from DOL. Those are the largest technological investments and projects we have been working on throughout the pandemic that have gone live. Most of them occurred in the first 60 to 90 days of the pandemic.

SENATOR SPEARMAN:

Recoding, when you start off with 200 and then the extended benefit goes to 600, how many hours or days did that take? Are you still doing this? Like everyone else in this Chamber, I have received many emails, many from mothers with four children and do not have enough money to pay their rent or there is no money for food. The recoding piece seems like it was laborious. Is that done manually? Is it done via technology? A combination of the two?

MS. GAA:

Our traditional UI system required recoding. We resourced and conscripted several staff members who had left our agency and gone to other agencies to bring back additional resources to help with this effort. That code is complicated, and recoding is laborious. It depends on the component of the code that needs to be reworked. For example, FPUC, the additional \$600, was the first piece of coding we implemented and launched. We were able to accomplish this within 10 to 14 days after the Act was passed. We immediately focused on this because we realized this relief was a large and necessary benefit to Nevadans. We knew that the provision for the Emergency Unemployment Compensation and the State extended benefits were not going to kick in as quickly. We, therefore, focused on FPUC, the \$600, first. We had to retroactively go back two weeks, and that took us another week or so because the files to the banks were large. The first time we attempted to launch the code and pay back weeks took us 26 hours to generate the pay file to the bank because it was so large. It was quite a laborious process. That is one of the reasons why we picked a vendor to set up PUA. We knew we could not do this in that timeframe. It was physically an impossibility. Even at that, it took a number of weeks to become live. It is a complicated process.

If the federal government passes a provision that changes the \$600 FPUC to a reduced amount, let us say to \$300, to change that code, because we have already done it, will be faster than if the federal government passes a provision requiring a calculation against an individual claimant's weekly-benefit amount at a certain percentage, say 75 percent. We have not worked through that code and do not have an estimate. It could take a couple of months. It depends on the complication of the required calculations. If it is a straight change, a solid dollar amount, it could rapidly be accomplished.

SENATOR SPEARMAN:

Is there no available technology, artificial intelligence, to assist you in making those computations and be able to recode faster than a couple of months? If this does come back, there will be people who filed in March, and they may not see a check until January. Is there any technology we can help you get to cut that time down? It may only be two weeks for the person who has \$1 left and no gas in their car and has two slices of bread, the "only" is a big deal.

MS. GAA:

I cannot answer that question, at this point, because so much of this is dependent upon what the passage of any potential legislation could be from the federal government. Do I believe there is artificial intelligence technology that could help us complete this? I would have to defer to our Chief Information Officer. I seriously doubt it. It takes man hours and staffing to do that work because the way the system was built out. The newer system we are using for PUA may be something the vendor could execute rapidly because that technology is brand-new. I cannot promise something for either system without doing some analysis of what would be involved. My sense is from the conversations I have had, in order to speed up traditional unemployment assistance with some sort of artificial intelligence to code, I do not believe it would be possible.

SENATOR SPEARMAN:

In a state like Texas where there are 10 million people, say, would they have the same issue, with 5 times a number of people on the unemployment that they would not be able to handle that or get that done for another couple of months?

MS. GAA:

It depends on the state's systems. Not all of the states are on a federalized system. Each state has their own unemployment system. Without knowing the technologies of all of the states, I could not answer which states would successfully process more rapidly than others. There are states who have done remodernizations in the last couple of years. Idaho micro-app'd their system, and they may be able to deploy code faster than what we could. Their system is built on a ".net" structure, and ours is not. So, when you are talking UI system to UI system from state to state, it is not an apples-to-apples comparison. It is hard to say if every state would. There were a number of states on our national call recently who indicated it could be as late as December, if it was a calculation-based change and not a straight, flat amount, but I cannot speak for other states.

SENATOR SPEARMAN:

Is anything out there we do not know about that would help you? We have talked about call centers, and I believe I heard there will be 2,200 new employees. To me, a call center is a large office with cubicles, people with headphones and microphones on answering calls and taking general information. Will the 2,200 new employees work under a cloud-phone technology? Are we processing the information the old fashion way, from phone to person to computer, or are we looking at a new cloud system? Today, most companies and government agency call centers, like the Social Security Administration and the Veterans Administration, have a cloud-based service. What would it take for our call centers to have that cloud-based technology? In the long-run, this technology could save money. This would allow people to work from home and not have to be in the building or in a cubicle and remain safe.

MS. GAA:

We have a project underway to replace the State's current call center to a cloud-based phone system. This will enable us to quickly scale operations. We need staff to staff and scale this system. We expect a full complement of capabilities by the end of this year. The integration with this

computer system will provide staff with an efficient system as new people come into the phone system. We can provide and consume the information quicker instead of having the individual repeat answers over the phone to staff. We are building these efficiencies within the system. You are correct; with the current 20-year-old system, we do not have the capability for staff to work remotely and connect to that phone system to provide those services, as you say, in a safer environment and social distancing from each other beyond the 6-foot cubicle walls. We recognize that and have been working on this project. It took a couple of months to get it off the ground at the beginning of the pandemic, and we contracted an emergency crew. We recognized the need to implement to the necessary scale to provide better services to Nevadans and give our staff the ability to work remotely.

SENATOR SPEARMAN:

Are some unemployment checks delayed because there could be outstanding child support or some other monetary payment that has not been made?

MS. GAA:

In accordance with law, we offset child-support payments within our traditional unemployment system. We are working on that technology for PUA's system to build out the interface to collect those dollars in accordance with the CARES Act requirements. Yes, there would be collection, but that is based on the Court's order. If the Court order says you must collect \$101.70 weekly, that is what we are currently doing.

SENATOR SPEARMAN:

We talked earlier about fraud. If someone was supposed to get a check and that money was fraudulently diverted to someone else, if you cannot get that money back, what happens to the person who was expecting it? Are they reimbursed, or do they have to wait?

MS. GAA:

We have seen that scenario during this pandemic. We have to validate the identity of the person requesting the funds and determine whether the funds already paid out are not duplicative to an individual. There is a period of waiting. We need to staff the Integrity Unit, part of the request for the upcoming positions. There is no streamlined, simple way to say, "yes," that is the same person. Steps are taken to identify and ensure we are paying the correct person. We know it occurs, has occurred in the past and continues to occur in the current situation.

SENATOR SPEARMAN:

I appreciate your work, "more bricks with less hay." My concern is if there is something you find out later that will help you, let me know what we can do as the Legislature. How can we help you acquire the technology you need? In today's technology, a phone system that is 20 years old is really 100 years old, not doing as much as a phone system installed 5 years ago would do. How can we help you acquire the technological accoutrements you need so people are not waiting three, four, five months for their benefits? I have constituents who filed in March and did not receive anything until June. Some people filed in March and received a letter indicating their claim is undecided. What can we do? There has to be something we can do to help you acquire what you need to get your work done effectively and efficiently. Thank you for your service.

MS. GAA:

We appreciate that. We will be requesting additional revenues from the Interim Finance Committee to bring in appropriations from the federal government for contracts as we move forward.

SENATOR CANCELA:

There are many questions regarding unemployment and how we can ensure our constituents receive their money. Section 15 deals with the good-cause language. Mr. Morales, DOL guidelines allow states to determine if and when individuals affected by COVID-19, either by caring for someone with the virus or they, themselves, are infected by the virus, get called back to work as to what happens in those situations. Multiple states, including Texas, North Carolina, Washington, New York, California, Colorado, among others, have issued guidelines on this question.

Section 15 gives our State the ability to join that group by creating regulations as to what should happen if an individual is directly affected by COVID-19 and not able to return to work when they are called. How do you believe this will be enacted in Nevada?

MR. MORALES:

Section 15 lays the ground work and provides guidance as to what these regulations should be. Good cause is under the State's discretion so long as we are within the confinements of federal law. Whatever regulation we promulgate moving forward must be submitted to DOL. Our State law finds good cause not only related to the job itself but also for "personal reasons," DOL calls it. We do not restrict ourselves to only good cause related to work. We will promulgate a regulation modeled off of this statute, and we will look at other states' best practices as to what they have been including. We will ensure it conforms to federal guidelines and submit it to DOL for review to go through the State process. Going back to as early as April, DOL issued guidance and different notices for states to waive their good-cause provisions to help people navigate these difficult times. The DOL has allowed states to waive the requirements for work search, the one-week waiting period and other areas of law. Generally, that is how this will work. We are not the first state to do this. Texas has enacted language modeled after these same guidelines.

SENATOR CANCELA:

Some states, Washington, for example, employers are able to report employees that they believe are not returning to work for potential fraudulent reasons and ensuring employers and employees have a line of communication on this question. Is that the direction Nevada should go in on this, ensuring both employers and employees are part of the policy?

MR. MORALES:

We want to continue to protect the integrity of the system. It is important to note that people want to return to work and keep their job. People should not have to choose between the job and their life. The intent is to allow employers to submit names of people who have voluntarily chosen not to go back to work, which will not be the majority of the cases we are talking about here.

