NEVADA LEGISLATURE

Thirty-second Special Session, 2020

SENATE DAILY JOURNAL

THE FOURTH DAY

CARSON CITY (Monday), August 3, 2020

Senate called to order at 5:06 p.m.
President pro Tempore Denis presiding.
Roll called.
All present.
Prayer by Senator Yvanna Cancela.

Let us stand with hearts full of gratitude because we woke up today. Let us stand with hearts full of hope because we are blessed to do the work of the great State of Nevada. Let us work with clear minds, with thoughtfulness and a collaborative spirit that allows us to do the kind of work to make the people we represent proud.

Thank You, Lord, for another day together in this Body. Thank You for the staff that ensures we are able to do the difficult tasks ahead, and thank You for bringing us together on this day.

AMEN.

Pledge of Allegiance to the Flag.

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

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee of the Whole:

Senate Bill No. 4—AN ACT relating to public health; providing certain powers and duties in certain circumstances to a district health department in certain larger counties relating to public health in licensed gaming establishments; requiring the Department of Health and Human Services to establish minimum standards for cleaning in public accommodation facilities in certain counties; requiring the Department to adopt regulations requiring such a facility to adopt protocols and plans concerning the prevention of and response to SARS-CoV-2; providing for inspection of such facilities for compliance with such requirements; limiting the civil liability of certain businesses conducted for profit, governmental entities and nonprofit organizations for personal injury or death resulting from exposure to COVID-19; authorizing the Secretary of State to suspend the state business license of a person that does not comply with certain health standards related

to COVID-19; requiring the transfer of certain money to certain health districts for enforcement purposes; and providing other matters properly relating thereto.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 3.

Bill read second time.

Senator Hammond moved that all necessary rules be suspended, reading so far had considered second reading, rules further suspended, and that the bill be declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 2.

Bill read third time.

Remarks by Senators Cannizzaro, Hansen, Settelmeyer and Scheible.

SENATOR CANNIZZARO:

Senate Bill No. 2 revises various provisions related to the rights of peace officers. Specifically, the bill eliminates current prohibitions on the use of a peace officer's compelled statement against the peace officer in a civil case; a law-enforcement agency conducting an investigation into an officer's alleged misconduct that could result in punitive action if the alleged misconduct occurred more than one year prior to the date of the complaint being filed; a law-enforcement agency reopening an investigation unless new material evidence has been discovered, and reassigning an officer during an investigation without the officer's consent.

Additionally, the bill enacts several related provisions as follows: a law-enforcement agency must initiate an investigation of an officer within a reasonable time following the filing of a complaint or accusation and may not initiate an investigation if a complaint is filed more than five years after the activities in question occurred; if a law-enforcement agency intends to recommend punitive action against an officer following an investigation, the agency must provide the officer the opportunity to review and respond to all evidence in the agency's possession. Similarly, if the agency recommends punitive action and the officer appeals, the officer or his or her representative may receive and copy the entire file concerning the investigation; and if evidence in an investigation was obtained in violation of a peace officer's rights and is determined to be prejudicial to the officer, this bill requires an arbitrator or court to exclude such evidence and if the evidence was obtained by the law-enforcement agency in bad faith to dismiss the proceeding or action against the officer with prejudice.

SENATOR HANSEN:

I am voting "no" on this bill because, again, this does not belong in a special session.

SENATOR SETTELMEYER:

The issue I run into in my counties, which tend to be smaller, is that the sheriffs need far more latitude in getting rid of problem officers. Senate Bill No. 2 does not give significant reform in that respect, and I will be opposing this bill.

SENATOR SCHEIBLE:

I support Senate Bill No. 2. It gives law-enforcement agencies the latitude they need to get rid of bad officers while it protects those good officers who serve our community. To clarify, this section does not apply to any criminal activity. It applies to policy violations committed by a peace

officer, not a criminal investigation. By nature of that clarification, the section specifying an investigation must commence within a reasonable period of time and does not supersede any statute of limitations on criminal activity. Any statements made by the officer would be subject to the appropriate rules of criminal law. The remedies for an investigation that has violated the rights of an officer have been stratified or graduated. If an agency is targeting or retaliating against a particular officer, he or she would have grounds to say bad-faith tactics cannot be used to get the officer in trouble. If the officer is, in fact, violating the policies of the organization, this provides the structure to hold them accountable for violations. This is an important measure for this Body to pass, and I will be voting in favor of this measure.

Roll call on Senate Bill No. 2:

YEAS—13.

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

Senate Bill No. 2 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 3.

Bill read third time.

Remarks by Senators Harris, Hansen, Seevers Gansert, Goicoechea, Pickard, Washington, Ohrenschall, Spearman and Hammond:

SENATOR HARRIS:

Assembly Bill No. 3 authorizes the recording of a law-enforcement activity by a person who is not under arrest or in the custody of a peace officer in certain circumstances and prohibits a peace officer from interfering with the lawful recording of a law-enforcement activity. The measure provides that when a peace officer is arresting a person and the person flees or forcibly resists, the peace officer is generally authorized to use only the amount of force reasonably necessary to effect the arrest. A peace officer is prohibited from using a chokehold on another person or placing a person who is in custody in any position that compresses the person's airway or restricts his or her ability to breathe. Further, a peace officer is required to monitor any person who is in the custody of a peace officer for any signs of distress and take any actions necessary to place the person in a recovery position.

A peace officer is required to intervene to prevent or stop another peace officer from using unjustified physical force if the peace officer observes, or reasonably should have observed, the use of such unjustified physical force and if it is safe to do so. If the peace officer who observes the use of unjustified physical force is a supervisor of the peace officer, that supervisor must issue a direct order to stop the use of such physical force. Any peace officer who observes the use of unjustified physical force is required to report the observation to an immediate supervisor or, if the observation involves his or her immediate supervisor, the supervisor of his or her immediate supervisor. This measure additionally prohibits a member of a law-enforcement agency from disciplining or retaliating against a peace officer solely for intervening in the use of unjustified physical force or reporting the observation of the use of unjustified physical force.

Each law-enforcement agency is required to: train its peace officers on the duty to intervene in the use of unjustified physical force and the reporting of such unjustified physical force; adopt a written policy regarding the drug and alcohol testing of a peace officer following an officer-involved shooting or when the conduct of a peace officer results in substantial bodily harm to or the death of another person; and provide a report to the Legislature on or before November 1, 2020, that includes certain information relating to traffic stops and other stops by law-enforcement officers and the software used to process the identity or driver's license number of a person during such a traffic stop or other stop.

Lastly, this measure amends A.B. 236 of the 80th Session, chapter 633, Statutes of Nevada, to provide that the reduced maximum period of probation or suspension of sentence that can be

imposed upon a person applies to: any offense committed on or after July 1, 2020, and any offense committed before July 1, 2020, if the person is sentenced after July 1, 2020. The measure additionally provides that any person who is sentenced on or after July 1, 2020, and before the date this bill becomes effective, is entitled to have his or her period of probation or suspension of sentence reduced to the maximum applicable period set forth pursuant to the change in law that became effective on July 1, 2020.

SENATOR HANSEN:

This does not rise to the standard of extraordinary need and should be addressed in the 120-day Session. I will be voting "no."

SENATOR SEEVERS GANSERT:

I want to thank all of our law-enforcement officers and the work they do for our State. The key piece to this bill is within the duty to intervene. There will be no discipline or retaliation when there is an intervention. I appreciate this bill creates more accountability.

Next Session, more work needs to be done around calls related to behavioral or mental health and how we can support law enforcement in response to those. In northern Nevada, we have the Mobile Outreach Safety Team. These responders ride along with officers to assist in addressing those calls with mental-health issues in order to avoid negative outcomes. I support Assembly Bill No. 3.

SENATOR GOICOECHEA:

I rise in opposition to Assembly Bill No. 3 not because of the bill itself but the timing of it. Given the events of these past few months, this response is an insult to the law-enforcement agencies of our State. In the rural areas I represent, law-enforcement officers are a welcomed and looked-up-to members of our communities. I am not comfortable with the timing of this. If we would have taken it up a little later and put more thought into this, it would not seem like a knee-jerk reaction to the recent, current events that have occurred.

SENATOR PICKARD:

I agree with my colleague from District 19 and struggle with the timing of this bill. I have spoken to representatives from law enforcement both from the city and county I live in. They informed me this bill does not advance much and will add some difficulties in the short term. Ultimately, law enforcement already does the vast majority of things this bill promotes. In order to make clear to our constituents we take this seriously, even though this bill does not go as far as law enforcement would like, I reluctantly support it.

As a body, we will need to revisit this bill in the up-and-coming regular Session because there are some issues that still need to be worked out.

SENATOR WASHINGTON:

I support this bill because, at least, we are looking at preventing more people from dying. I live in a community where Sherriff Lombardo visits my church. I have friends who are police officers that attend my church. My husband sits on the Las Vegas Metropolitan Police Department Multi-Cultural Committee. This Committee addresses the ills in the community. Sherriff Lombardo wants the police department and the community to unite. This bill shows the beginning of correcting these ills in our community. It is sad to see innocent people die from this chokehold, and we are losing so many people because of a few bad cops. We are not saying that everybody in the police department is bad. We are just trying to get rid of those who should not be police officers.

Today, I will be supporting this bill because I want to see my grandsons and my granddaughters live a long life. If we can get rid of some of the ills in the police department, it would be a start to healing.

SENATOR OHRENSCHALL:

I rise in support of Assembly Bill No. 3. This bill will move our State and communities forward to encourage community policing. In the Assembly hearing regarding this bill, a representative from the Las Vegas Metropolitan Police Department testified in favor of Assembly Bill No. 3 and supported this legislation. Years ago, there was a lot of controversy when we passed legislation

for officer-body cameras. Today, police officers support body cams as they have helped exonerate them, proving they did not do anything wrong.

The right-to-record section of this bill will be pivotal in making sure the public has this right which protects the public and protects the officers. The data asked for in this bill will be so valuable to future Legislators to know where the issues are and what needs to be worked on further. This is incredible legislation.

I thank the Assemblyman from District 9 who worked so hard on this bill, my Senate colleagues from Districts 9 and 11 and everyone who came together to support this legislation. I urge its support.

SENATOR SPEARMAN:

I support this bill because, like my colleague from Senate District 4, I think this is a good step to ensure more people live. I also received calls from law enforcement. When the conversation started, they could not understand why we were doing this. They were not aware I was a retired military police officer. I explained the gist of it to them which is that we have many good officers, but when I think of those who go rogue and do what happened in Minneapolis, Atlanta and throughout the Country, it sickens my stomach. They do not deserve to wear the badge, and they do not deserve our loyalty. That is why I support Assembly Bill No. 3: they do not deserve our loyalty, and they do not deserve to wear the badge. This is a first step, and it is a good first step.

SENATOR HAMMOND:

As noted by others outside of this Body, we often make speeches that do not have an impact on one another, especially on our votes. I have been deliberating over this particular bill because I know law enforcement is important. Sometimes, we have knee-jerk reactions to events that are simmering or very hot in our society and in our communities. The comments we just heard from my colleague from Senate District 4 were heartfelt and certainly moving.

I want to let our police officers know we want to be thoughtful about what we do in the future. Assembly Bill No. 3 gives people some comfort, and it is a step moving in the right direction. I will be supportive of this bill as well.

SENATOR HARRIS:

This bill is a response to an emergency. While this emergency has come to the conciseness of the majority of our population due to recent events, what has happened is not new. I am proud of a body that is taking a much-needed step, at this time, to respond to not so much something new but something that, unfortunately, is old.

For me personally, it is a scary thing every day. I have braided my hair a little longer now, but it used to be short. To be honest, that statistically put me at more risk walking outside the door. I appreciate this Body's willingness to consider Assembly Bill No. 3, and I urge you all to vote "yes."

Roll call on Assembly Bill No. 3:

YEAS—19.

NAYS—Goicoechea, Hansen—2.

Assembly Bill No. 3 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill 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 5:34 p.m.

SENATE IN SESSION

At 10:25 p.m.

President pro Tempore Denis presiding.

Quorum present.