SENATOR CANCELA:

Section 15, subsection 5, refers to a person caring for a child who is unable to attend school or a childcare facility due to COVID-19. It refers to a child who, perhaps, is quarantining or sick with the virus. This section will not create some blanket prescription whereby because students are not able to attend a physical building of school but are participating in distance learning, the individual caring for them would not go back to work. This allows for the idea that we will largely be facilitating distance learning, and students will be home from school.

MR. MORALES:

The specific regulation that will describe the exact scenarios will be submitted to DOL, but that is generally the intent, yes.

SENATOR HARRIS:

The UI system is antiquated, at best. What are the plans, if any, to put us in a better position moving forward? We had no idea a pandemic could happen and unemployment would shoot up to levels we have never seen before. Ideally, we now know better. Is there a five-year plan to improve unemployment, improve the website? You have discussed improving the phone systems and bringing in vendors. What is the long-term picture to ensure we do not end up in a place like this again?

MR. MORALES:

The Governor's Office is working with DETR. We have requested proposals from vendors to give us an idea of what costs would be involved to modernize UI's interface. There are solutions out there that conform with more modern information-technology standards, for example, cloud-based, low-quoting environments, and interactive interfaces. We are exploring all of these options to see what it would take. Modernizing, knocking it down and starting over, the reality is a true modernization that includes tax benefits and appeals that could take anywhere from 24 to 36-plus months. The ... (unintelligible statement) ... we need to take this and mimic as all of the

lessons are for the pandemic and get us into a spot where we are future proof for ... (unintelligible statement).

SENATOR HARRIS:

Good to know you are thinking about the future and what needs to be done to prevent a similar scenario in the future. Are there states that are pre-pandemic or post-pandemic, whatever it is, that do this really well? Is there a "best" state model we can copy and implement? Is there a 36-month plan?

MR. MORALES:

There are many good practices out there. We will be looking at several states that performed well pre-pandemic, during the pandemic and post-pandemic. The plan is to put together a plan over the next several years to modernize the system and be able to integrate other tools, such as 8x8 and vendor, third-party software, to make the user experience more streamlined. All of the states dealt with the reality this pandemic caused. It was a sudden surge in claims. This pandemic will leave behind many lessons learned. We will look at other states and see how their systems performed.

SENATOR HARRIS:

You have some partners here in the Legislature for that effort, and we look forward to helping you in that endeavor.

SENATOR PICKARD:

I want to lend my voice to the chorus. You have been handed a massive undertaking, and you seem to be rolling with it quite well. We stand ready to help in any way we can.

Referring to the hundreds of thousands of fraudulent claims, how many Nevadans have had their payments delayed?

MR. SCHMIDT:

Within the traditional UI program, there are a couple of different ways we can measure this. In this recent week, we had approximately 20,000 claims where a weekly claim was filed but payment was held up on some sort of issue. Overall, for those current claims that are being filed, we are paying about 90 percent of those claims, which is really on track with our historical average where there are large numbers. It is, in part, because there are a large number of claims in the system. Looking at initial applications coming into the system, we tend to be 40 to 60 percent of those applications ending up being paid. We are paying about 250,000 weekly claims right now out of a population of about 500,000 initial claims, which puts us in the same benchmark as well.

For PUA's program, that program has seen about 382,000 claims. Currently, we have about 120,000 of those claims that have actually been paid. A number of claims are still being held for review for any issues or potential fraud flags on those claims. One of the things that is taking place is that prior to payment, claims that appear to be potentially fraudulent, when we can identify those, they get held to try and resolve those issues before the money starts going out the door.

SENATOR PICKARD:

Out of the 500,000 standard unemployment claims, about 40 percent were delayed, and a little more than half of PUA claims were delayed and remain outstanding.

MR. SCHMIDT:

At present, we have significantly less than 40 percent of claims being delayed. Earlier in the pandemic, the delays for adjudication and the share of those claims were much higher. That number has come down as we continue to work through the backlog. I cannot put a firm percentage on it at this moment.

SENATOR PICKARD:

I am just trying to get an order of magnitude understanding of what is left. It sounds like we are looking at 36 months to work through this backlog. Who are doing these adjudications, and how many of them are there? How many adjudicators or hearing masters or referees do you have?

MS. GAA:

We have a couple of groups who traditionally are not considered adjudicators that are adjudicating currently. We took the entire Division, and moved much of our workforce staff who had unemployment experience or were doing some sort of eligibility work on the workforce side of the house, and we conscripted them over to augment the staff and support UI. Prior to the pandemic, we had approximately 45 adjudicators. We have tripled that staff, considering those newly hired and those we have augmented into the workforce side of the house. The same for the claims and examiners staff, those people taking calls, walking people through the claims process and answering informational questions. We have added 108 hires out of the 133 that we were in the process of already hiring. The PUA is the contract call center. They started out with 100 FTEs and now have more than 200 to support that workload. There are 35 adjudicators who provide the lower-level adjudication work.

An adjudicator is the person making an eligibility determination for financial and program constructs. For PUA, the claimant must have a reduction of work or one of the related COVID reasons outlined in the CARES Act for eligibility determination. They look through the claimant's paperwork and make that decision. The UI side is more complicated and is based on the reason for separation. They conduct an interview with both the claimant and employer to resolve information conflicts, for example, if the employer said the employee was fired, yet the employee claims they quit. Hearings relate to the appeals process you alluded to. That process would be invoked if under traditional unemployment, the initial eligibility determination was made, and the potential claimant or employer disagreed with the decision.

SENATOR PICKARD:

So, 150 to 200 people processing the adjudications in addition to those handling the calls. The appeals process, how many hearing masters or referees do you have, and how many claims have been appealed?

MS. GAA:

We have approximately 20 appeals referees. We are bringing on contract staff and part-time appeals referees to deal with the workload we are expecting for PUA appeals. As of last week, there were 2,000 appeal requests for PUA. I cannot tell you how many appeals are in standard unemployment. I can provide updated staffing and appeal numbers to the Body and LCB staff.

SENATOR PICKARD:

We are not given the opportunity to make amendments here. I do not know that is necessary except to the extent that we should probably understand how many people we are talking about and what the costs will be. I assume those figures would go to the Interim Finance Committee. If we have 2,000 appeals so far and 20 people, if we figure half-hour each, we are talking about 100 hours of work. That would be one month or so. I assume this number will increase particularly when PUA appeals start, knowing that will help us understand how to help your staff to get these cases resolved. You mentioned you have requested additional staff and resources. Are you confident you can accomplish this task within 36 months and have everything caught up without any future backlogs, other than incomplete applications or discrepancies?

MS. GAA:

I am not sure where the "36-month" number came from. Since the beginning of the pandemic, we have been resolving claim decisions rapidly. Decisions have been made in 90 days on claims that, otherwise, would have taken years. Unless it was in an appeals process, appealed to a further appellate level, or a fraudulent claim under investigation and potential prosecution, we do not envision the 23,000 pending, standard unemployment claims awaiting decision or the 150,000 claims under PUA taking 36 months to process.

SENATOR PICKARD:

The 36 months is what I thought Mr. Morales had indicated. My law partner and I were surprised when we were notified that we were unemployed. I am sure we have quite a bit of work to do there.

How many people do you currently employ in your Integrity Unit that investigates fraud?



MS. GAA:

We have less than 20.

SENATOR PICKARD:

If your request for additional staff is approved, what do you anticipate that stepping up to?

MS. GAA:

With the Governor's Office indulgence, I will be asking for 50 positions.

SENATOR PICKARD:

If we have hundreds of thousands of fraudulent claims and 70 people investigating those, how long do you believe it will take to process those claims?

MS. GAA:

I cannot estimate it at this time.

SENATOR PICKARD:

In a typical fraud claim with a given investigator, how long does it usually take to resolve those in an ordinary situation?

MS. GAA:

If the issue is we are questioning someone's identity and need to go through the steps to verify their identity, it can be done in a matter of days or weeks. If the issue is the information we are receiving from law enforcement or other entities involves potential organized rings or cyber-sophisticated methodologies involved, that could take days, weeks and months. There is no real way to describe it. I have seen investigations take years. It depends on the complexity of the cases.

SENATOR PICKARD:

That makes sense. We are all getting calls and emails from people who are saying they have applied for unemployment or PUA and am told I have already applied. I am told I cannot get it or the payday will be delayed. I am assuming those are delayed because of fraud concerns. What do I tell these people? How long will people have to wait before these cases get resolved? Do we have any idea how long that will be?

MS. GAA:

Regarding the pay-date movement, that is specific to PUA's system and a construct of the new PUA-technology system. One of the things we have learned in this pandemic is when the file is creating the bank transfer, it prepares that work, and this must be validated by our staff. It creates a message in the system to the claimant saying it is in a pay status when it has not been paid out yet. We have been working with a vendor to remedy and streamline this situation for a number of weeks. It is complicated and involves conversations with the banks. We realize it causes confusion with claimants because if it says "paid," they should be able to see it on their debit card. We are absolutely working on that.

As far as how long the potential claims are held up due to fraud, again, much of it depends on the complexity of that particular claim or groups of claims. We are working on a contract to augment staff or a contractor to help with the email backlog. Between the two systems, we have more than 200,000 emails. We are bringing staff on to just address that workload because the five people we currently have to handle this workload is not sufficient.