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. 4 and any other matters as outlined in the Governor's Proclamation, with Senator Cannizzaro as Chair and Senator Ratti as Vice Chair.

Motion carried.

IN COMMITTEE OF THE WHOLE

At 10:29 a.m.

Senator Cannizzaro presiding.

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

The Committee of the Whole was addressed by Senator Cannizzaro; Michelle White, Chief of Staff, Office of the Governor; Francisco Morales, Office of the Governor; J. Brin Gibson, Legal Counsel, Office of the Governor; Senator Hardy; Senator Denis; Senator Washington; Senator Seevers Gansert; Bryan Fernley, Legislative Counsel, Legal Division, Legislative Counsel Bureau; Senator Hansen; Kevin Powers, General Counsel, Legal Division, Legislative Counsel Bureau; Senator Woodhouse; Senator Kieckhefer; Senator Pickard; Senator Ratti; Senator Settelmeyer; Senator Goicoechea; Senator Hammond; Senator Brooks; Senator Ohrenschall; Senator Dondero Loop; Senator Cancela; Amber Stibham, Vice President, Government Affairs, Henderson Chamber of Commerce; Sasha Stephenson, MGM Resorts National; Virginia Valentine, President, Nevada Resort Association; Amanda Palmer; Unidentified Testifier; Marcus Lopez, Americans for Prosperity Nevada; Alexis Motarex, Nevada Chapter AGC; Chris Daly, Nevada State Education Association; Marie Neisess, President, Clark County Education Association; Alexander Marks, Nevada State Education Association; Brian Green; Sofia Scherfei, Policy Intern, Make the Road Nevada; Kent Ervin, Nevada Faculty Alliance; Selena la Rue; Todd Sklamberg, Chief Executive Officer, Sunrise Hospital and Medical Center; Carmen Andrews, Vice President, Nevada State Education Association, Southern Nevada; Unidentified Testifier, Nevada Deputy Director, Mi Familia Vota; Phil Welch, President, Nevada Hospital Association; Matthew Sharp, Nevada Justice Association; Sharon Redcliffe, Chief Nursing Officer, Spring Valley Hospital; Jennifer Cantley; Weston Porter; Joelle Gutman Dodson, Government Affairs, Liaison; Washoe County Health District; Matthew Wilkie; Imani Patterson; Lilith Baran; Erika Minaberry.

SENATOR CANNIZZARO:

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

MICHELLE WHITE (Chief of Staff, Office of the Governor):

No other state has felt the economic impact of the COVID-19 pandemic more than Nevada. The year 2019 represented a high watermark for the economy of our State as it is now structured. Our unemployment rate was 4.1 percent, a historic low for the State, and we had anticipated increases of General File revenue of roughly $195 million over our May 2019 forecast. While fruitful in the good times, in the bad times this economic structure has hit us the hardest of any other state. It is a repeatedly demonstrated vulnerability with significant overreliance on casino gaming and other tourism-related taxes. This unbalanced structure is the primary reason the COVID-19 pandemic has caused the economy of our State to retract in such a dramatic fashion. This is not to spur a debate on economic diversification; we all agree it is needed. This is to point out the reality of our economic situation, why we are here and why this bill is necessary to help our fragile economy survive and recover by protecting our main industry, our businesses and our workers.

No other state in the Country is as dependent on the travel and tourism industry. Our meetings, conventions and the 42-million visitors we welcome each year are the crux of our economic engine. The visitors who come to Nevada to enjoy our hospitality keep the doors open of countless businesses. In turn, those hospitality businesses employ hundreds of thousands of Nevadans, with benefits, and generate a large portion of our State's revenue. As a result, our State can provide critical services to Nevadans who need it most. As demonstrated in the last 5 months and during the 31st Special Session, when this industry takes a hit, Nevada takes a hit as well in the form of hundreds of thousands of lost jobs and a State budget shortfall of $1.2 billion. The impacts have been devastating, and workers, businesses and our State are still reeling from that hit.

We cannot overstate the importance of ensuring our employers, employees and the visitors who come to our State to take the safety measures that will mitigate the spread of COVID-19 seriously. Travel and tourism are the lifeblood of Nevada's economy. Without them, our resorts are absent the hospitality component of what makes Nevada one of the top tourism destinations in the world. We are grateful to be in partnership with tourism-industry workers on the frontlines, and to set standards of health and vigilance to ensure Nevada is viewed as the Nation's leader in balancing business and employee protections.

During this global pandemic, devastating numbers show the service industry, a measure of our travel and tourism industry, was hit the hardest by far. It is down 130,000 jobs, year to year, for April and May of this year. Based on employment data from April, it is clear the Las Vegas area was hit the hardest, with a 20.7 percent decline over the year. That is 213,700 jobs. Small businesses are struggling and still have limited customer capacity. Their revenues are down as they try to navigate this period. Small businesses, which have already borne the brunt of this pandemic, would be hit the hardest by excessive litigation from those seeking to capitalize on our current situation.

As challenging as the economic situation currently stands for businesses and their employees, it will multiply many fold if we do not enact these measures to protect the livelihood of so many Nevadans. Businesses in Nevada have begun to reopen but remain exposed to the impact of COVID-19. As expected, in these unique and challenging conditions, businesses have incurred expenses and are making needed adjustments to protect their workplaces, safeguard employees and protect customers and visitors from the virus. Even though our businesses are taking precautions, there remains a looming concern over different kinds of exposure.

The bill presented tonight does not provide total immunity to all businesses under all circumstances, far from it. The inevitable bad actors who ignored and continued to ignore Executive Branch directors and health-and-safety protocols will not be protected from liability for those failures. Those bad actors will continue to face legal consequences. This legislation does not create an impenetrable shield for those who failed to protect their employees, customers, visitors and, most importantly, our working Nevadans.

This measure balances the protection of workers with the needs of the business community during this tough time. In these extraordinary circumstances related to COVID-19, management and hospitality workers came together with the purpose of creating a safer environment for hospitality workers and an industry that has been struggling. We need to protect these jobs and these workers. This legislation will do just that. It will ensure our vital travel-and-tourism-industry

employees feel safe and protected at work. It will assist our businesses who create these vital jobs as well as the many small businesses across the State who are currently struggling.

FRANCISCO MORALES (Office of the Governor):

These provisions are excellent. As someone who comes from a family of hospitality workers, these provisions will strengthen safety measures and ensure our industry continues to thrive. Section 1 of the bill provides that health-district departments may work with the Gaming Board to advise and enforce regulations from the Gaming Control Board. This is an important section because we are trying to connect health experts, who are doing the testing and analysis of COVID-19, with traditional regulators from the Gaming Control Board so they can work in tandem to establish best practices for these facilities.

Section 2 states provisions related to populations between 100,000 and 700,000 also apply to the Health Department in Washoe County.

Section 4 deals with the … (unintelligible statement) … that will determine when these increased health-and-safety standards are in place. Those include a declaration of a health emergency by the Governor but can also be triggered when the COVID-19 positivity rate exceeds 5 percent or the number of new cases per 100,000 residents exceeds 100 cases in any rolling 14-day period during a 90-day period of time. This is important because we are taking into account not only the Executive Order but also are reviewing the numbers, knowing this virus is unpredictable. We are thinking ahead to make sure we protect workers should conditions not improve during a time when we may or may not have a declared health emergency.

Sections 5 through 9 deal with definitions. This bill pertains to public-accommodation facilities that are defined in statute. This definition is in section 9 of the bill.

Section 10 gives authority to the Director of the Department of Health and Human Services (DHHS) to promulgate the … (unintelligible statement) … regulations for minimum cleaning standards for a public-accommodation facility.

Section 11 notes this is a document that will be used to determine criteria and give guidance for what not to exceed. It details what must be included in regulations. This is important because there are many areas inside a public-accommodation facility or a guestroom. These include high-contact areas, door handles and other areas we feel are important or could pose a higher risk to a worker or a guest. We want to ensure DHHS is promulgating regulations to that effect. This is a map of what needs to be put into regulation and addressed.

Section 12 states the Director of DHHS shall establish protocols to mitigate the virus. These include social-distancing protocols, handwashing breaks, the use of hand sanitizers and policies for the distribution of masks or gloves based on the public-health concern.

Section 13 requires the Director to adopt regulations requiring each public-accommodation facility establishment implement and maintain a written COVID-19 response plan. This is an important provision. As part of the protocols included in this plan, mandatory testing for employees returning to work for the first time after March 13, 2020, will be required. It outlines protocols related to contact-free temperature measuring for workers as they come to work and provides other provisions related to testing of workers. It includes provisions related to the amount of time workers shall be given off if they test positive. This is important so the workers do not have to choose between staying on the job and collected wages, staying home in isolation if they test positive or if there is a reasonable exposure that leads them to believe they may be positive.

An important provision in this section is the requirement that rooms for guests be cleaned on a daily basis unless the guest choses otherwise. This is important because it will promote cleanliness of the rooms and continue to keep our hospitality industry the gold standard in the Country.

We are strengthening the regulations related to enforcement of these regulations. When we did our research and worked with various stakeholders, we said we needed to strengthen not only the regulations and model cleaning standards but also the enforcement. Section 14 states that public-accommodation facilities with over 200 rooms will be inspected by the Health District four times a year. Resort hotels will be inspected at least every two months. It also lays out civil penalties that can occur if the protocols are not followed. This includes language that violations will be forwarded to the Gaming Control Board. A local-licensing agency could revoke a business license if it does not comply. This bill also allocates certain CARES Act dollars for Washoe and

Clark Counties. They will be able to use those funds to enact these regulations and help with the overall enforcement program going forward.

This bill is a great balance between promoting worker safety and ensuring our economic engine continues to be at the world-class level it is known to be.

J. BRIN GIBSON (Office of the Governor):

The liability sections of the bill begin in section 24. Section 25 discusses the entities expressly covered by this bill. This section defines a "business" as being "any natural person, or a corporation, partnership, association or other business organization, engaging in an activity for profit at a premises located in this state."

Section 27 defines "government entity" as the State of Nevada or any of its agencies or political subdivisions. The term "political subdivision," as used in this section, refers to any organization or entity described in NRS 41.0305.

Section 28 identifies nonprofit organizations as another entity covered in this bill. A nonprofit organization is defined as any organization for youth sports or an alumni, charitable, civic, educational, fraternal, patriotic, religious, labor or veterans' organization, or a State or local bar association that has been determined, pursuant to NRS 372.326 to be created for religious, charitable or educational purpose or qualifies as a tax-exempt organization pursuant to U.S.C. § 501(c).

Section 25 states the term "business," does not apply to agencies such as those providing nursing in the home, facilities for hospice care, facilities for intermediate care, facilities for skilled nursing, a hospital or independent-care centers for emergency-medical care as defined in NRS 449.013.

Section 26 gives the definition of COVID-19, identified as SARS-CoV-2 or any mutation of that virus and any disease or health condition caused by the novel coronavirus identified as SARS-CoV-2.

Section 29 states in any civil action where a plaintiff alleges personal injury or death as a result of exposure to COVID-19 while on the premises I defined earlier, or during activities conducted or managed by the entity, the complaint must be pled with particularity. If the entity was in substantial compliance with controlling health standards, the entity is immune from liability unless the plaintiff pleads sufficient facts and proves the entity violated controlling health standards with gross negligence and the gross negligence was the proximate cause of the plaintiff's personal injury or death.

Section 29, subsection 3, defines the term "controlling health standards." The definition states, "… any of the following that are clearly and conspicuously related to COVID-19 and that prescribed in the manner in which an entity must operate at the time of the alleged exposure." This includes a "federal, state or local law, regulation or ordinance, or a written order or other document published by a federal, state or local government or regulatory body." The governmental entities, nonprofits and businesses are referred to throughout the bill as "entities."

The term "substantial compliance" is another key term. It is defined as "… the good-faith efforts of an entity to help control the spread of COVID-19 in conformity with controlling health standards. The entity may demonstrate substantial compliance by establishing policies and procedures to enforce and implement the controlling health standards in a reasonable manner. Isolated or unforeseen events in noncompliance with the controlling health standards do not demonstrate noncompliance by the entity."

Section 30 outlines additional protections and gives provisions under which the Secretary of State can take action against a business license issued by the State.

Section 34 gives sunset provisions. It states, "The provisions of sections 24 to 29, inclusive, of this act apply only to a cause of action or claim arising from a personal injury or death as specified in section 29 of this act that accrues before, on or after the effective date of this act and before the later of the date on which the Governor terminates the emergency described in the Declaration of Emergency for COVID-19 issued on March 12, 2020, or July 1, 2023.

SENATOR HARDY:

Hospitals have two kinds of liability: medical malpractice insurance and slip-and-fall liability for things that occur in the physical plant. If there were a liability for someone who acquires COVID-19 in the hospital, the hospital would like to decrease its liability. In the language that

was the intentional carve out alluded to by Mr. Gibson in section 25. It was said we would limit visitors, vendors, medical students and residents. In a time when we are trying to get graduates from the University of Nevada, Reno; University of Nevada, Las Vegas, and Touro University to stay in Nevada to do their rotation and become permanent residents, this would have a chilling effect.

I am concerned about section 25, subsection 2. From March to May, nursing students were not allowed to go into local hospitals. If the hospital cannot transfer a patient to a nursing home, we have problems with hospitals accruing people who need to be in the hospital. What was the rationale to not protect such a critical piece of training for our own doctors and nursing students or to not allow family members to visit their loved ones? What was the rationale for this section or for the intentional carve out?

MR. GIBSON:

One of the key elements not specified in the bill is the Governor's Declaration of Emergency issued on March 12, 2020. Section 10 recognizes the performance and importance of medical and service providers throughout the State during this COVID-19 crisis. It indicates that all providers of medical services related to COVID-19 are performing services for the emergency management, subject to order or control of, and at the request of State Government shall be afforded the immunities and protections set forth in NRS 414.110 and subject to the same exclusions therein. This is the sovereign immunity protection as outlined in the emergency powers in NRS 414. This section states there is no liability except in cases of willful misconduct, gross negligence or bad faith.

The Governor's Declaration of Emergency recognizes students, nurses and others circulating into hospitals and provide medical services and, in the treatment of COVID-19, are performing a service for emergency management. They are protected by the liability protection the State enjoys therein.

SENATOR HARDY:

If that is the answer, I do not contest the reality that the Emergency Declaration calls for things to be done or not done. If we are doing this type of thing under the guise of an emergency, we should have all the people we can get helping take care of people. This would have the effect of decreasing the number of people who can be there, simply because of decreasing the liability of someone experiencing a slip and fall or another event. The hospital seems to be the safest place to be now with all of the personal protective equipment (PPE) we have there. Rationally, it would be wise to delete section 25, subsection 2.

SENATOR DENIS:

In section 27, under the government entity definition, the list is all political subdivisions of the State. Does this group include the Nevada System of Higher Education (NSHE)?

MR. GIBSON:

Yes, my understanding is that it would.

SENATOR DENIS:

Under section 28, examples are given. Are those the only specific examples intended to be recognized, or are they just suggestions or categories of associations or organizations?

MR. GIBSON:

I would prefer the LCB interpret this provision. The way I read it, it outlines the types of entities in broad categories. Any of those that meet either of the two metrics are included. This references NRS 372.326, which defines an organization created for religious, charitable or educational purposes, or an organization that qualifies as tax exempt under USC § 501(c).

SENATOR DENIS:

Does that mean any 501(c) organization would qualify? Would things like trade associations, realtors and others be covered under this?

MR. GIBSON:
If they meet the first set of criteria, which is they are one of these types or organizations and also fall under Section 28.1 or 28.2, the answer is "yes."

SENATOR WASHINGTON:
I am here to represent everyone including all of the workers in the State of Nevada. Why were the hospital workers left out and exempted from this bill? You alluded to the Emergency Directive, but my concern is about all workers, not just the culinary workers. I have a brother who works in culinary, and my dad was a culinary worker as was a sister; they have been in the culinary family for a long time. What about essential workers such as those in school districts, hospitals, construction and others? Please address this issue.

MR. GIBSON:
The fundamental document regarding the Governor's powers during times of emergency, such as we are experiencing now, is the Declaration of Emergency. That puts us into Chapter 414. In the Declaration of Emergency, we noted the importance and essential nature of medical service providers, specifically those involved in treating COVID-19. Other types of individuals, such as those you noted, have to be taken on a case-by-case basis. The question might be, for example, whether the employee is of a school district or a public unit of government. Section 616(a) through (d) and section 617 are the workplace safety liability … (unintelligible statement) … workers' compensation provisions of law. This bill does not affect them; those standards would still apply. We still have NRS 441(a) which carves out sub-units of government and limits the ability to sue under certain measures.

MR. MORALES:
The intent of this bill is not to deprive people of other means of help should something happen. We know workers are still subject to workers' compensation benefits. The goal is not to take away rights but to make sure there is certainty.

SENATOR WASHINGTON:
Under this emergency directive, some hospitals are immune from liability. Is that correct?

MR. GIBSON:
I would go back to the language of the directive where it says, "All providers of medical services related to COVID-19." There may be a question of interpretation as to whether that extends to the premises themselves, but this is a broad protection that would apply to those providers of medical services. There is a strong legal argument that this would also apply to the premises of entities involved in treatment overnight. It is not an absolute certainty, but that is the way it has been drafted.

SENATOR WASHINGTON:
I would appreciate it if hospitals were notified of this directive. We have gotten numerous emails from those worried about this bill. It seems they are not knowledgeable about this Emergency Directive. I hope you can reassure them they have some immunity.

SENATOR SEEVERS GANSERT:
Section 15 contains a double "or" statement. It says, "Within 15 days after the adoption, amendment or repeal of a regulation by the Director pursuant to sections 11 to 14, inclusive, of this act, a district board of health shall, as applicable, adopt a substantively identical regulation or amend or repeal its substantively identical regulation … ." It first says to "adopt" the identical regulation, but then says, "… or amend or repeal … ." It does not say it needs to be adopted or amended to conform. It seems to negate itself when it says "adopt" it, then says it could be amended or repealed as well. It is not clear what is supposed to happen. The intent probably is to adopt any updated regulation the Director creates. Please discuss the intent of this language as it has the word "or" twice and seems to negate itself.

MR. MORALES:
I will let legal weigh-in, but you are right. The intent is the Director of DHHS will promulgate model regulations based on the outlined provisions of the bill. The health districts, in this case, the

Southern Nevada Health District and the Washoe County Health District, would then make changes. This could involve amending or repealing. They would be adopting the model regulation promulgated by the Director of DHHS as outlined in the bill.

SENATOR SEEVERS GANSERT:

I agree that appears to be the intent, but it does not say you need to amend or adopt to conform to whatever was just adopted. It seems to be missing some words and is not clear. We may want to look at addressing that because that is not how it could be interpreted. If it is going to be amended or repealed, we need to make sure it conforms to whatever the Director was trying to have adopted.

Section 29.3(a) addresses "controlling health standards." The bill addresses setting the standard and states it could be "A federal, state or local law, regulation or ordinance; or a written order or other document published by a federal, state or local government or regulatory body." With the three types of governments listed, it seems whatever is the strictest regulation would apply. There could be a small township or municipality that creates a strict ordinance, and the way I read this, that would become the standard. Is that the intent?

MR. GIBSON:

We have preemptions under the current system. There is a federal preemption that if they expressly intend through legislation, regulation, a declaration of emergency or presidential order, if there is expressed intent to preempt state law, regulation or provision, that is the case. A state can preempt a local government ordinance or law if that is its intent. There are conflict-of-law provisions that would go back up through the chain. The way the provisions are written at the State level now, we have promulgated directives pursuant to a declaration of emergency. Those directives state that a local jurisdiction has the authority to promulgate stricter guidance, ordinances or law than that promulgated by the State, but it cannot be looser. This could, theoretically, change because it is a function of the way the directive and emergency declaration is now structured.

SENATOR SEEVERS GANSERT:

That is also how I read it. It looks like you could have a lower-level entity create something that is stricter and that would become the standard. It is concerning to me. It also talks about "A written order or other document published by a federal, state or local government or regulatory body." Please give me an idea of what is meant by "other document."

MR. GIBSON:

The intent here was not to capture the utterances of any person but rather the written documents that were published and have the force of law or regulation. These are documents promulgated by groups such as the COVID-19 Task Force. Moving forward, this will be done by directive, which has the power of law. We will hook into the Task Force and expressly give, or promulgate for them, the authority to declare or promulgate written, published directives. The intent is to provide predictability moving forward. It is not a question of what someone might have said; it is a written document people can refer to and understand. It has the force of law … (unintelligible statement).

SENATOR SEEVERS GANSERT:

The language in both sections seems broad. A county commission could create a document saying what they wanted, and it would become ruling language because this language is broad. Perhaps, there should be a review before it becomes part of controlling health standards. I am concerned the language is broad, whether it is at the ordinance level or another document.

Section 28 seems to present specific categories. Subsections 1 and 2 give further definition through statute and federal law regarding nonprofits. The list does not include professional organizations. It states that nonprofit organization means "an organization for youth sports or an alumni, charitable, civic, educational, fraternal, patriotic, religious, labor or veterans' organization … or a state or local bar association … ." We have organizations such as dental or medical associations, builders associations or others that do not fit into those categories but are characterized as professional organizations. The way this is written, the list is set up and the organization also has to fit into either subsection 1 or 2. Many of these organizations meet that criteria but are not specifically on the list. To me, this means they are excluded unless we add

language that specifies inclusion of professional organizations. Are those included in section 28 if they are a nonprofit organization?

MR. GIBSON:
This list of categories is broad. The intent is those listed capture almost anything that would also satisfy subsections 1 or 2. I do not want to say anything that is potentially 1 or 2 is therefore also assumed by the definition of "nonprofit organization." I think it … (unintelligible statement). That list captures almost any type of entity.

SENATOR SEEVERS GANSERT:
It does not say "but not limited to" in this section. Would professional organizations like a medical or builders association fall into these categories?

MR. GIBSON:
I am not certain. I would defer this question to LCB.

SENATOR SEEVERS GANSERT:
I am trying to figure out section 28. It seems the list is limited even though is states "nonprofit organizations." Are professional organizations included in this the way it is written?

BRYAN FERNLEY (Legislative Counsel, Legal Division, Legislative Counsel Bureau):
It would depend on whether those organizations fit within the term "civic organization." I do not know if a professional organization like you have referenced would fit within that term. This language is similar to NRS 462.125 where there are helpful interpretations that refer to charitable lotteries and charitable gain. The language in this bill would be interpreted similarly to that section. I can look into whether professional associations are included in that definition and get back to you.

SENATOR SEEVERS GANSERT:
If they are not meant to be included, we need to know that. If they are, we need to make sure they are captured within this.

SENATOR HANSEN:
In section 29, there are civil actions. Article 1, Section 3, of the *Nevada Constitution* says "The right of trial by jury shall be secured to all and remain inviolate forever." In section 29, subsection 2, it says, "The court shall determine as a matter of law whether an entity was in substantial compliance … ." Does that deny the right to a trial by jury?

KEVIN POWERS (General Counsel, Legal Division, Legislative Counsel Bureau):
Every statute has to be read, harmonized and consistent with the *Nevada Constitution*. There is a constitutional right to a jury trial. That means issues of fact have to be decided by a jury, but issues of laws are to be decided by the Court. Section 29 sets up the Court initially determining, as a matter of law, whether the owner of a premise or an "entity" as the word we are using, has a duty. The Court can determine, as a matter of law, whether that entity has a duty and whether that duty has been met under the law. If the Court finds the duty has been met, the entity is entitled to immunity. If the Court finds the duty has not been met, it is up to the plaintiff to prove three other elements of reliability. These elements are breach of that duty, causation for the damages and the amount of damages. This is similar to NRS 651.015, where a similar framework is set up when it comes to premise liability or acts of third persons. Under that scenario, courts determine whether the owner of the premises had a duty; it is an issue of law. If the Court finds the owner did have a duty, the plaintiff has to prove the remaining three elements of breach of that duty, causation and damages. You have to read section 29 as the issue of law being decided by the Court as to whether the business met its duty. Once the Court decides it did, it is up to the plaintiff to provide proof there was a breach of the duty, causation showing the breach caused the injury and that the injury caused damages. That is how you interpret section 29 to comply with the constitutional right to a jury trial.