SENATOR PICKARD:

I feel for you. I have that many outstanding emails on the issue as well. It is hard to estimate and maybe a mistake to set an expectation unless we know we can meet it. Constituents are calling and writing. Me telling them "I do not know" does not satisfy them. Thank you for your effort.

Mr. Morales, in section 3, it says the Administrator will declare the emergency, and in section 5, it discusses the Governor declaring the emergency. Those lead into section 12 where the Administrator can suspend, modify or amend or waive any requirement of this chapter for the duration for the state of emergency or declaration of disaster and for any additional period of time where the emergency or disaster directly affects, and it goes through a few things.

Since there is no sunset and it is loosely tied to the Governor's Proclamation, how do we square section 3 with section 5? I have not had a chance to digest the language. Can you briefly walk me through how the system is intended to work, who ultimately declares the emergency, who lifts it? As I understand, under emergency regulations, those go into effect immediately subject to future review by the Legislative Commission. Can you walk us through that process?

MS. DISS:

The purpose behind the new language in the few sections you mentioned is section 5 and is intended to provide an agency with some flexibility and nimbleness when the federal government creates new guidance and flexibility for agencies for things in statute or in regulations. We would make adjustments to a regulation or statute to achieve the flexibility contemplated by the federal government. That one pertains to the Administrator's ability when the Governor has declared a state of emergency, and it is by regulation and is to waive, modify or amend anything in the chapter. It is sort an unusual authority as far as leaving statute and regulations go.

Section 3 is a modification to the existing emergency regulation authority and ... (unintelligible statement). Traditionally, when an emergency regulation is submitted by an emergency, they attach the draft emergency regulation to a statement of emergency that is signed off by the Governor before the regulation is adopted and filed with the Secretary of State's Office. That is what that particular language means. As traditionally done with an emergency regulation, the Administrator would have a statement outlining what the emergent need for the draft regulation is.

The rest of section 3 establishes a process by which ... (unintelligible statement) ... the Legislative Commission has the ability to weigh-in on that change. The changes are just as emergency regulations are temporary, the changes are contemplated to be temporary. There is a provision in section 3 that it could be renewed, but it would be only renewed for a specific, temporary amount of time.

Section 12 is the statutory language about regulations suspending, modifying or waiving is specific to that section which the employer ... (unintelligible statement). In order to comply with the federal government's request that we grant relief to employers, that section authorizes the Administrator to make changes to employer-charging rates so we can be eligible for the grant that Mr. Schmidt mentioned but also provide some relief to employers, who, to no fault of their own, had to lay off employees because of COVID-19.

SENATOR PICKARD:

We have heard much consternation how NRS 414 has given the Governor unlimited, unchecked authority, unfettered, without input or qualification by the Legislative Body. This seems to extend that to the Administrator, which causes some concern. In section 14, we are talking about some of the extensions. There are a number of entities that are exempt from the requirements. The Governor's Office is exempted because they already have the authority. We talk about Higher Education, the Gaming Control Board and the Cannabis Compliance Board is exempt from this.

Why are we exempting any agency from this? Is this saying they do not get the benefit of these expansions of authority? Why are we exempting them?

MS. DISS:

That is preexisting language in NRS 233B. The change that is ... (unintelligible statement) ... DETR is in subsection 3(a). It says ... (unintelligible statement) ... NRS for the adoption of emergency regulation or distribution of a regulation. That is the only part of section 14 that is new language. The rest of that is already occurring in 233B.

SENATOR PICKARD:

I do not understand the logic for exempting some, whether it is existing or not.

In section 15, if an employer cannot, by suitable means, and "suitable" is defined by the Administration later, how does an employer know what is "suitable" if it is not defined in the law?

MR. MORALES:

I want to clarify that when I said "36 months," I was referring to a full overhaul of the unemployment-benefit system could take anywhere from 24 to 36 months.

In terms of "suitable work," how does an employer know that the work is not suitable? Could you restate and clarify the question?

SENATOR PICKARD:

The language states such justifications may include, without limitation, that the employer cannot offer suitable means by which the person may work remotely and a medical professional has recommended that the person not return to work. Who is defining the "suitable" means, and how do employers know it?

MR. MORALES:

Section 15 sets up the criteria and the framework for the Administrator to promulgate regulations. That would be more specific.

Suitable work, DOL lays out certain criteria that states "must consider" or "can consider" in their determination of what constitutes "suitable work" including the health risk that work poses to the person. Our intent here is to better define that by regulation, look at what we are allowed to do by DOL standards, look at the criteria we must use and promulgate a regulation for fact.

SENATOR PICKARD:

I am trying to figure out how employers can protect themselves, and it sounds like we will have to wait until the regulations are out.

Section 3 is the same kind of question where we talked about unreasonable risk. We have no definition for "unreasonable." I am assuming then if we do not know what "suitable means" are until the regulations are out, we do not know what an "unreasonable risk" is until the regulations are out. Is that accurate?

MR. MORALES:

That is correct. This applies for when someone chooses to not go back to work because there is one of these conditions. It will not apply for any kind of tort or any other kind of action. This is specific to this chapter and is specific to good cause in terms of unemployment.

SENATOR PICKARD:

I should have prefaced the question with that understanding. This is about people who decide they are not going back to work and what can an employer do about it.

We look at subsection 4, and one of the reasons is the person is staying home to care for a family member who is suffering from COVID-19 or subject to a prescribed period of quarantine by a medical professional. I am assuming they would have a doctor's note for that, and the employer has a right to ask for a doctor's note or expect that before they would be subject here.

MR. MORALES:

That requirement would be something we would promulgate a regulation for. To the extent DOL does not require that, I do not see why ... (unintelligible statement) ... the regulation. These are not arbitrary decisions. I want to be clear about that. This is guidance criteria for an adjudicator to make a consistent determination quicker. All of these cases that involve refusing suitable work are on a case-by-case basis and will be adjudicated.

SENATOR PICKARD:

Since the employer is on the hook, if they are determined to be in the wrong, that we give enough guidance to them that they can make a proper and informed decision.

Moving on to subsection 5, the person is caring for a child who is unable to attend school, which I believe will be all of 350,000 students in the Clark County School District since they are not going back and it is distance learning only, or a childcare facility because of COVID-19, they are all out because of COVID. Does this mean that every employee of mine and other employers who have kids in school have to now be home with them because they cannot attend school, they now are subject to this direction?

MR. MORALES:

We are getting into the weeds here. We will promulgate the regulations to lay out specific conditions in accordance with DOL. This shows why some of this language we have in statute

creates burdensome work for DETR. They are making these determinations on a case-by-case basis. I do not want to speculate on that specific scenario.

SENATOR PICKARD:

I believe it is important we get into the weeds since we are about to live by this. It is important for us to know what we are signing before we sign it. If we are talking about we only have four weeks of money left, and we are trying to get to the next Session, these four or five provisions could bankrupt the system if we do not adequately define it and give employers and the adjudicators the information they need. If what we are saying is we are opening the door so that the regulations can include them, we are buying a "pig and a poke" here. I am concerned what this will financially do to the State.

Finally, section 13, subsection 1, can you tell me why you inserted "mail" when we are trying to move everything to an electronic format?

MR. MORALES:

Section 13, because we are allowing public communication, except when there is a due-process provision or where there is a concern for due process, trying to make sure we are not going around the current Rules of Civil Procedure or a claimant's due process, but also, in this case, it would pertain to a mail notice to the employer because the employers also have the right to protest charging benefits against their account.

SENATOR PICKARD:

That makes sense because we just got that. Thank you for your responses.

SENATOR RATTI:

I am empathetic. My email box is also full with hundreds of people challenged by the current situation we find ourselves in. I appreciate the level of questions we have received and the level of clarity we have gotten at a detailed level. However, the prior testimony has gotten us so into the weeds that I have lost, and I feel the Body has lost, the overall, strategic direction of this bill. For my benefit, and for the benefit of one of the most watched issues we have heard during this Special Session because it is affecting so many people, I want to ensure we have the bigger picture, higher level concepts that are in the bill and know what the strategy is. In the prior comments, I have heard this notion we need to act with urgency, that there are so many people out there who need help, and we, as this Body, want to help you. I have also heard we must proceed with caution and cannot provide too much discretion because we are going to have to live by this. I do not think, in this case, we can have our cake and eat it too. We are either going to give the Administrator and the people who can make decisions discretion so they can move some of these things more efficiently, or do we continue to tie their hands because we are concerned about how this gets done?

Mr. Morales, let me sum up. The idea in section 5 is we create the ability for emergency regulations to be created and then brought to the Legislative Commission for sign-off. In a regulatory process, which is a process that can be changed when the Legislature is not in Session, if it is working or it could be working better, we give you the power to do that. In section 7, we create the statutory trigger language so that we can take advantage of what is already in the CARES Act of an additional seven weeks for benefits for all Nevadans, if they qualify. There should be broad support for the concept that Nevadans should get federal money that they qualify for. In sections 8, 9, 10, 12 and 13, there is additional, specific language that allows the Administrator to waive, modify or suspend certain rules that are making the processing process burdensome and is contributing to the backlog which is contributing to the delay of all of these people who are not able to get their payments. In section 15, this is the only section where there may be some limited expansion of benefits. What we are doing here is adding clarity, as we have been empowered by DOL to do, so that this question of good cause, which will be clarified in a regulatory process, does not hold up claims because there is some debate, lack of consistency or some gray area about what is good cause for someone to not go back to work if they have COVID 19-pandemic-related concerns.

The overall strategy here is between the emergency regulations in section 5 and in sections 8, 9, 10, 12 and 13, to have the ability to waive, modify and suspend rules to allow you to efficiently

process things. Those sections allow for flexibility necessary to move a significant number of claimants who are backlogged in the system now and will be backlogged continuing, moving forward, more quickly, trusting the leadership of DETR to make good, thoughtful decisions that are in compliance with the law and the regulatory environment we have created; and if it is not working, to be able to adjust those regulations long before we are back in Session. Section 7 gets us more money for the Nevadans already in there, and section 15 gives clarity so we do not get caught up on good cause.

Is that the overall concept here, to be able to move people more quickly through the system and get Nevadans the money they deserve?

MR. MORALES:

Absolutely. That was a great summary. The problem is you just cannot throw money or more staff at the issue. There are statutory impediments that create barriers for people and tie up the adjudication process. That is exactly the strategy. If we would have had some of this authority, we would have been able to modify statutes from the beginning to make it easier for people ... (unintelligible statement) ... and for people getting the extra \$600.

I would add regarding suitable, we are not arbitrarily making up the good cause. That is already in statute in NRS 612.390, but there is not much there to give people clarity. So, the more ambiguity we have, the longer it will take and confuse the claimant. You are right. We do not know what is going to happen in the next seven months, but we do not want to be in this same situation that we have been over the last months where we could not make any substantive statutory or regulatory changes. Some states have suspended the application of many different statutes pertaining to UI because they have that flexibility.

It is a two-part approach. We are trying to tackle regulatory, statutory barriers, but we are also working with DETR to ensure they have the resources and are exploring technology solutions separately. The purpose of this bill is to tackle those statutory barriers and get us over the next seven months.

SENATOR RATTI:

If we give you these tools, this greater flexibility, recognizing this is a leap of faith as a Legislative Body because we like to have things in statute, how quickly do you think you can make a difference for struggling Nevadans?

MR. MORALES:

We are going to go through all of these statutes and look at all of the different regulatory impediments. We plan to work with DOL to accomplish this as quickly as possible. I cannot give you a definite timeframe. Again, we do not know what the future holds. Yes, we are going to look at the backlog. In the event we have another economic turmoil, we want to be prepared, be nimble and ... (unintelligible statement).

SENATOR RATTI:

I want to dig into the fraud issue. There has been a lot of attention put on this issue, and I am concerned that the headline coming out of this meeting will be that 50 percent of PUA cases were fraudulent. The testimony I heard from the staff of DETR was we do not know. It could be anywhere between 1 and 100 percent. Perhaps, we have inadvertently latched onto a number that is not accurate. We should not leave that impression. In fact, the Attorney General and the United States Attorney's Office are cooperating and collaborating on a task force to do a large-scale investigation to help DETR, who has indicated they have a certain number of investigators, but in this situation, an insufficient number of investigators. We do not know, and that task force will help figure that out. Is that more accurate? I am concerned we have left an impression that is not accurate.

MR. MORALES:

That is correct. Fraud, in the context of what we are talking about, general questions, general numbers, it is difficult to assess. What we are seeing across other states, since the ... (unintelligible statement) ... fraud as well, you could have organized efforts that trigger claims. I cannot speak for DETR, but focusing on the issue at hand is what will get Nevadans their money. We will

continue to do all we can working with law enforcement to ensure the system continues to overcome all of the fraud challenges.

MS. DISS:

As far as potential fraudulent claims, the Attorney General's Office is working with the Federal Bureau of Investigation on various other federal and State ... (unintelligible statement). The Department of Employment, Training and Rehabilitation has prevention mechanisms in place pre-existing to COVID. I do not want it to be misunderstood that any numbers we may have guessed ... (unintelligible statement) ... to potentially fraudulent claims have been paid. The Department of Employment, Training and Rehabilitation is often able to catch fraudulent claims before any money goes out the door. Even if you are close in the universe of how many potential fraudulent claims there are, that is not meant to say these fraudulent claims have been paid or received full money versus partial money. That is not what we are talking about in this framework. That is just the claims filed.

SENATOR RATTI:

I appreciate the clarification. There has also been an implication in this hearing that fraud is the primary and major reason that so many Nevadans have had their claims slowed down. There have been specific examples listed where, for example, a city councilman had a fraudulent claim filed under his name. That, however, does not stop someone who is legitimate from receiving their claim. There are other reasons, the lack of flexibility and the statutory constraints that are preventing legitimate claims from moving through. It is important we keep these two issues separate and know we have the Attorney General, the United States Attorney's Office Task Force working on the big-picture crime. We have DETR and the Rehabilitation Fraud Unit working to ensure we do not give money to people who do not deserve it. In the meantime, we need the vast majority of the rest of the agency focused on having the flexibility they need to be able to process claims. When there is something happening to a large percentage of those claims to slow them down, they have the flexibility to waive, modify or suspend rules so they can move those people through and not have to individually adjudicate them. Is that an accurate reflection?

MR. MORALES:

That is correct.

SENATOR DENIS:

Are there protections in here for employers in reference to employer-charging relief and the employer-experience rating?

MS. DISS:

Yes, that is correct. There are two sections ... (unintelligible statement). Those sections allow the Administrator the flexibility to provide employer-charging relief to employers affected by COVID-19.

SENATOR DENIS:

It is important. Not only are we providing relief for those applying and giving tools to the Administrator to work with the backlog but also trying to protect employers as we move forward.

SENATOR CANNIZZARO:

We will now open the hearing to those in support of Senate Bill No. 3.

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

We support Senate Bill No. 3. Thanks to the generosity of the Legal Aid Center of Southern Nevada, we have been able to cohost a series of UI webinars in English and Spanish engaging over 1,400 Nevadans through July. The uncertainty families are facing is even greater as we head into August. The UI system must be addressed. After losing their jobs due to this pandemic, many Nevadans have not been able to access the system to file for unemployment benefits. We urge you to pass Senate Bill No. 3.

ALEXANDER MARKS (Education Support Employees Association):

We are the bargaining agent of Education Support Professionals (ESP) in Clark County. We support Senate Bill No. 3. Following my testimony, you will hear a couple of letters from ESPs who will share their stories of hardship and heartbreak of the last few months. I encourage you to listen carefully.

Our ESPs need help, and they have not received any. We have marched. We have rolled up our sleeves. Our members have moved from being food-service workers, bus drivers, custodians to essential workers on the frontlines of a pandemic. As you know, 9 to 11 months ESPs are not eligible to receive unemployment after the school year. As such, many ESPs seek employment opportunities during the summer and become part-time workers every single year to survive. Unfortunately, this year, COVID makes job opportunities far more limited.

Since April, along with Teamsters Local 14, we have made every effort to achieve this through PUA. We have had meetings and sent out thousands of emails. Meanwhile, our members are losing apartments and vehicles because they cannot draw unemployment. ESPs feel forgotten during this process. Even our local superintendent forgot about us in his 2020 letter this week. This issue does deserve attention, and we do support Senate Bill No. 3 because it provides the Administrator the tools to implement the resolution we are seeking to extend benefits to ESPs. We would still request a more permanent fix in the future. ESPs are the heart of students' learning. Our school districts do not function without them. We hope you remember that as you hear some of the stories that are going to follow my testimony.

CHRIS DALY (Nevada State Education Association):

We have been the voice of Nevada educators for over 100 years. The Nevada State Education Association (NSEA) supports Senate Bill No. 3 revising provisions related to unemployment compensation. The Nevada State Education Association represents thousands of educational support professionals across the State and provides vital services to children in Nevada's public-education system. This includes nutritional services, instructional assistants, school secretaries, maintenance and operations, and student transportation. Many of these employees work and are paid nine or ten months per year. Many ESPs are low wage and depend on summer jobs to make ends meet. For example, an instructional assistant in the Clark County School District makes \$11.12 per hour. Working only 9 months, they would make just over \$17,000 for the school year, close to poverty wages. Unfortunately, with the pandemic, summer job opportunities have been severely limited. Nine-, 10-, 11-month education employees are not eligible to receive unemployment benefits during the summer months if they have a reasonable assurance to return the next school year. (Unintelligible statement) ... working with the Governor's Office and others to figure out how these employees can benefit from programs like PUA. While Senate Bill No. 3 does not resolve this issue for ESPs, it does give the administration the flexibility they would need to implement a fix in the event PUA or some other federal relief becomes available. I would like to thank Francisco Morales from the Governor's Office for his work on this issue. Thank you for your time.