SENATOR HANSEN:

That essentially means that right still exists under section 29. I have been concerned about the liability issue, especially as related to school districts, and I would like to thank the sponsor of this bill. This is a move in the right direction, but there are some significant problems in the bill.

The *Nevada Constitution* has a single-subject rule. This bill is broad and covers lawsuits, litigation issues and tort reform. Is this in full compliance with the concept of single-subject?

MR. POWERS:

Yes. It is the opinion of this Office that this bill complies with the single-subject requirement in Article 4, Section 17, of the *Nevada Constitution*. What the single-subject requirement entails is that all portions of the bill have to be related to the single subject of the bill, but they do not have to be related to each other. For example, this is an act relating to public health. All provisions of the bill have to relate to public health, but all provisions of the bill do not have to relate to each other. This is typical in legislative drafting. You may have a bill that is an act relating to criminal law. The bill may deal with different types of crimes, but not all of those crimes relate to each other. The crimes do, however, all relate to the subject of an act relating to crimes. In this case, we have an act relating to public health. All the provisions of the bill relate to that single subject, regardless of whether they relate to each other.

SENATOR HANSEN:

My colleagues from District 4, 12 and I are concerned over section 25. That section is a killer for me. The idea we are going to deny these protections to the medical community is wrong. If we are trying to ensure the medical community has the same liability protections as other businesses, we should remove section 25. According to you, in some respects, they are already covered because of the Governor's action. This section is obviously there for a reason, and it seems that reason is bad. There is no good reason our medical communities should be subject to possible liability issues when every other business seems to be protected. They are singled out in section 25. Is it possible to have that amended-out? If they are already covered, why is section 25 in the bill?

MR. GIBSON:

This bill was developed through negotiations among the most important members of the Nevada economy. This language was struck and decided based on checks and balances out there, and these elements should be included in this way here. Based on that deal, this is where we ended up. There is a potential this deal would fall apart if we start amending-out provisions. They are there for reasons that may not be obvious. Some are messaging-related, some are optical-related and some are substantive. There are various reasons why they were included.

SENATOR HANSEN:

In layman's terms, what you just told me is that these businesses are the sacrificial lambs so other businesses can get the protection. That is unacceptable. We cannot have our entire medical community being subject to lawsuits while we give exemptions to everyone else. That section and that answer laid it out for me. We had negotiations between a bunch of hotshots, and they are the ones who are going to throw businesses to the trial lawyers like red meat.

SENATOR WOODHOUSE:

An area may be missing and may have been inadvertently left out of section 28. The definition of a "nonprofit organization" should include State or federal credit unions. These are an integral part of our business community and are nonprofit organizations. Please address why this is not in the bill. I would be more comfortable if we could amend that in; they should be there.

MR. MORALES:

We are trying to conform to preexisting language in statute regarding the definition of "nonprofit." We can consider that, but I am not sure if credit unions would have a 501(c) type of designation. We would have to investigate to see if credit unions would conform not only with the definition but also to one of the conditions that are part of the definition.

SENATOR WOODHOUSE:
If we could amend those words in, I would be more comfortable with that definition. If we cannot, we need to provide a way, through legislative intent, to make sure anyone looking at the definition in section 28 knows State and federal credit unions are included.

SENATOR KIECKHEFER:
I read section 4 several times and am having a difficult time locking down the sunsets. The protections in sections 4-15, which are the employee and cleaning standards, apply exclusively to Washoe and Clark Counties. Is that correct? Please explain the sunset to me as well.

MR. MORALES:
That is correct.

SENATOR KIECKHEFER:
Subsection 2 states regulations are promulgated by the Director of DHHS. The bill states that those regulations, "… pursuant to sections 11 to 15 … except as otherwise provided in subsection 3, the powers, requirements and prohibitions set forth in provisions of sections 4 to 15, inclusive, of this act apply." It also provides triggers. In subsection 3, it states that "The provisions of subsection 2 do not apply to the requirements relating to the adoption, amendment or repeal of regulations … ." I am taking this to mean regulations promulgated by the DHHS will last forever and are unrelated to these triggers. Is that accurate?

MR. MORALES:
That is not the intent. This language was quite complicated, and I will defer to legal as to whether we kept the true intent.

MR. FERNLEY:
The tests in subsection 2 could result in counties becoming subject to the regulation and possibly moving out of the need to have the regulations in place. They could also possibly have to move back to compliance with the regulation if the data tests are met. The regulations from the Director of the DHHS need to be in place. What would go away would be the enforcement of those regulations. The regulations need to be there so when they come into effect, they can then be enforced.

SENATOR KIECKHEFER:
That was one of the ways I read it. The regulations stay in place and kick in if either Clark or Washoe County triggers one of these two mechanisms in subsection 2. Is that correct?

MR. FERNLEY:
That is correct.

SENATOR KIECKHEFER:
Do either of those two triggers sunset anywhere in the bill? I could not find it, if they do.

MR. FERNLEY:
There are no sunsets on those. It is driven by the data test set forth in subsection 2.

SENATOR KIECKHEFER:
If there is a mutation five years from now and COVID is back, will these regulations then be set and all of these things will kick right back in?

MR. MORALES:
As long as it is SARS-CoV-2. If it were SARS-CoV-3, it would not be the same as what is described in the bill. It is a proven on/off trigger for the foreseeable future, noting that this virus could be around for a while.

SENATOR KIECKHEFER:
That is not the same as the liability protections. Is that right? The sunset for the liability protections is, at latest, July 1, 2023. Is that correct?

MR. MORALES:
Yes, there are different sunset provisions. Those are in section 34.

MR. FERNLEY:
The sunset provisions that would apply to the immunity sections are set forth in section 34. This says the immunity protections in sections 24 to 29 of the bill "… apply only to a cause of action or claim arising from a personal injury or death … that accrues before, on or after the effective date of this act and before the later of …" a termination of the emergency in the Governor's Declaration of Emergency, or on July 1, 2023." If the exposure that lead to the injury or death occurred before July 1, 2023, the immunity provisions would apply. If COVID-19 were still around after July 1, 2023, it would not apply after that date; it would not apply to any cause of action accruing on or after July 1, 2023.

SENATOR KIECKHEFER:
Section 30 of the bill relates to the Secretary of State's ability to suspend a business license. Is that the sole enforcement mechanism in this bill for businesses not regulated by the Gaming Control Board?

MR. GIBSON:
There is a business-license provision in section 30, but, as of now, OSHA is able to enforce against the directives. Those protections and provisions still apply. Local governments, through their business-licensing divisions, are also able to enforce, as they do now. That would still apply. The Governor retains power under chapter 414 to promulgate directives that have the force of law. Those would remain in place.

SENATOR KIECKHEFER:
Section 9 defines "public accommodation." Is that definition from existing statute, and does it include short-term rentals?

MR. MORALES:
That definition already exists in statute and does not currently include short-term rentals.

SENATOR KIECKHEFER:
The section that covers required inspections by health districts lists a threshold stating entities must be over 200 rooms or a resort hotel. Are there any inspection requirements for public accommodations that have fewer than 200 rooms?

MR. MORALES:
In most cases, this process already exists in local government. The Southern Nevada Health District requires it at least once a year for all public accommodations. We increased, in statute, the threshold for the specific public accommodations listed.

SENATOR KIECKHEFER:
The University Medical Center is a hospital that is a subdivision of the government. Is it included or not?

MR. FERNLEY:
The University Medical Center falls within the definition of a governmental entity and would fall within the immunity provisions set forth in section 29.

SENATOR KIECKHEFER:
So, only one hospital gets immunity with this bill.

SENATOR PICKARD:
I am not naïve as to how these things come about. I know they are often brought by our constituents. Were there any industries or businesses not listed here that were involved in drafting the bill? If so, please tell us who was included.

MR. GIBSON:

The entities referred to here, at least the holding companies, are held to a higher standard. They are held to a standard of care, and they have a different business model. They operate in a manner where they are able to manage illness in ways other businesses are not because they are experts in this area. For that reason, our goal was not to overburden the bill, but to extend it to every possible business we could, with limitations as far as actions that would take entities that did not need to be … (unintelligible statement) … those standards out of the protections. This allows for protection of the public to the highest degree possible.

SENATOR PICKARD:

It is great we are allowing experts' input on the bills, especially those businesses directly impacted by the law. That is the right way to do this. I just wish it were universal.

I cannot think of another instance where we would put cleaning protocols in legislation instead of regulation as is done in section 11. Outside of the Special Sessions, we only have an opportunity to view this every other year. On the other side, it does build confidence in the marketplace. What happens if we need to adjust these because, in the rush to get this done, we may not have thought of something? Can that be done in regulation in addition to this, or do we have to come back and amend the legislation?

MR. MORALES:

The intent of section 11 is to prescribe the areas that must be addressed. The best practices and models of how to do that in order to mitigate COVID-19 will change, and possibly a new cleaning agent might become the best practice to get rid of the virus. That is why the specific prescriptions will be done through regulation so we are able to have that flexibility. What needs to be cleaned in terms of materials or items is already generally prescribed in the public-accommodations statute in NRS.

SENATOR PICKARD:

There were parts of the physical plant not described here, but they are probably also here as well.

Section 25 has gotten some attention. I recognize healthcare facilities are essential services that are covered. Is there an imperfect overlap? We have different sunsets for different portions of this. If this is an indemnity type of approach, my concern is when the public-health emergency officially ends, they will lose protections under the Emergency Declaration. As was pointed out, these regulations continue to exist in perpetuity. After the point where the Emergency Declaration expires, by the actions of either the Legislature or the Governor's Office, how do we protect these facilities?

MR. GIBSON:

Are you asking how we protect the entities in section 25 after the sunset of the bill?

SENATOR PICKARD:

Yes. We have exclusions in subsection 2 that, if we remove this, there would not be a concern. We have excluded this so there is no confusion between this bill and the protections they have under the Emergency Declaration. It is on the record, and maybe we need to change it; that the provisions of the Declaration expire, but the provisions under the requirements, and thus, the liability, if they are not met, do not expire. If we think of this as a Venn diagram, the protections that are in place due to the Emergency Declaration do not overlap completely and perfectly with the protections set forth in the bill. Please explain how the sunsets affect healthcare providers. Who are our frontline experts? How does this continue to affect them after the expiration or termination of the Emergency Declaration?

MR. GIBSON:

I will ask LCB, if they are willing to get on the record, to explain how NRS 414.110, the Governor's Declaration of Emergency and the sunsets work together.

MR. FERNLEY:

The Declaration of Emergency will expire upon the termination of that Declaration. The provisions of section 25 that provide the definition of "business" for the purposes of the immunity provision in section 29, will apply to … (unintelligible statement) … that accrue on the latter of the termination of Determination of Emergency or July 1, 2023. If the Declaration terminates before July 1, 2023, the immunity protections would apply to causes of action that accrue until July 1, 2023.

SENATOR PICKARD:

I understand that. As was discussed, however, if we end up with another spike post July 1, 2023, and the regulations kick back in, would a new declaration be required, or is there a window of exposure that is not completely covered?

MR. GIBSON:

The definition of a business is broad and refers to all of those entities and a natural person engaged in a for-profit exercise. These are hypothetical, but if a protection applied to a business and you are talking about another business coming to the premises, I would expect the protections would apply to both parties. You are raising premises-liability questions that go beyond that, and there are unanswered questions here. As expressed in statute, if you are talking about a business, the premises would be included in the business. If there were an incident on the premises, it would apply to the business and the incident that occurred on the premise.

SENATOR PICKARD:

I am looking at section 29, subsection 22. I am trying to think of an instance where we allow a court to make a determination of fact, as a matter of law. Is it correct, if a court makes a determination of fact in advance of a jury trial and it is contested, it would allow the complainant to go forward to a jury trial, or does this essentially act similar to a motion for summary judgement where once it has been determined the duty existed but they met it, it dismisses the claim?

MR. POWERS:

I do most of the litigation for our office. This bill deals with actions for personal liability. In these types of actions, the plaintiff has to prove four elements: there has to be a duty of care on the part of the business; they have to show the business breached that duty of care; they have to show the breach of duty of care was the proximate cause of the plaintiff's injury, and they have to show the injury resulted in damages. How we have to read section 29, consistent with the constitutional right to a jury trial, is that section 29 requires the Court to determine the first element only, which is whether there is a duty of care on the part of the business. If we prove the threshold duty requirement, the other three elements are for a jury to decide.

The Court will determine whether the business had a duty to that particular plaintiff by viewing whether the business was in substantial compliance with the controlling health standards. If the business was in substantial compliance with controlling health standards, it then owes no additional duty to the plaintiff. At that point, immunity kicks in; the business is not liable to the plaintiff. You never get to the other three elements, so never get to a jury trial. If the Court finds there was no duty owed to the plaintiff because the business substantially complied with the controlling health standards, the business is entitled to judgement, as a matter of law, and the claim is dismissed.

If the Court finds the business was not in substantial compliance with the controlling health standards, the Court has found the business owed an additional duty to the plaintiff because it failed to comply with those health standards. That does not mean, however, the business is automatically liable. Even though they may have owed an additional duty to the plaintiff, the plaintiff still has to show the business breached their duty in failing to comply with those standards. For example, a patron may have been on a casino floor gambling but never went to the restaurant in the facility, and it is then found out that the casino failed to comply substantially with the health standards in its restaurants but not on the casino floor. Even though the business of the casino failed to comply with health standards, it was most likely not what caused the plaintiff's injuries, and the plaintiff would not automatically be able to find liability on the part of the business. In the same scenario, if the casino was found to have not substantially complied with the health standards

on the casino floor, and the plaintiff was on the casino floor and can show the failure to comply was the direct and proximate cause of injury and resulted in damages, only then, and under those circumstances, would the casino be liable to the plaintiff.

Section 29 sets up a series of steps, but only the Court determines if there is a duty. If the Court finds the business owed a duty by failing to comply with health standards, the right to a jury trial kicks in, and the plaintiff has to prove the additional elements of breach of duty, causation and injury.

SENATOR PICKARD:

It has been a couple of years since I litigated a personal-injury case, and it was not a premises liability case. We survived summary judgement because the duty is established in law; they have a duty to meet the question of whether they met that duty. That was an issue of fact that was ultimately going to go to the jury. That is why I am having a problem. Please explain that better for me. It does not square with my experience, but that may not be a good indicator here. Please explain how the Court can go from establishing a duty that exists in law and make a finding as to whether they substantially complied with that. I thought this was an issue of fact.

MR. POWERS:

Courts have drawn a distinction in the manner you are discussing, determining first, as a matter of law, whether the business owed an additional duty of care to the plaintiff beyond what is established in statute as the minimum duty. If the business substantially complies with health standards, they have met the minimum duty of care required by law and are entitled to immunity; the case goes no further. If, however, the business falls below substantially complying with health standards, they owe an additional duty to the plaintiff, and that is where you go to the jury. Only when you have that additional duty, because you failed to comply with the health standards and have put a plaintiff or patron at risk, does the Court move it to the jury to determine whether your actions in putting the patron at risk were a breach of your additional duty to the plaintiff, if it caused damages and the amount of the damages.

You asked if there was a similar statute. There is in NRS 651.015, which deals with innkeepers and premises liability for innkeepers. The Nevada Supreme Court has looked at that statute, which has similar terms, and interpreted it in the way in which I am speaking. The Court first examines whether the business met the minimum standard of care in the statute. If it did, the case is over, and the business is entitled to immunity. If the business did not meet the statutory standard of care, it is then determined whether the actions of the business caused the harm to the plaintiff and was a breach of their additional duty.

SENATOR PICKARD:

That makes sense. I am looking at that statute and will review the cases in *Westlaw* as well. I know LCB would not put out a bill they thought was unconstitutional. Do you see any constitutional problems with the retroactivity of the tort liability sections, given those are generally prohibited?

MR. POWERS:

Retroactive legislation is not unconstitutional, *per se*. There are certain constitutional provisions that prohibit certain types of retroactive legislation. We do not believe applying the immunity provisions in section 29, the causes of action that arose from March 12 and beyond, result in any specific constitutional provision prohibiting retroactive legislation. That leaves the due-process clause. There are times when retroactive legislation can violate rights of substantive due process. As long as no fundamental rights are involved, it is not a violation. Recovering damages in a civil action is not a fundamental right like being discriminated against because of race or being in another protected category, or the right to life, which is a fundamental right. Those types of fundamental rights create a higher standard that would make it difficult to pass retroactive legislation. There are no fundamental rights included here.

The right to bring a cause of action for damages in court is not a fundamental right. It is an important personal right, but it is not a fundamental liberty interest. Since it is not a fundamental liberty interest, the due-process clause standard is "rational basis." As long as the Legislature has

a rational basis supported by a significant governmental interest, the legislation's retroactivity provision is upheld.

In this case, the Legislature does have a significant governmental interest ensuring stability in the economy, so these businesses can continue to provide their services to the public in a safe manner and not face undue liability. Just a significant governmental interest, providing immunity from March 12 forward, during this period is rationally related to carrying out that significant governmental interest of protecting both the businesses and the clients by creating a peaceful balance of immunity and the potential for liability if the health standards are not followed. It is the opinion of this Office that the retroactivity clause is constitutional with regard to immunity.

SENATOR PICKARD:

I am glad we have that on the record because it may prove important. As I read section 28, because there is no relieving clause saying this is not limited, it appears it is limited to the specific organizations that meet these two criteria. I want to make sure it is the intent of section 28 to be broad and unlimited; that this is not a limited list but is actually an unlimited list, and these are simply exemplary. Is that accurate?

MR. FERNLEY:

I will review the charitable-lottery provision to see what is included and excluded. I have not had a chance to look at it yet and cannot speak to what the intent of the provision is in regards to the sponsors of the bill. I will continue to look at the meaning of the statutory provision on which this is based.

SENATOR PICKARD:

I am looking at NRS 462, and charitable lotteries start in section 462.130. As I read this section, these are specific to charitable lotteries. The courts like to look at provisions in statute that are similar or operate in a similar manner. This is narrowly focused on charitable lotteries, and I am concerned. If we are looking at other amendments, it would make sense to add the relief of the limiting nature. The courts go first to the plain language of the statute. As I read this, the plain language is that these are specific organizations, and they have to meet both subparts; otherwise, they are excluded.

SENATOR RATTI:

Section 29.3 (b) gives the definition of entity as "… a business, governmental entity or nonprofit organization and the officers and employees of the business, governmental entity or nonprofit organization." In that definition, the term "governmental entity" includes, and specifically calls out, officers and employees. The way I read this, it would only be true for the governmental entity and the officers and employees of a business or a nonprofit would not be included. Is this intentional, and if so, why? If it is not, do we need to change the drafting of this bill?

MR. GIBSON:

I believe it was designed to capture all three types of entities, but I will defer to LCB to answer your question in more detail.

MR. FERNLEY:

You are correct about the bill as drafted. The addition of officers and employees would apply to a governmental entity only. That type of language appears in other governmental immunity statutes, and that is why it appears here. If the intent were to include officers and employees of businesses and nonprofit organizations, it would need to be amended in.

SENATOR RATTI:

I would suggest a minor technical amendment to either include officers and employees for everyone or excluding them for everyone to ensure there is consistency across all three categories. I could make an argument for including them.

SENATOR SETTELMEYER:

We discussed governmental agencies as it is related to the University Medical Center. Would county-owned, rural hospitals and clinics be included under this immunity?

MR. FERNLEY:

I am not sure of the exact structure, but if it is hospital owned and operated by the government, the answer would be "yes" because it would be a political subdivision of the State.

SENATOR SETTELMEYER:

Would that apply to a clinic as well as a hospital? When you think of a hospital, you think of a several-story building. In rural areas, you are lucky if you have one or two rooms, and that is why I am concerned. I want to make sure it applies to what might be called a clinic.

MR. FERNLEY:

It would apply to any governmental entity. As long as the clinic is owned and operated by the governmental entity, it would apply.

SENATOR SETTELMEYER:

How does this fit in with workers' compensation? If you are a teacher, would you be able to use workers' comp, or would the immunity clause come into account? How do they interplay?

MR. GIBSON:

In an earlier version, there was an express declaration that NRS 616(a) through (d) and NRS 617 were not affected by the provisions in this bill.

MR. FERNLEY:

The provisions of NRS 616(a) through (d) and chapter 617, related to workers' compensation, are a separate statutory way of providing a remedy to an injured employee. This immunity provision would not affect that separate statutory remedy. It would apply to the remedy pursued through the Court.

SENATOR SETTELMEYER:

You indicated there is the concept of retroactivity. I am somewhat confused. The bill says it goes into effect upon passage and approval, but you discussed retroactivity. If someone were to say they contracted COVID-19 in July, would they be under the same standards due to retroactivity, or are you saying the newer standards do not apply until the Governor signs this bill.

MR. POWERS:

The way section 29 is structured, the determination of immunity turns on the health standards in effect at the time the cause of action accrued. If someone got COVID-19, was injured by it at a business in July, then sued the business, the business would defend itself on the basis it was in substantial compliance with the health standards in effect on that day in July. If the claim was farther back, for example April, it would be based on the health standards in effect in April and whether the business was in substantial compliance with the standards. Moving forward, if it is in September or October, the cause of action would accrue then and would be based on the health standards in effect at that time. The standard will be the health standards in effect at the time the cause of action accrued. It will then be determined whether the business was in substantial compliance with those standards at that time.

SENATOR GOICOECHEA:

I hope we can reach out to some of the entities in my district regarding section 25 and see if they agree. The two major counties, Clark and Washoe, are covered by the Southern Nevada Health District and the Washoe County Health District. The other jurisdictions are covered by Nevada State Health. I want to make sure there will be at least some level of inspection. I would like to find out how we will ensure there will be inspection and oversight as these health standards are put in place in rural areas. We have public accommodations similar to those on the Strip. They are just not as big when you get into border communities like Wendover and Jackpot.

I am concerned, because it looks like enforcement will fall onto local jurisdictions, even cities or towns. I want to make sure there are enough health standards and guidelines in place to ensure we do not subject our businesses to unwarranted exposure due to lack of guidelines. If someone comes in, becomes infected and then says the health standards were not met, I want to make sure those standards are in place. Please respond as to how you are going to deal with the other 15 counties.

MR. MORALES:

We will deal with them in the same manner we do today. The other counties function by establishing a county department of health that then works with Nevada's DHHS. The idea is these increased standards will apply only to Washoe and Clark Counties. As they develop best practices, smaller counties will not be precluded from taking best practices and adopting those regulations for their own facilities. We did not want to overburden the smaller counties that have less volume. Some of the provisions that may or may not … (unintelligible statement) … that accommodation facility but … (unintelligible statement). That is how we see this happening. The Director of DHHS will promulgate the regulations and local county boards of health that want to adopt them can do so.

MR. GIBSON:

It is not the intention of the Governor to abdicate his responsibility to any jurisdiction in this State. We have a task force, Caleb Cage is the Chair, and we are dealing with our public-health experts on … (unintelligible statement). I expect this Governor to be as involved going forward a month, two months … (unintelligible statement) … as he is now. The goal is for DHHS to promulgate regulations to be adopted at the Clark and Washoe level. Other jurisdictions can then decide to adopt them as a best practice at those levels. The Governor will continue to watch the spread of COVID-19 and see where it is picking up. He will take action if necessary. I expect that to continue.

SENATOR GOICOECHEA:

Given the time it takes to adopt and move this into the rural areas, I am concerned there might be a void, and some of my business entities would have some exposure. There are $2.5 million available under section 35. Is the State in line for a piece of that to help fund the State Health Department? You are not servicing the same businesses, but there are a lot of miles out there.

MR. MORALES:

(Unintelligible statement) … Public and Behavioral Health, as a branch of DHSS, already has a … (unintelligible statement) … environmental protection. The Division already has a branch that does compliance and regulatory affairs for the rural counties. They already have inspectors in place. The CARES Act Code of Federal Regulations allocation is for Washoe and Clark Counties because inspections will have to increase significantly in those counties. Much of the cost and the process of getting this moving forward will be done through this process of the Director promulgating model regulations and looking at best practices. The intent is they can then support, as they currently do, the county boards of health in the rural areas and provide research and intelligence to them as well.