VINCENT NAVA:

I support Senate Bill No. 3. I want to share a brief story of my parents and their journey navigating the unemployment system. Both of my immigrant parents were furloughed from their positions in casinos back in March. My father has worked at his employer for over 30 years and my mother for over 25 years. Despite being Culinary Union Local 266 members, they fell to the uncertainty of these unprecedented times. With their limited English-speaking abilities, I helped them apply for unemployment. Thankfully, we only waited two weeks to receive payment. It is only after being on the phone one day for over nine hours and learning the system was both boring to myself and to my parents in a matter of days. My father was recently called back to work but with no guarantee of consistent hours. He has been called in and sent back home from work after only being there for one hour. On the other hand, my mother is still waiting to be called back.

My parents are the sole providers of themselves, both of my sisters and my elderly aunt who depends on them for various needs. My parents are hard-working and would like to go back to work. Senate Bill No. 3 will allow Nevadans, like my parents, to receive federal funding for seven more weeks. For many like my family, seven weeks is a matter of life and death. I urge you to think about Elba and Martin, the names of my parents, and the people you are elected to serve

when you cast your vote in support of Senate Bill No. 3. Nevadans like my parents keep Nevada running, and it is the least you can do during these difficult times. (Unintelligible statement). I know you have a difficult decision to make, but I urge you to make the right one.

CHRISTINE SAUNDERS (Progressive Leadership Alliance of Nevada):

We support Senate Bill No. 3. I echo the sentiments of everyone who has spoken before me in favor of the bill. This is a common-sense solution to help Nevadans who are struggling to pay their bills, see their families and keep a roof over their heads because of the pandemic. We urge your vote in favor of Senate Bill No. 3.

LISA GUZMAN (Executive Director, Education Support Employees Association and Assistant Executive Director, Nevada State Education Association):

I have worked closely with Teamsters Local 14, and I want to read a letter from our president. It says:

Dear Senators, I speak in favor of S.B. 3. I am addressing you tonight regarding unemployment benefits for educational support professionals. The PUA funding included gig workers, hairstylists, manicurists and other self-employed workers who provide convenience or personal services to the community. I do believe that these types of workers should be eligible for unemployment benefits, but I am confused why you did not add the education support employees. ESPs provide essential services and are the heartbeat of our students' learning. Without the educational support professional, a school district cannot operate. We are essential and deserve the same benefits as nonessential employees. Without the unemployment benefit of our 9-, 10- and 11-month ESPs, their families are left hungry and close to becoming homeless. If they are unable to return to their school district position due to the pandemic, who will be there to ensure our students' needs are met. I implore you to include ESPs in this unemployment bill and make it retroactive. It is vital to the continuation of our students' learning environment, and it is the humanitarian thing to do. There is no other option due to COVID-19 for education support professionals to gain other income. Please listen to your heart and help the ESPs who are the heartbeat of student learning by allowing them to receive unemployment benefits and ensure that is it retroactive. Thank you, Jan Giles, ESEA Interim President.

JASMINE MARGARITA TOBON:

I am a community member, advocate and organizing special ... (unintelligible statement) ... Planned Parenthood Votes Nevada. I support Senate Bill No. 3. This bill will make much-needed changes to the State's UI system. Nevada is facing a number of challenges. I urge this Body to consider the fact we do not know what the long-term effects of this pandemic will be, but we know what is happening right now. Nevadans are at risk of their health, their homes and their livelihood. Ensure UI is accessible for families who are depending on it is absolutely vital for the long-term well-being of Nevadans. This bill will extend someone's ability to collect unemployment some 13 to 20 weeks and provide COVID-specific protections for high-risk families to not return to work and still have the ability to collect unemployment. Our State system of unemployment was not prepared for this level of usage and operation. I know this Legislative Body is Battle Borne and willing to support what is right. It is not difficult to make the right decision. Fight for your constituents. Fight for Nevadans. Fight for the people of our Great Silver State's well-being. Thank you for this time and support Senate Bill No. 3.

AUTUMN TAMPA:

This subject makes me emotional. I am an educational-support professional who does not get unemployment during the summer. Luckily, I have eight credit cards and am only about a years' worth of salary in debt right now. That is not too bad. I live in a small apartment complex, and most people live paycheck to paycheck. There are independent contractors here, substitute teachers, another bus driver from the school district, and many of these people are really struggling. If we did not have a decent apartment manager, they would have been out on the street. Of course, thank you for the Governor's mandate of not being able to kick anyone out. They have not received any money and have legitimate claims for unemployment. They are not fraudulent; they are real, honest-to-goodness people who are scared. They do not know what they are going



to do if they do not get this money. So, I urge you, from the bottom of my heart, to pass Senate Bill No. 3. Worry about the fraudulent cases when you have to. You cannot penalize people who have valid cases, who cannot pay their bills and cannot buy food because of these other fraudulent cases. Take this action now and help the people who need this. Worry about the other stuff later.

MELODY JUDILLA (Silver State Voices):

We support Senate Bill No. 3. At Silver State Voices we work towards a Nevada where underrepresented and marginalized communities, communities of color and low-income households are at the forefront of our democracy. For us to have a healthy democracy is ensuring the most vulnerable Nevadans, those very same Nevadans who register to vote, are asked to leave a public comment during the Special Session basic necessities and most securely ... (unintelligible statement). We support Senate Bill No. 3 because democracy in action looks like having each other's back every day, especially in times of crisis.

ARIEL GUEZARA (Civic Engagement Coordinator, Mi Familia Vota Nevada):

We support Senate Bill No. 3. This extends someone's ability to collect unemployment from 13 to 20 weeks and provides COVID-specific protections for high-risk families to not return to work and still have the ability to collect unemployment. Normally, they would lose unemployment if they turned a job offer down. This is important for the Latinx community which are disproportionately affected by this pandemic. Many Latinx members work the frontlines as essential workers in grocery stores, in hospitals, and this protection is needed for our families. Mi Familia Vota encourages you to pass Senate Bill No. 3.

HOLLY RAMELLA:

I live in Senate District 11. I support Senate Bill No. 3. Myself was furloughed in March and spent weeks on hold with unemployment to get our claim. It took two months for us to receive that money, and we were lucky to happen to have some savings which we usually do not have. Other people and families have had to skip meals, transportation and other basic needs because of this delay. This is unacceptable. This week, the \$600 ended. I have been applying for jobs since May despite being amino-compromised and getting a job that puts their life at risk and have not been able to find anything. My job faced budget cuts, and we just bought our first house in November. Nevadans should not be punished for a global pandemic and economic crisis. We deserve an efficient unemployment system and extended time for financial stability. Systemic racism, unemployment and COVID-19 disproportionately impacts black and brown people. Nevada leadership has said, "Black lives matter." Back this with action. Prioritize Nevada residents and avoid further economic crises. Pass Senate Bill No. 3.

ANNETTE MAGNUS (Executive Director, Battle Born Progress):

Tonight, I am going to tell you a couple of stories. I usually write my testimony, but I wanted to tell you what I have experienced during the pandemic. My team and I decided to open up a food pantry in my garage because our neighbors, our family and the people we serve every day could not feed themselves. I still, to this day, have people begging me for food every single day because they cannot get their money from unemployment. I have seen people I love struggle for months to get money from the unemployment system.

My 72-year-old neighbor, Javier, I was paying his bills for him. His wife is disabled. They could not get food on the table, and they were afraid their HOA was going to come after them. These are the real stories I saw every single day as we were feeding people and making sure they had a roof over their head.

Another young man who contacted me was suicidal because he was not getting his money. I contacted Bailey at Legal Aid because we were afraid when he tried to commit suicide and was at UMC, they were going to kick him out of his own home because he could not pay his rent. We had to have the Attorney General's Office step in. He was at risk of losing everything he had because he was in the hospital, could not get his money to pay his bills.

People are desperate. We hear the stories. People are experiencing unspeakable things because of this pandemic. This did not just start during this pandemic; it started far before this because people are not being paid a living wage. Right now, we have an opportunity to do the right thing. We have an opportunity to give them an extra few weeks to not have to worry about food on the

table or keeping a roof over their head. I usually do not get emotional about these things, but this is a matter of life or death. I am begging you to vote "yes" on this issue.

MARIA-TERESA LIEBERMANN-PARRAGA:

I am testifying on behalf of my mother. She wanted to testify. She is a housekeeper that has been cleaning rooms for almost 30 years. She waited three months until she got word she would get her unemployment. She would call every day. If she got ahold of someone, it was a problem trying to figure out what the problem was. This was a difficult situation not only for her but also myself and everyone around her. We all tried to help, but no one had any answers, the answers we were looking for. We need our Legislators to do what is right for people like my mother who are the backbone of this State, cleaning the hotels, clinging to their lives finally back to work. Those who are still not back to work, we need you to do right by them and ensure that any of those people who are still left behind and do not have work, or have little work, can get the money they rightfully deserve. Like another caller said, you can deal with the fraud later. This is far more important. People are dying, and you need to help them. Help them by supporting Senate Bill No. 3.

NIA BANKS:

I am a black person living in District 3 and support Senate Bill No. 3. I will try and keep this short and simple so even the people listening with the most cotton in their ears can understand. What does it hurt you that unemployed people will possibly be given the chance at more money to survive a pandemic with this bill? People I know have had to live on \$1,200 for 4 months. My friends who are independent contractors, myself included, we have not been paid at all in four months with no chance of us getting any money during this pandemic or any financial security for now or the foreseeable future.