SENATOR GOICOECHEA:

The Behavioral Health Division is stretched very thin in rural Nevada, so I hope you will not assign them a lot more to do without providing resources.

SENATOR HAMMOND:

I am concerned because I have had several phone calls from people who are either on the board of a homeowner's associations (HOA) or who live in an area with an HOA. This is a large percentage of the people who live in southern Nevada. Some believe HOAs are covered in section 28 and other sections in this bill, and some do not believe they are covered. What is your answer to that?

MR. GIBSON:

It depends on the nature of the HOA. I do not know if an HOA would fall under these definitions in every case. It is not expressly included in section 28, but I do not know if they would qualify under subsection 1 or 2. I will allow Mr. Fernley to address that further.

MR. FERNLEY:

I agree with Mr. Gibson. It would depend on whether they fell within one of the listed categories. I would not know for a particular HOA at this time, but I would be happy to look into

what types of HOAs would fit within the definition of civic organization or one of the other types of organizations listed.

SENATOR HAMMOND:
If an HOA wanted to open up their community pool, would this give them limited-liability immunity as long as they were practicing the standards given to them?

MR. FERNLEY:
If the HOA met the definition of a nonprofit organization by being one of the types of organizations listed, they could be immune. This means they were either determined, pursuant to NRS 372.326, to be an organization created for religious, charitable or educational purposes or qualify as a 501(c), and they complied with the controlling health standards. The question would be whether they met the definition of a "nonprofit organization" set forth in NRS.

SENATOR HAMMOND:
Mr. Gibson earlier said hospitals were covered. I think what was meant is they are covered by Directive No. 11 from the Governor, which specifies frontline workers and emergency workers. A case could be made for that, but is this what you are referring to when you say hospitals are covered in Directive No. 11? Would that also cover visitors or vendors to those hospitals or medical facilities?

MR. GIBSON:
To clarify, the Declaration of Emergency dated March 12, 2020, calls out all providers of medical services related to COVID-19. There is a question of interpretation as to whether that would apply to all hospitals, and I do not know the answer to that. I know it applies to medical-service providers.

SENATOR HAMMOND:
I am looking at section 10, NRS 414.110, which talks about that liability. It was mentioned earlier that there is a supposition hospitals are covered. Did that come from Directive No. 11, as I cannot find it anywhere else? If hospitals are covered, this provides protection for them. In section 10 of this Directive, does this coverage extend to visitors or third-party vendors coming into the hospital? Are they also covered here, and is that why we are not covering them in Senate Bill No. 4?

MR. FERNLEY:
I am not as familiar with Directive No. 11. I will look it up now and get back to you.

SENATOR BROOKS:
Section 29, subsections 3(a)(1) and (2), discuss controlling health standards. Does that section mean if OSHA came up with necessary practices to do a job and protect workers or if a regulation came from a health district or school board and these were above and beyond the directives that already exist, the regulation would then become the controlling health standard?

MR. MORALES:
Yes. Local entities have been empowered to take measures that are stricter than those prescribed by the State. The Southern Nevada Health District will be promulgating for the public-accommodations facilities. To the extent they speak to the circumstances, those regulations will be the controlling health standards. This is currently the intent.

MR. FERNLEY:
Mr. Morales correctly stated the bill.

SENATOR BROOKS:
As an example, if grocery store workers in Las Vegas had a unique situation and the Southern Nevada Health District or OSHA looked at that situation and came up with specific safety standards to protect workers that do not exist today, those would then become the controlling health standards. Section 29 states, "If the entity was not in substantial compliance with controlling health standards, the plaintiff may pursue any claim recognized at common law or by statute, and

the immunity described in paragraph (b) does not apply to the entity." If the Southern Nevada Health District came up with specific safety standards to protect grocery-store workers, and the store was not in substantive compliance with the controlling health standards, the workers would then be able to pursue any claim recognized by common law or statute and the immunity described in paragraph (b) would not apply to the entity. Is that correct?

MR. MORALES:
Essentially, yes. The increased regulations would then become the duty of care.

MR. POWERS:
This is where we come to the intersection of workers' comp law and tort liability law. In the question from Senator Brooks, the grocery-store workers were the plaintiffs. However, under workers' compensation laws, workers who are subject to those laws waive their right to bring tort actions against their employer in exchange for participation in the workers' compensation system. It is not a voluntary waiver. It is done by the Legislature as a matter of law. That is the compromise if subject to workers' compensation law, and most would be, a grocery-store worker would have recourse through that system against their employer.

Your example would apply to a patron of the grocery store. If the store failed to follow the stricter standards set by the Southern Nevada Health District, a patron could bring a lawsuit against the grocery store if they believe they contracted COVID-19 from the store's failure to follow those regulations. That is where the liability will come in. Workers have the workers' compensation system.

SENATOR BROOKS:
Section 28 refers to nonprofit organizations. Public utilities and investor-owned utilities, whether they be gas, water, electrical or data, fall under the business definition in section 25. Municipal power or water districts, such as the Southern Nevada Water Authority or the municipal power districts throughout the State, would clearly fall under section 27. In the electric world, you might have a business that does exactly the same thing as an investor-owned utility or a government entity in a power district, but it is a cooperative, nonprofit association. Was it the intent in section 28 to specifically exclude those or, in future interpretations, would the cooperative be treated exactly like the municipal power district and its investor-owned utility? They all perform the exact same function.

MR. FERNLEY:
I am not able to speak to the intent of the provision. If the Governor's Office has an answer to this question, I would defer to them.

SENATOR BROOKS:
Was it your intent to specifically exclude cooperatives such as water, gas, electric or others? In almost every other way, they are the same as an investor-owned utility or public utility, but they do not fit into the definition of a government entity, nonprofit or business. They are all treated separately and differently throughout statute but do the same thing. Are these specifically excluded from section 28?

MR. GIBSON:
Are you talking about an interlocal agreement that arises out of statute in NRS 277, or are you talking about a 501(c)(3)? I do not know the categorization of the cooperative to which you are referring. Please clarify that.

SENATOR BROOKS:
I do not remember the statute that defines an electric cooperative utility, but it is a 501(c)(12) organization. It is a nonprofit, but it is not a public-power district like Boulder City or Overton Power. It is not an investor-owned utility like Southwest Gas or NV Energy. Those are almost identical in what they do as businesses and how they run but are all defined differently in statute and all fit into separate categories here. I do not think they fit neatly into the definitions in section 28. We have discussed what is included, but I would like to know if this is specifically meant to be excluded.

MR. GIBSON:
The inclusion of nonprofit organizations was intended to be an expressed inclusion. There was no intent to exclude anything that might otherwise qualify under the 501(c) provision of federal law. I think an argument could be made and probably upheld to include it here.

SENATOR OHRENSCHALL:
Section 13 states that "The Director shall adopt regulations requiring each public accommodation facility to establish, implement and maintain a written SARS-CoV-2 response plan … ." When I read section 13's reference in sections 32 and 33, it appears this will be a confidential, nonpublic record. Is that correct?

MR. FERNLEY:
Yes, that is correct. It would be a confidential record under sections 32 and 33.

SENATOR OHRENSCHALL:
Section 13, subsection 5, states that these written SARS-CoV-2 health plans must be submitted to the health authority and certain requestors can obtain them, including a foreign government. Why would they be available to a foreign government but not be public records and be confidential?

MR. GIBSON:
The confidentiality provisions in this statute that make things confidential and exclude them from NRS 239 are the same protections as drafted in NRS 463. The intent behind NRS 463 is to allow for a regulatory body under which an entity might be regulated abroad, to request, from a cooperating entity in this Country or in this State, certain documents. It is not required, but there is cooperation. That was the intent of that provision. If that interpretative standard holds here, it is the same thing.

SENATOR DONDERO LOOP:
Please give an overview of how this affects school workers and personnel. How do they fit into this bill? Please address section 29, subsection 3(2)(d), where it says, "The entity may demonstrate substantial compliance by establishing policies and procedures to enforce and implement the controlling health standards in a reasonable manner." Are these established by the Governor, the local board of trustees, the Nevada Department of Education or another group?

MR. MORALES:
As we are in the area of workers' compensation for workers in a school, I will refer this to Mr. Powers.

MR. POWERS:
The question relates to the definition of "substantial compliance" in section 29, subsection 3(e). Under this provision, if someone brings a lawsuit against a governmental or private entity, and in defense, the entity wants to prove it had substantial compliance with the controlling health standards, it must show the entity established its own internal policies and procedures to enforce the controlling health standards in a reasonable manner. A grocery store, for example, would try to establish internal policies and procedures in a reasonable manner to show it was complying with controlling health standards. If the immunity is being invoked by a school district, it would be the school district board who would adopt the internal policies and procedures showing it is trying to enforce and implement the controlling health standards. This is about the entity that is being sued showing what it has done and what it had in place at the time the cause of action arose. It is the duty of the entity to adopt internal policies and procedures to carry out the controlling health standards in a reasonable manner.

SENATOR DONDERO LOOP:
Using the school example, are you saying a board of trustees would need to establish those policies and procedures for the school entity? A grocery store is generally private; whereas, a school is a public entity.

MR. POWERS:

That is correct. The school district is not establishing the controlling health standards. They are establishing policies and procedures to meet the controlling health standards. They are not the one establishing those standards; they are only establishing policies and procedures to meet the existing standards established by State or local law or by the other entities that can establish such standards.

SENATOR DONDERO LOOP:

Would the Nevada Department of Education do that? It seems the Governor would establish these when he makes a directive, or will it be up to the entity to follow those established?

MR. POWERS:

We are trying to draw fine distinctions between different provisions of the bill. The provisions here are about an entity, whether private or public, defending against a lawsuit claiming they did not comply with the controlling health standards in effect. In this case, the health standards had already been established by either the State government or, if allowed, a local government. The question is whether the entity was complying with the standards. To help prove it has been complying, the entity would show the Court it had internal policies and procedures in effect at the time to try to carry out the State or local guidance on the health standards.

School districts will want to have internal policies and procedures in order to invoke this immunity; however, they are also sovereign entities and political subdivisions so they can set standards for how their schools operate. Those standards must meet the statewide health standards and local health-district standards, but the school district, outside of any local-health considerations, has sovereign power to control and protect its student population. This does not restrict a local school district from adopting their own policies and procedures with regard to operating their district. What it says is if they adopt policies and procedures, and they are reasonable under the State health standards, they can then help prove to invoke this immunity.

SENATOR DONDERO LOOP:

I am always worried and concerned about staff, teachers and students in our schools and keeping them safe.

SENATOR CANCELA:

In NRS chapter 41, a number of protections are afforded to hospitals, healthcare-related entities, doctors, nurses and others. These are afforded to those within the hospital industry and even those who are students in this industry. There is also the Governor's March 12 Declaration of Emergency which provides an increased level of protection to providers of medical services. With the exception of the Governor's Emergency Directive, NRS chapter 41 applies to general protections and liability. This bill applies specifically to COVID-19-related protections. The protections in this bill do not change the current protections in NRS chapter 41. The fact hospitals and other healthcare facilities are excluded in the bill does not affect the protections that already exist for them both in NRS.

MR. POWERS:

This deals with tort immunity. This bill does not change any of the tort provisions in chapter 41 of NRS governing medical-malpractice claims against medical providers. It does not affect the immunity provided to medical providers by the Governor's Directive as discussed earlier. That provides immunity and liability for medical malpractice or actions taken in providing medical services.

Section 29 is directed at premises liability. This is different from liability for medical malpractice or professional negligence. If a doctor commits an act of professional negligence in a hospital and you are the patient, it is medical malpractice, and you could potentially recover for liability against that doctor. If you are a guest in the hospital and slip and fall, medical-malpractice liability is not at issue; premise liability is at issue.