For any person who is against this bill, you have to be one of the most selfish people in the entire world. If the Senate would give some of Metro's \$900 million they are delegated in this current budget year for their little war-play toys and give that money to families who are being evicted daily for not being able to make rent, we could solve this entire problem. You should just give people more leniency for not being able to pay their bills and people that have to go to work during a pandemic. Also, I would like to respond to a particular woman who thought it was okay to oppose criminal-justice reform yesterday to say, "What about COVID?" Here is your reform, Miss Ma'am, you better be calling in a first report of Senate Bill No. 3 just like the rest of us are, or you are a hypocrite. Thank you.

TERRI SHUMAN:

I am in favor of Senate Bill No. 3. I want to thank Alex, Chris, Lisa and Autumn who spoke before me. Educational-support professionals throughout the State are instrumental and considered vital to the schools and departments of which we work. In the past, I was an Uber driver during the summer, but with the pandemic, I do not feel safe enough to do so. Instead of driving this summer, I applied to work for an extended school year. There were so many people trying to work in the summer that there were not enough positions to go around. I have not been able to collect any financial support whatsoever during this summer period. Rent is due in two weeks.

Pass Senate Bill No. 3 to help us get through these rough times. I am not the only one speaking in favor of this, and there are many others in support. One thing I want to add is I started in the District 14 years ago, and I am making less today than what I made back then due to the fact I have been through four surpluses. We need your help, not just now during the pandemic but through the Legislative Sessions that will be coming up in the near future. Support our school district, support staff employees and help us make it through so we can pay the bills laying on our desks.

FELIPE SILVA (Make the Road Nevada):

We support Senate Bill No. 3. Over the course of the last couple of weeks, the pandemic forced us to work from home. Much of our work really revolves around calling families, checking on them and seeing what kind of assistance they may need aside from the things regularly offered like unemployment, city-housing programs, and see where we can fill in the gaps. It is shocking to hear from people who used to be all right and are now living in garages, living in their cars or

in the streets. If they had something like unemployment, they would have just qualified, and their situation would be different. Just to know there are thousands of families in Nevada who depend on that and Senate Bill No. 3 could change their lives, that is enough of a reason to make the right choice. I have great faith in Nevada's Legislature and know Legislators will do the right thing for the families who are looking for solutions.

CHEYENNE KYLE:

I am an activist and community member in District 1, Las Vegas. I want to give my voice in support of Senate Bill No. 3. I have worked in the City since I was 15 and have never been without work. On March 16th, I was unemployed, like most of the people who work on the Las Vegas Strip. At that time, I had two jobs. My cousin, who was living with me at the time, worked at Caesars Palace, and on March 18th, he was unemployed.

Shortly after receiving my unemployment benefits, I was in an abusive living situation that was no longer safe. Within one day, my unemployment benefits were depleted. I rented a U-Haul trying to find a place to live, which I could not do, and ended up homeless and couch surfing for a couple of weeks to save my benefit amount so I could be in a situation where I could try to provide for myself. We understand these are unprecedented times. Many of these Nevadans are hard-working.

The fact the conversation continued to revolve around fraud is concerning to me. We understand Las Vegas is based on tourism. It is not our fault that we did not develop other industries that people should go and work in to provide for their family. For my personal situation, I ended up homeless and couch surfing. When I finally saved enough of my unemployment amount to find a place to live ... (unintelligible statement) ... PUA is cancelled. The rent where I am staying now is \$306. My weekly-benefit amount is \$271. I am supporting another person, my cousin, who also left that abusive situation with me. He called unemployment and has been calling unemployment every day since March 18. My benefits are the only ones we receive. I have to pay for groceries. I pay for rent which is \$306, and my weekly amount is \$271. I want to make sure you guys understand that we understand these are unprecedented times. It is important for you to show your concerns for the constituents that you say you care about. Many of these people are hard-working and do not want to rely on the system. We have no other options. So, for once, our system needs to show up for us.

KATHY McDONALD:

I support Senate Bill No. 3 and ask the Legislature to support the Education Support Professionals (ESPs). Most of the ESPs' last paycheck was June 3. Summer work is not available in the Clark County School District or elsewhere in these unprecedented times. In May, we petitioned the Governor asking for an exception to the rule and allow ESPs to apply for PUA. We have not heard anything. Without the help of my friends, I would be evicted and not have a car. Now, my rent goes up September 1. All I have had to live on is the \$1,200 stimulus check because I am not allowed to apply for PUA. I ask my Legislators to help the support professionals by allowing us to apply for PUA and to get help to many other Nevadans who need help.

LILITH BARAN:

I support Senate Bill No. 3. I am watching everyone I know suffer. I do not know if you are in the same class like all of us who are calling. If you are, you would vote in support of this bill. Who do you think is going to watch your kids? Who is going to cook your meals? Who is going to clean your home? Who is going to water your lawn? Who is going to take you to the places you need to go? Who is going to provide the entertainment you need to lead a nice, quality life? Who is going to sell you groceries? Who is going to do all of these things if you kill us slowly through poverty? It is important you support the bottom; we support you. Everything you do and you depend on in your life depends on our well-being as well. You cannot live this life without us, although you are trying hard to. Please do better than this.

KENNISHA BRAY:

I applied for unemployment March 29th. I waited and waited and waited, borrowed money from my mother, from my step-father, looked for jobs to try and get by. By this time, I was able to get a call-back from someone. I had a really rude adjudicator. She told me I did not deserve the money, and I needed to look for a job. I tried to reach out to the Mayor or anyone I could speak

to. Even my employer said she did not compare that I should not get my unemployment due to the reason I left. I did not quit. It was a separation. I want it to be known, and for the workers who work for unemployment to be fair, just because you have a bad day at work, this is my life in your hands and your decision. Now, I am still sitting here looking for a job, trying to figure out what is the next thing, looking online at who helps with unemployment. I am stuck in a bad situation. I hope someone hears me out and is able to help me.

APRIL VERMY:

I feel like everyone else. I am one who filed for PUA. I am an Uber driver. I have been sitting with transaction members on my claim for about a month now. Prior to that, there was no movement. You cannot get any answers from unemployment. I have reached out to Legislators, Senators, the Governor, and I am not receiving help. I am a single mother, and I am losing everything from underneath me. We need help. We need help out here. I hope that DETR can open their heart. I understand they have a job to do. Clearly, if you have already approved me and others, we are not fraud. Pay us; we deserve it.

MARION BERRY:

I am a delivery driver for prescription glasses, and I was laid off due to COVID-19 mid-last year. I have not been paid since. No one has checked my claim. Every time I call, they tell me not to worry about it, I will get paid. It has been five months, my gosh. I live with my EBT card, and now we are going to be evicted on September 1. What do I do? What else can I do? This is why I am calling, to let you know we are struggling here. I hope you can help us.

JACKYLINE COLEMAN:

My last day of work was March 17. The Governor asked me to stay home. At this time, my family and I are in dire need of help. We are almost getting evicted. I asked my neighbor to pay my car payment. My insurance has lapsed. I provided my 1099, my identification, my social security card, my bills and my bank statements to PUA, who said I had to call DETR. They said they cannot help me, and they are holding my pay. I am 19 weeks of only the one payment of \$1,069. They have lowered by determination to the lower payment. They still say on there I will receive payment, but I have not received any money. There is no money in my bank account. My husband's unemployment from his insurance has been hacked with unemployment with the bank card. We do not know what is in his account. I have no job. He has no job. We need help. If maybe the Governor did not ask us to stay home, we would still be working. There is no international travel here, and we are in dire need. I support Senate Bill No. 3. Please help us, the community and the people here in Nevada.

YESENIA MOYA:

Every single person before me has been in favor of Senate Bill No. 3. It is confusing if you have switched over officially, and you have not changed it. I am in favor of Senate Bill No. 3. We need these provisions to be able to extend to people. COVID-19 is ravaging our most marginalized communities, and we need DETR to do the right thing. Stop wasting time. Stop killing us.

MONIQUE NEWKIRK:

I support Senate Bill No 3. I have worked for people and helped get their PUA, and they got it. I have not received anything, but I know people who have. My point is PUA is in a different state. They do not know our laws. They are telling us to apply for regular unemployment so we can be denied and upload the denial letter to them. Just like a told her, that is against the law in the State of Nevada. They did not even know that. I sent a letter in. They just got a new rule. She said you need a copy of your identification, your license, your W-2 and some other things in order to be approved. If we are all approved and no one is getting any money, I do not understand that. Myself, personally, I have lost things twice. I have had to start over twice, and that is not a good thing. It is not a good thing because people look at you like you do not know how to manage your money. You cannot manage something you do not have. Help everyone in Nevada that needs this. It will help us and make our State look a whole lot better.

ANDREW HENRY:

My UI claimant identification is ... (unintelligible statement) ... 5084462. I will be short and sweet about this. I think everyone needs benefits right now. Currently, I have tried to get ahold of Nevada's UI Department to no avail, like many. I have an outstanding balance of \$1,584 that is owed to me. Why is this owed to me? I clearly stated I do not want taxes withheld, and I need that money. Not only that, the remaining balance on my account is \$154. How is that possible if I am only on my nineteenth payment coming up? We are allowed 26 weeks, or more, with the CARES Act extension. None of this makes sense. Everyone is in desperate need of these funds right now. I do not see how this can possibly be an argument. That is all I have to say; aside from the fact that I want my money, and I want someone to contact me about it as soon as possible, just like everyone else.