Section 29 of this bill discusses premises liability related to the risk of exposure to COVID-19 in a business. The risk of exposure in a medical facility is much greater than it is in most other places given the fact medical facilities have COVID-19 patients. These are, however, two different types of immunity and liability issues; one is medical malpractice, and the other is premises

liability. This bill excludes hospitals from the premises-liability protection. If someone is suing a hospital because they were in a waiting room and believe they contracted COVID-19 because the hospital did not take reasonable precautions, they are not going to sue the hospital for medical malpractice under 41 and 41(a). They will sue the hospital for premises liability under the general common-law tort of negligence. A hospital will not be eligible to invoke section 29 because it is excluded from these provisions of the bill. The hospital must depend on the normal defenses one would raise on behalf of a negligence claim. This bill does not affect medical-malpractice liability and is not directed at that; it is directed at premises liability.

SENATOR CANNIZZARO:

It seems this bill does not affect current workers' compensation claims related to school employees and that this may be true for others. Is that correct?

MR. POWERS:

That is correct. School-district employees are covered by the workers' compensation system. In exchange for that, they do not have a right to sue their employee for tort. Premises-tort liability, therefore, does not come into play here. Instead, the claim is brought through workers' compensation as an employee against the employer claim, and the workers' compensation system has the standards for dealing with those claims.

SENATOR CANNIZZARO:

We will now open the hearing to those in support of Senate Bill No. 4.

AMBER STIBHAM (Vice President, Government Affairs, Henderson Chamber of Commerce):

I support Senate Bill No. 4 provided we can gain some clarification that Chambers and Trade Associations fit within the provisions of the bill. As it was discussed earlier by Mr. Fernley, we are supportive of the bill. We want to thank the Legislature for recognizing the need to provide liability protection for our vulnerable businesses, especially during this interesting and unprecedented time. I want to add that while we are in support of Senate Bill No. 4, we would like to have our concern regarding the exclusion of our critically important healthcare facilities and their frontline workers placed on the public record and would just encourage the inclusion of them in the near future. We are in support, and thank you for the opportunity to share our position.

SASHA STEPHENSON (MGM Resorts National):

We believe this is an important bill which achieves two goals for a clear, strong measure to protect our employees and their workplaces. (Unintelligible statement) … includes limited, targeted, COVID-related liability protection. In March, Nevada's entire resort industry closed for the first time in its history. The economic consequences, the shutdown, as you all know, have been profound. On June 1, we began to carefully reopen our doors. We used intervening time to work with public-health experts to develop our 750 Plan. The plan promises to keep our employees and our guests as safe as possible during these unprecedented times. That said, we understand … (unintelligible statement) … and the best efforts of one company can be derailed if they are not all … (unintelligible statement) … standards.

The bill before you would adjust all places of public accommodation in Nevada, the same high standards of cleaning and workers' safety. We believe it will help keep our workers safe and demonstrate to our guests that Nevada is serious about combatting this virus. The second critical piece of this bill is limited targeted-liability protection. If enacted, this bill would offer certain businesses and nonprofits immunity from COVID-related, civil-liability claims. To receive this protection, businesses must comply with federal, State and local COVID-related mandates including the worker protection previously described. Businesses that do not comply will not receive the protection. Clients may still bring claims that allege gross negligence and failing to comply with COVID-related health mandates. Unfounded litigation has the potential to cripple Nevada's businesses leading to more closures and greater economic difficulties. The targeted-liability protection will have an opposite effect and allow good actors to stay open as long as they remain vigilant and keep Nevada's guests safe. Thank you all for your long hours worked and desire to protect Nevadans.

VIRGINIA VALENTINE (President, Nevada Resort Association):

On behalf of more than 70 resorts we represent, I speak today in support of Senate Bill No. 4. The resort industry joined all Nevadans working together to fight the spread of COVID-19. Our top priority continues to be the safety and well-being of our employees and guests. Our members have taken extraordinary measures to protect all of those who enter their properties and continue to update our policies and procedures as more of us learn about the virus. No one would have ever imagined Nevada's largest industry would be closed for 78 days. The virus has created more economic devastation in two months than any event in Nevada's history. Nevada's largest industry and all of its businesses continue to struggle to keep the doors open.

The resort industry continues to work with top medical and public-health experts to ensure that health-and-safety plans and protocols are science-based, data driven and consistent with the latest information about the virus for the protection for all of those who enter the properties. The resort industry, arguably, is the most highly-regulated industry in the State. As you know, the resort industry continues to ensure full compliance. Our members are taking actions that meet or exceed the many health-and-safety measures they are held to, including CDC recommendations, the strict regulations of the Nevada Gaming Control Board and health-and-safety directors of the State, the LEAP Committees. The local health districts and local licensing departments create the safest environment possible.

Our members are also allocating millions of dollars to the latest technology, employee testing, sanitation and disinfection measures to create a safer place that meets or exceeds all of the OSHA requirements. In addition to being the right thing to do, these actions are essential to ensure the lifeblood of Nevada's economy survives as the travel and tourism industry is pummeled by the virus. Equally is important to protect our guests and our colleagues pushing Nevada's recovery efforts forward. We are heavily vested in safeguarding our guests and employees and ending this public-health emergency as this travel and tourism industry depends upon it. Providing liability protections for the businesses that follow the rules is critical for our momentum and health of Nevada's economic engine. We respectfully urge you to pass Senate Bill No. 4. On behalf of the Association, I want to thank you all for all of the hard work you are doing, the late nights, the long hours. We appreciate what you are doing with this important legislation. Thank you.

AMANDA PALMER:

I am opposed to Senate Bill No. 4. As a Nevada schoolteacher, I am concerned about the language of the bill and how it may omit Nevada schoolteachers from protection. We need to carefully consider the language of this bill and how it is written. We need to have more overtly stated protection for Nevada schoolteachers and staff and workers outside of the casinos and hotel industry.

UNIDENTIFIED TESTIFIER:

I am here on behalf of the 60,000 culinary union members and their families, the … (unintelligible statement) … workers in Nevada. Thank you, Governor Sisolak, and the elected representatives … (unintelligible statement) … important issues today. The pandemic has been a challenge, and I know you are all working very hard to fight for Nevada. I know this situation very well. My daughter is an ICU nurse … (unintelligible statement) … sick with members and their families all of the time, families who have their loved ones pass away. (Unintelligible statement) … families have died from COVID-19. More than 300 members and their families have been in the hospital because of COVID-19. (Unintelligible statement) … the culinary members that live in Clark County, we have the highest COVID-19 infection rate. Each special patient is important for the work of … (unintelligible statement).

We hope today that we will ensure workers and their families to be protected from the spread of COVID-19 in the workplace. While … (unintelligible statement) … for an entire community, for the hospitality industry, the customers and local … (unintelligible statement) … protected. Alfonzo Hernandez contracted COVID-19 after being employed at the … (unintelligible statement) … in Las Vegas, and he passed away. (Unintelligible statement) … we support and it will address public health and will mandate … (unintelligible statement). We need cleaning processes for room cleaning, social distance, free testing for the workers and people who come back to work, pretesting for workers who have been exposed to COVID-19, temperature checks for workers. This is a plan of action for when the workers contract COVID-19 or they are close to

someone with the virus. (Unintelligible statement) … for all of the employees. This is so important for the workers and their families. This is in your hands. We hope you do the best for Nevada. Thank you.

MARCUS LOPEZ (Americans for Prosperity Nevada):

The reality that COVID-19 is here to stay with us until a vaccine is developed, tested and mass produced, it is important we provide the proper protections for businesses and nonprofits. We support enacting the broadest protections possible. That means down at the community hospital and for other healthcare providers. (Unintelligible statement) … the business community has been breaking up due to the economic and havoc of COVID-19. The threat should not hang over them as well. Even … (unintelligible statement) … using in these uncertain times would be more than welcomed. This is a must that will keep society moving in this crisis. Overall, we find the gross … (unintelligible statement) … standards a pretty good standard. Other states are more nimble in the interpretation of good faith in regards to following the guidance from our level of government which has often been unclear and contradictory during the crisis. If possible, we would also encourage the addition of a check-in or review clause preferably every few weeks directing the residentiary agencies to review all regulations imposed from this bill to see if they are needed in the presence of any new evidence or information in regards to COVID-19 that might change the necessity of said regulation. Overall, we are in support of Senate Bill No. 4.

SENATOR CANNIZZARO:

We will now open the hearing to those in opposition of Senate Bill No. 4.

ALEXIS MOTAREX (Nevada Chapter AGC):

AGC supports the business-liability protections offered by Senate Bill No. 4, but we share the concerns brought up by several Senators regarding section 28. The language only exempts those nonprofits listed as long as those listed are determined NRS 372.326 to be created for religious, charitable or educational purposes or those listed qualify … (unintelligible statement) … under the 50(b) taxes … (unintelligible statement) … organization. This leaves trade associations like AGC a 501(c)(6) out of the protections offered in the bill. Per the IRS 501(c)(6)s, it includes business leads or trade associations, chambers of commerce and boards of trade. We have been told by other stakeholders that we would be exempted as a civic organization, but those are different separately as a 501(c)(4) by the IRS.

If Senate Bill No. 4 passes as written, AGC will no longer be able to offer trainings and classes to our members that are required by law. This includes OSHA and MSHA, asbestos abatement, first aid, CPR, traffic control, lead safety and stormwater. We also provide these trainings to the students of ACE High School, a public charter and trade school in Reno, free of charge. We would no longer be able to assist the students. We could no longer afford to take the risk. AGC provides our training rooms to community organizations at a very low cost. Two of our most frequent guests are Keep Truckee Meadows Beautiful and the Washoe County School District. They can use our facility for significantly less than other venues and preserve their limited resources. We would no longer be able to do that.

We ask that you consider amending section 28 by eliminating the list of organizations included and rather insert reference to all nonprofits as determined in NRS 372.326 or that qualify as a tax-exempt organization percent to 26 to … (unintelligible statement) … 501(c). The amendment would also address the Senator from District 5's concern regarding credit unions as they are a 501(c)(14).

CHRIS DALY (Nevada State Education Association):

We oppose Senate Bill No. 4. This past week, dozens of educators wearing red-faced coverings joined with other workers in front of the Legislature to protect Nevada workers. We have called attention to a dangerous plan to shield employers from COVID-related liability which would be a strong disincentive for employers to ensure workplace safety. We chanted, "Kill the bill, not the workers."

In the 31st Special Session, thousands of educators from across the State asked the Legislature to fund healthy schools. Instead, we ended up with a net loss of over $100 million to K-12 education. Now, in the 32nd Special Session, thousands of educators from across the State, again,

have asked you to reject limiting COVID-related liability for Nevada employers including school districts. Cutting funding and corners while faithfully reopening schools is just not possible. Placing limits on liability sends the wrong message to school districts who are now walking away from good-faith negotiations over worker and student safety. In this way, Senate Bill No. 4 is already putting our educators, students and communities more at risk.

The science and data on COVID-19 transmission among children is still emerging. Last week, the Center for Disease Control released a study on the transmission and … (unintelligible statement) … among attendees of a camp in Georgia that suffered a COVID-19 outbreak. All of the attendees at the camp provided a negative COVID-19 test before attending. Within 14 days, 51 percent, take the 10 year olds, and 44 percent of 11-17 year olds tested positive for COVID-19. The study's authors found that COVID-19 spread efficiently in this camp setting "resulting in high attack rates among persons in all age groups despite efforts by camp officials to implement most recommended strategies to prevent transmission." Those measures were similar to the ones recommended here for Nevada school districts. While it is encouraging that kids do not get sick and die in the same numbers as adults from COVID-19, evidence is mounting that they can be significant … (unintelligible statement). Now, as thousands of educators and families prepare to go back to school, we believe essential school supplies should be pencils and paper or Chromebooks and Wi-Fi, not wills and trusts. Please protect educators, students and Nevada workers. Kill Senate Bill No. 4, not the worker.