SHANE SIMMONS:

My claim number is 213885 for PUA. I will be as short and sweet as possible. Families and people are suffering right now losing everything, their houses, their cars, blowing through their life savings just trying to stay afloat. I have lost my place twice due to the fact the people who have helped me do not believe I will get funds. I have filed for regular UI. I do have an employer but have not made enough money to qualify for UI. I am also a gig worker in the entertainment industry. As you know, the entertainment industry is shut down right now. I am flat out, out of work. I have no money. My last pay check was \$35 on March 5. I have not received anything. I did not receive a stimulus due to a small balance of back child support after 14 years of successful payments. I have spent countless hours and every single day since June 25 on the phone, all day and every day. I have talked to several agents, adjudicators, supervisors. Adjudicators have been chatting with supervisors, and evidently, there is coding that only DETR can remove. I am ineligible for UI, and I have uploaded every single document possible: my denial and ineligibility from UI; my proof of address; my valid, Nevada identification, front and back; my social security, front and back; as well as my approval letter from PUA. As of right now, 22-weeks' claim, not 1 penny paid. I have not received any emails or communications from anyone except my approval letter from PUA. That is all that is holding me back from my money. I have not received anything, and I am about to lose my place to live again. This is unacceptable. The Department of Employment, Training and Rehabilitation has closed down two occasions that I know of at about one o'clock in the afternoon. They close their call centers making it absolutely impossible for people to reach them. Thank you very much for allowing me to voice my opinion. Have a wonderful day. I support Senate Bill No. 3.

BREANNA LOWNEY:

I am in favor of Senate Bill No. 3. The fact that all of the money is being held up like this makes absolutely no sense. All DETR has done is give excuses. They want to blame fraud, and it is their fault for the fraud to have gone through in the first place. It is frustrating for everyone who, with all of these different issues seriously need this money. This is frustrating. That is all I have to say.

ERIKA MINABERRY:

I am a community organizer. I was laid off in March. Hearing the stories of people who came before me is heartbreaking. I only went one month without getting my benefits, and I would not have been able to support myself and my three kids without those benefits. Now that the benefits are running out, I am looking at starting a job with much less pay than I was making before. At the same time, I am looking at homeschooling my children because I cannot send them to school to just get myself and my compromised friend sick. This is the right thing to do. I support Senate Bill No. 3.

MATTHEW WILKIE:

I am fortunate. I am a worker in the healthcare field who did not lose my job. Listening to my fellow friends before me, it is imperative this needs to be fixed. Listening to my patients in healthcare over the last few months, it is heartbreaking to listen to their stories of personal health and now financial pain which is causing other health concerns. I support Senate Bill No 3.

SENATOR CANNIZZARO:

We will now open the hearing to those in opposition to Senate Bill No. 3. Hearing none, we will now open the hearing to those neutral to Senate Bill No. 3.

ALUNA FESSLER:

Dear, God, please help these people. I am crying, listening to these testimonies. This is breaking my heart. Please help these people.

SEAN STUART:

I am an entertainer, like many people in Las Vegas, the Entertainment Capital of the World. We have been out of work since January. I applied for unemployment, got denied. I applied for PUA. I have submitted my driver's license, my social security card, my denial letter, my 2019 tax forms and no movement. I have been 19 weeks without any money, without a penny. I am one of the lucky ones; my parents live in Las Vegas, so at 33 years old, I had to move in with my parents because I could not afford anything. I have called the adjudication line. They said they cannot do anything; all of the documents are there, and it will be another 21 days, which it has been. Still, zero movement.

Entertainers in the Entertainment Capital of the World are drowning right now, not to mention all of the other departments that are struggling. We must pass Senate Bill No. 3. Nevada is the worst State. My friends in other states are worried for us right now because of what we are going through. They cannot believe people have gone months with no payment at all. Pass Senate Bill No. 3.

MERIAM BERRICK:

I am claim number 62327. I am working ... (unintelligible statement). I was laid off the first week of March. I uploaded the documents they needed, including my pack, my 1099, passport, social security, driver's license, my bills. Up to now, I have not heard anything from them. It is just a monetary letter, no approval, nothing. When I called the adjudicator and agents, they told me not to worry about it. I have to worry about it. Up to now, I have not been paid anything. We need Senate Bill No. 3, and I support it.

SANDRA OWENS:

I want to clarify, for the record, there are zero negative comments for Senate Bill No. 3. The last three neutral ones were all positive, and mine is positive. Please make that correction.

I want the Legislature to know this has a trickle-down effect. People in the State are wrongly and unjustly getting rid of their employees. Mainly, Nevada ... (unintelligible statement). I know five cases where they have wrongly terminated ... (unintelligible statement) ... staff without due process, without a hearing. They have violated their own credence and code. They are trying to save money because they used outside attorneys from Jackson Lewis at \$500 an hour to get rid of ... (unintelligible statement) ... staff who have talked about black lives matter, who have been whistleblowers. They, as you know, believe they are untouchable. They are adding to this ... (unintelligible statement) ... because the way they fire people and just ... (unintelligible statement). It ... (unintelligible statement) ... even if it was not. Now, they are not eligible for unemployment. When they fire people or people resign before they are fired because the writing is on the wall, and they do not want a ... (unintelligible statement) ... on their record and lose their medical, nursing, social-work license, they resign. They have been forced out. Now, they do not qualify because they left willingly. So, the Nevada system ... (unintelligible statement) ... is adding to this problem. I implore you to pass Senate Bill No. 3.

BRITTANY SHEEHAN:

I have not had a chance to look at Senate Bill No. 3, so I am neutral on the bill. What I hope this bill does is help these people who desperately need help. I do not think it is fair that the State can simultaneously say you cannot operate in your job-making capacity, and we are not going to pay you. The PUA system is a disaster. These people have a civil class action, and that is moving too slow to bring the relief I feel it could have. I hope this Legislature comes together with a good solution. I have not looked at Senate Bill No. 3. I have no idea of what you can do.

I want to say that I was offended today that the GOP chairwoman was called a "partisan hack" publically. We cannot do this kind of thing to each other right now. We are in a crisis. I am offended, and I think we need to have more respect for all Nevadans regardless of their political ideologies. We are in a bad spot as a State. That was completely inappropriate.

Senator Brooks moved to do pass Senate Bill No. 3.

Senator Cancela seconded the motion.

Remarks by Senators Settelmeyer, Hansen, Ohrenschall, Goicoechea, Hammond, Ratti, Kieckhefer, SeEVERS Gansert, Pickard, Spearman and Cannizzaro.

SENATOR SETTELMAYER:

The testimony, and all of the emails we have been getting for months, clearly shows the citizens of Nevada need help. They have needed help for a long time. Our unemployment now is higher than it was during the Depression, 25 percent. Sadly, it is the same as it was in the last Special Session. We need to speed up the ability of legal claims to be paid. Fraudulent claims are plugging the system. I would like to see an amendment that the \$10 million of CARES Act funding goes to DETR so they can speed up this process to help these people out. As some people have said, "You cannot let perfect be the enemy of good." I support Senate Bill No. 3. We should have made this a priority on Day 1 of the 31st Special Session.

SENATOR HANSEN:

I want to echo what the Senator from District 17 said. This is one of the most disturbing hearings I have participated in. As everyone here knows, I have been complaining about many bills that do not belong in special session. Senate Bill No. 3 is the most important bill, by far. This should have been the first bill we heard on the first day of the 31st Special Session. The reality is we have hundreds of thousands of Nevadans who need help. We heard a small slice tonight. We have received hundreds, if not thousands, of emails from desperate people.

To hear DETR tonight, I was disturbed to learn they did not get Senate Bill No. 3 until 3:30 p.m. today. This is the fifteenth day of this Special Session we have been involved in. To hear the government agency that is responsible to help all of these hundreds of thousands of Nevadans tell me they have not had an input until today on these bills, clearly, we should have dealt with this the first day. The Department of Employment, Training and Rehabilitation needs dozens, if not hundreds, of additional staff to deal with this problem. The idea DETR has expended \$6.2 billion with as much as 50 percent estimated to be fraudulent, \$3 billion of potential fraud.

We spent how many days about mining taxes that would have generated a half-a-billion dollars. Here, we have fraud the equivalent of six times of what the mining tax would have done, and we have waited until now to finally address this. This is an embarrassment to this institution and this Special Session. I support this bill 100 percent. Frankly, it does not go far enough. This is the most COVID-related issue in the State of Nevada. The fact this is the fifteenth day we finally get to this is just disgraceful and brings dishonor to us. For all of the tens of thousands, if not hundreds of thousands, of Nevadans who have been desperately looking for relief, now we are finally getting to it. I urge my colleagues to not only pass Senate Bill No. 3 tonight but also, in the next few days, talk with DETR and come up with amendments, or whatever, an additional bill, to give them the resources they need to truly address both the fraud side and the so many desperate cases that have not had a nickel since March.

SENATOR OHRENSCHALL:

I will be voting "yes" for Senate Bill No. 3 and urge all of the members of the Committee to support this bill. Senate Bill No. 3 goes a long way toward solving some of the problems our constituents have been facing trying to get their benefits. This may not solve every problem, but it will move us forward and help our constituents.

I want to correct one thing the Senator from District 14 said. I heard Ms. Gaa, from DETR mention that she had seen five different versions of Senate Bill No. 3, as there are progressions and changes, and that the final version was given to her this afternoon. This was not the first time she had ever seen the bill. I want to correct that, for the record. The agency was not

blindsided by this Legislation. I heard her say she had seen five different versions. We all know as Legislators that when we work on a draft, there are changes, input and deletions. We try to make it the best bill we can before we introduce it. That is what I understood from Ms. Gaa.

SENATOR GOICOECHEA:

I also rise in support of Senate Bill No. 3. I am afraid the people in Nevada, especially those who are truly suffering, think this is going to be a magic wand, and it is not. This is an expansion of the benefits. It does nothing to ensure those people and the problems they have where, since March, have been trying to get an unemployment claim through. We have all received these calls. I concur with everyone in this Body that we need to fix this. We need to support DETR and let them address this. I ask the Committee to strongly consider Senate Bill No. 3.

SENATOR HAMMOND:

I echo the comments that have been made. One of the things that has been heard and said tonight, there are still people who occupy a particular profession that is excluded from all of this and are still affected. Those would be adjunct faculty members of universities and some of the staff from schools. There is legislation, a separate category that needs to be addressed in statute to do that. There is more work that could be done on this bill to make it better. It was nice to hear from many of these people. Every single one of us have heard from thousands of people, talked to them on the phone, written emails over the last few months. This issue should have been addressed weeks ago when we started the 31st Special Session. I am glad we are now addressing this issue; the people need this.

SENATOR RATTI:

I want to be on the record as being in the strongest support of Senate Bill No. 3. I want to commend the individuals who have been working on the bill, and working on it for weeks, to ensure they were combing through everything in DOL guidance, talking to the people at DETR and the challenges they are facing to figure out what kind of flexibility DETR needs to get this done.

This bill gives them the opportunity to do emergency regulations and sets the statutory trigger language to ensure Nevadans that we heard from tonight, who were so compelling, once they do get their benefit, they can get an additional seven weeks. This gives the Administrator the flexibility to waive, modify or suspend multiple rules that are in the way of moving these claims along. It gives clarity around the good-cause reasons, which I think is being interpreted as being an expansion benefit, which is an outstanding question that needs clarity. Once that clarity is in place, we will be able to move these benefits along.

I am grateful to the people who were on the screen today both from DETR, who I know have been working tirelessly for months to bring us legislative solutions, to Mr. Morales and Ms. Diss, who presented Senate Bill No. 3 on behalf of the Governor's Office. They have been doing good work, and here have been several members of this Body who have spent time on this. Perhaps, it could have been done earlier, but a significant amount of work went into bringing us a list of good solutions that will make a difference. I support Senate Bill No. 3 and encourage my colleagues to do so as well.

SENATOR KIECKHEFER:

One of the best things about being a Legislator is when you can successfully help one of your constituents. This process and this difficulty with unemployment has been one of the most frustrating parts of being a Legislator. We have been unable to intervene on behalf of our constituents and navigate the government for them, which is one of the things we are charged with as elected officials.

For all of the people we have been unable to help and are still waiting, I am sorry. I am also sorry Senate Bill No. 3 is not going to do a lot to alleviate some of that, but for the people coming next, it will. This bill promotes work. It encourages people to go back to work even if it does not fulfill their need because it allows them to retain eligibility for benefits. This will help future applicants avoid some of the main adjudication problems that are creating this backlog. It will protect people's health as they deal with the pandemic and problems they are facing, on top of the seven weeks of benefits we have discussed. Unfortunately, this will not be able to apply



retroactively and does not solve those current backlogs. This recovery will take a long time. Applying something prospectively will help many people. We can be happy we are doing this. We hope moving forward, those still struggling can find relief.

SENATOR SEEVERS GANSERT:

I am in strong support of this legislation and am extremely frustrated. I imagine many of my colleagues are frustrated. When you know the largest industry in the State will be shut down, there has to be an expectation that our unemployment rates will go through the roof. Now, here we are sitting five months later. Some of my colleagues have said this could have been part of the 31st Special Session. This is something we should have handled much earlier than that. Families have faced food insecurity, potential homelessness. We heard someone talking about threats and trying to commit suicide. We have not acted fast enough. I am sorry for all of the people out there who are struggling and sending us hundreds of emails. We have to do better, and we can do better.

Senate Bill No. 3 does not go far enough. Once again, there are no resources. There are some tools, now, but there are no resources. We have been sent hundreds of millions of dollars from the federal government. Some money has been sent to ESD but not enough. Some colleagues have asked, and I will, once again, request that we provide the tools and the resources to DETR so we can help these families sooner and not later. This has taken way too long. As was mentioned earlier, part of our duty is to help people out, and we have not been able to do that. That is a strong shortcoming. I support Senate Bill No. 3, but we need to do more.

SENATOR PICKARD:

I support Senate Bill No. 3. I am concerned about much of this language. There is broad authority granted without much guidance that has not been thought through. This is a step.

To those hundreds of people who have reached out to me, I am disturbed this will not help them. Hopefully, as we work through the backlog, this will not take long once we look at the next steps, which include additional personnel and technology to make this a smoother operation. It is unfortunate, as my colleague mentioned, that we waited so late in the process to talk about this planning. At least we are talking about it now. I invite this Body to consider additional bills that will provide the resources and the real tools to address those who have been waiting 15 or 20 weeks for their benefits. I support Senate Bill No 3.

SENATOR SPEARMAN:

I support Senate Bill No. 3. This is the right thing to do. It is humbling and sad to hear all of the people's stories. Obviously, this is the first time they felt they could get it off of their chest. Yes, we should have been quicker. The truth of the matter is, at the federal level we did not even start getting concerned until March when we knew it was coming in November. A lot of the monies we have talked about in terms of CARES Act money coming down was slow and not enough. We should have more.

We understand the United States Senate left Friday without extending the \$600 benefits. We heard that two or three times. Yes, we should do better, but we can only do better with money. I do not know any way we have a magic wand or pixie dust to make this better. It is going to be money. That is a hard and courageous conversation because it is easy to criticize, but you must also have the heart to help. I hope our federal level will get their act together and approve the HEROES Act so we can get more money to help DETR and help the people whose heart-wrenching stories we heard tonight. That is the truth and nothing but truth.

SENATOR CANNIZZARO:

I thank the Committee members and their support for Senate Bill No. 3. Like several of my colleagues, the stories we heard, both in emails and this evening, are hard to hear. These are our friends, our neighbors and our family. I support Senate Bill No. 3 out of Committee and look forward to voting "yes" for it on the Floor of the Senate. When I listen to these stories, I not only see my friends and neighbors who did everything from opening food pantries to help one another but also reaching out to support those needing resources. I know how hard it is to be in that position when you are looking at unemployment benefits or watching your parents lose their jobs and wondering if you are ever going to make it out of situations, be able to pay rent. I have lived that myself.

We owe it to our constituents, our friends and families to provide some relief, and that is exactly what Senate Bill No. 3 does. It is not a magic pill to solve it all at once. The flexibility that this bill provides, the additional extension of benefits, is meaningful and not something we should take lightly, take for granted or question whether we should extend it to our friends and family who are struggling. This is something that was not all of a sudden, on the fifteenth day of the 32nd Special Session, thought of as maybe we should do this idea, but rather a thoughtful process to try and come up with what could be helpful. This has taken place over a long period of time, and there has been no shortage since we have faced this crisis to people who have tackled an unprecedented situation to find ways to support systems in unemployment and find ways to process claims quicker and get more call centers together. Several people at DETR have been trying to find solutions to process as many claims as possible, and it is not enough to those who are still waiting for answers. This is a step in the right direction. I urge my colleagues to support this knowing that this has been a work in progress and will continue to be a work in progress long after we leave this building for this Session.

Motion carried.

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 10:52 p.m.

#### SENATE IN SESSION

At 10:57 p.m.

President pro Tempore Denis presiding.

Quorum present.

#### REPORTS OF COMMITTEE

*Mr. President pro Tempore:*

Your Committee of the Whole, to which was referred Senate Bill No. 3, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

NICOLE J. CANNIZZARO, *Chair*

#### UNFINISHED BUSINESS

##### SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President pro Tempore and Secretary signed Senate Resolutions Nos. 1, 2, 3; Senate Joint Resolution No. 1; Assembly Bills Nos. 1, 2, 4; Assembly Joint Resolutions Nos. 1, 2; Assembly Concurrent Resolution No. 1.

Senator Cannizzaro moved that the Senate adjourn in memory of Dick Trachok until Monday, August 3, 2020, at 1:00 p.m.

Motion carried.

Senate adjourned at 10:58 p.m.

Approved:

MOISES DENIS

*President pro Tempore of the Senate*

Attest: CLAIRE J. CLIFT

*Secretary of the Senate*