MARIE NEISESS (President, Clark County Education Association):

We oppose Senate Bill No. 4. Schools and busses are like Petri dishes full of germs on any given day. COVID-19 is life-threatening. Even with the best safety measures in place, educators and students will still be at risk. Putting a bill in place that protects the employer rather than the employee is unacceptable. Senate Bill No. 4 asks educators to be okay with possible exposure to a life-threatening disease that would hold our employer free of any responsibility. Time and time again, educators have been asked to go above and beyond the normal duties and responsibilities that come with teaching. The expectations of an educator have grown exponentially. On more than one occasion, educators have placed themselves in harm's way and at times tragically lost their lives protecting their students during an active-shooter incident. When did it become okay for educators to become expendable and put their lives on the line? The expectable number of student deaths is zero. The expectable number of educator deaths is zero. The need for this bill proves that it is not safe to return.

Unless the Governor and Legislators address the key issues of safety and employee protection, we cannot support employees working at a school site where it is possible to contract COVID-19. If an educator should contract the virus at their place of employment, the employee should not have to shoulder the financial burdens that may occur due to exposure to COVID-19 and must be eligible for workers' compensation. Additionally, legislation must be passed that allow for remedies in support for school district employees. Educators did not sign up to put their lives and the lives of their students at risk. Vote "no" on Senate Bill No. 4.

ALEXANDER MARKS (Nevada State Education Association):

For the last week, we have said back to school is no fairytale because Senate Bill No. 4 is a poison apple being served to teachers, ESPs and others. This afternoon, we have heard nothing but rebuttals and rebukes from members of this Body that trumps irresponsible comments; however, by this evening and this morning, you are running Mitch-McConnell-type legislation. It is the same type of legislation that is holding up the HEROES Act at the federal level. It is unfortunate that after 1,500-plus emails that were sent to you all on this issue were essentially ignored but for a couple of questions.

Educators are perplexed at such a provision that is being considered by a Democratic trifecta. We have a workers' protection bill that provides near immunity for businesses and school districts. Oddly enough, this bill is being heard the same day that the Washoe Education Association filed an OSHA complaint requesting investigation of the Washoe County School District for unsafe work conditions. We cannot put economic recovery over public health and safety. Today, we heard Governor Sisolak say he spoke to business executives about this issue, but he has never spoken to a teacher or an ESP about it. Whether it is the 31st Special Session budget cuts or the disaster that was S.B. 543 from the 81st Session, too often, decisions that you all make negatively impact the

work of educators and the education of our students. Sometimes, we just simply deal with it, but this time your decisions are a matter of safety, health and possibly life and death. The language would limit COVID-19 work claims and provide school districts with near immunity so broad that not even egregious behavior would be actionable. Educators are scared.

In the 31st Special Session, you took away K-12 funding, and in the 32nd Special Session, you are taking away their right to sue. Back to school supplies once meant pencils, erasers and notebooks, and now they mean wills and trusts. This is what our people are thinking about heading back to school. We understand there is no perfect solution to the many issues we face, but we recognize the importance for Nevadans to return safely to our classrooms, cafeterias and bus yards. We do not believe the risk of doing so should be exclusively borne by teachers, ESPs and others. This provision is rotten and should be able to move. There is a line in the sand. I am proud to stand on the side of workers and our educators. We hope you join us; there is plenty of room.

BRIAN GREEN:

I am concerned about this bill for multiple reasons. Senate Bill No. 4 has no remedies for healthcare workers if they get sick from COVID-19 besides workers' compensation. This bill takes remedies away from inmates if they get sick. This is something I have protested repeatedly outside of the very walls where you sit. Furthermore, by allowing workers' compensation to be the remedy for noncompliant facilities, you are allowing for that person to receive one-third less pay for the duration of their illness without remedy. In my opinion, this bill benefits those who have already benefited from Nevada's generous business claws and hurts workers, the disenfranchised, students and the general population of the State.

I found the late start of today's hearings in both Houses to be disrespectful to the diligent members of Nevada following this Special Session.

SOFIA SCHERFEI (Policy Intern, Make the Road Nevada):

I oppose Senate Bill No. 4. We are a member-led, nonprofit organization fighting to improve the quality of life of all immigrants and working families in Nevada. I urge you to not pass Senate Bill No. 4 on behalf of my mother, who just became a registered nurse last month. Although there still contains some beneficial worker protections and the fact we stand with the culinary union, this will allow many employers to cut corners. On various social media platforms, I saw there were talks that included hospitals and other businesses in Senate Bill No. 4 that shields them from liability. This alarms me for my mother and so many other Nevadans. My mother asked me whether she should return to her job. A majority of her colleagues at the medical facility were diagnosed with COVID-19. My mother is the main breadwinner, and she cannot afford to miss work. When I asked if the employees were provided one-piece suits or ones with respiratory breathing equipment, she said, "no." They only had masks and gloves. She does not know what would happen to her if she contracted COVID-19, but she cannot miss work. Either way, her livelihood is at risk. If she works, she may get sick and potentially lose her life as a diabetic. If she does not go to work, she could lose the roof over her head and the ability to quarantine. My hardworking, immigrant parents turn to me, but I do not have an answer. If something happened to my mother, her employer should be liable. Businesses have a duty to protect their workers. Be bold and do not allow businesses to get a pass on liability.

KENT ERVIN (Nevada Faculty Alliance):

We work to empower faculty to be fully engaged in our mission of helping students … (unintelligible statement). Fully engaged faculty mean help and save faculty by teaching healthy and safe students. We are opposed to Senate Bill No. 4 as introduced. We are not opposed to the standards for the hospitality industry in the bill, but those do not apply to schools, colleges or classrooms. Even student dorms are not included in the definition of a "public accommodation." It seems that protecting hotel guests is more important than protecting students in dorms.

The liability protections for employers go too far. Governmental entities, including NSHE, already have substantial immunity from legal liability. Unfortunately, Senate Bill No. 4 expands that immunity without providing rigorous increased protections for the health and safety of students, staff or faculty. Educational institutions should be taken out of the bill.

The criterion for only a good-faith effort of substantial compliance with health standards is vague and insufficient. For instance, federal, State or local agencies, publications or any other document can be contradictory. Sometimes they are just unenforceable, nonmandatory recommendations. With no firm standards in Senate Bill No. 4 or no entities other than hotels and casinos, there is a lot of room for poor practices that would not reach the level of "gross negligence," but it would harm students or faculty.

Senate Bill No. 4 as written provides broad immunity without providing strong protections for students and faculty from a deadly and highly contagious disease. The Nevada Faculty Alliance stands with our K-12 partners and strongly opposes Senate Bill No. 4 as introduced. The focus should be making our workplaces and places of learning safe with strict protocols. With the enforcement measures you talked about … (unintelligible statement). Clear standards with enforcement, not vague standards with immunity.

SELENA LA RUE:

I am a teacher, a parent and member of NSCA and WEA calling in opposition to Senate Bill No. 4. Education cannot seem to catch a break with this Legislature. First, you forced devastating cuts on our schools in the midst of a pandemic. Instead of focusing on how to keep our schools safe, you jamb through legislation that will protect negligent school districts and enable them to cut corners as we bring 460,000 students back into our schools. If Senate Bill No. 4 passes, educators and parents across the State will clearly know, more than ever, that our elected officials care more about their corporate donors than the people sacrificing everything to education the next generation of Nevada. You may be hoping the cover of night will hide your cowardly actions, but we see you. We will not forget.

Educators across this State are being forced against their will into an unsafe working environment. This week, instead of planning my "get to know you" activities and prepping my room for a new batch of children, I had to sit down with a lawyer and draft my will. I do not trust my district will keep me safe in my classroom. My three-year-old daughter may be deprived of a parent because of a thoughtless vote by an ill-informed school board. Instead of encouraging our school boards to be more careful in their pandemic planning or setting in place legal protocols for ensuring safety in our schools, Senate Bill No. 4 issues a blank check to districts to get children back into unsafe classrooms regardless of the consequences.

It is reprehensible that needed worker protections have been added to this rotten bill rather than present it in a separate bill as it deserves. This attempt to sweeten the deal is disingenuous and an insult to all thinking Nevadans. We will not be fooled into relinquishing our rights in order to establish common-sense protection, which should have already been in place before reopening. I urge you to reject this bill and stop this suffrage. Present two separate bills on liability and workers' protections and vote with honesty and courage on each. I do not know what happens to a moral compass once you cross the threshold of the Nevada Legislature. Perhaps, like all concept of time, it vanishes beneath the dealmaking and back-channeling. My moral compass is clear; sacrificing the lives of educators and workers to protect the profits of negligent employers is wrong on a fundamental level. Find your moral compass. Do the right thing. Protect our workers.

TODD SKLAMBERG (Chief Executive Officer, Sunrise Hospital and Medical Center):

Thank you for your support on business liability and the importance it has on stabilizing business communities as they reopen their doors. As … (unintelligible statement) … current bill is drafted, to exclude the hospitals and other healthcare providers due to negotiation. I urge your support in providing that same protection to hospitals. To … (unintelligible statement) … exclusion from basic-liability protection comes at a time when hospitals are challenged and pushing their limits to care for patients needing hospitalization. At this … (unintelligible statement) … hospital has 633 patients and 163 COVID positives and BUIs. Sunrise Hospital, along with the other hospital … (unintelligible statement) … are the frontline responders to this pandemic and a true partner source to respond to COVID-19. (Unintelligible statement) … to provide capacity to Nevada's business so they can reopen and citizens can return to work. Even during critical times, our hospitals are held to the highest standards in medicine … (unintelligible statement). By excluding medical facilities, the impact will be significant. Access will be eliminated for nonpatients coming into the hospitals including visitors, students and vendors. There will be slower or no delivery of necessary medical goods and medical equipment. Hospitals

will run out of beds. The process … (unintelligible statement) … to eliminate patient transfers to lower levels of care will not be enough … (unintelligible statement) … for COVID patients and non-COVID patients needing care. We believe that this is a risk to all Nevada families' and communities' health and economy which is something we cannot withstand. (Unintelligible statement) … all business have the protection that we continue to provide … (unintelligible statement) … necessary healthcare our communities deserve.

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

I oppose Senate Bill No. 4. What this bill says to educators is that we know sending you back to work is dangerous enough, some of you might die; if you do, we are going to make sure that your employer will not be held responsible. It is unconscionable to have a bill to protect culinary workers and in the same bill, limit liability for school districts and others. What educators should be doing right now is preparing to give our students the best possible education in the middle of a pandemic. What educators are doing, instead, are preparing wills and trusts. My colleagues and I deserve strong districts, eventual reopening plans but do not allow for immunity and shortcuts. You cannot cut funding, cut corners and at the same time safely reopen. I support the need to protect our brothers and sisters in the culinary union. Unfortunately, this is not the bill. I am not expendable. My colleagues are not expendable. Educators are not expendable. Vote "no" on Senate Bill No. 4.

UNIDENTIFIED TESTIFIER (Nevada Deputy Director, Mi Familia Vota):

We fully support the protection language in Senate Bill No. 4. However, it is unfortunate that this liability language was also included. In a time when Nevadans highest risk to catch this virus comes from their own workplace, you should not be making it harder for them to be protected and hold their employers accountable when necessary. Section 29 of this bill will make contact tracing difficult … (unintelligible statement) … successfully. Gross negligence is already difficult to proof in Court. If the case is frivolous, it will most likely get thrown out. There is no need for immunity. If employers are in compliance and diligent with keeping my mom, my aunt, my uncles and our community safe, they should not have to worry about immunity. It is disheartening that in this "progressive trifecta," we are still threatened by liability language that aligns with people who do not care about workers and what they are proposing. Our community cannot afford to have any more loopholes for employers … (unintelligible statement) … during the deadliest pandemic of our lifetimes. We need to protect Nevada workers, no questions asked.

PHIL WELCH (President, Nevada Hospital Association):

We oppose Senate Bill No. 4 as written. Throughout this pandemic, we have closely worked with Governor Sisolak and his Office to fully support his goals to flatten the curve and protect hospital capacity. As written, this bill puts that capacity at risk and undermines our efforts to protect Nevadans' health. Nevada hospitals are the frontlines of this pandemic. Hospital capacity is critical for providers to treat this fast-spreading virus. Medical facilities do not have additional general liability protections during this pandemic. Any medical-malpractice limitation during a time when crises standards of care for treatment are in effect, apply to only treatment of patients. This is not about patient treatment but about general visitors in our facilities. It applies to visitors, vendors and other people coming into the hospital just like a visitor to a gym, restaurant or casino.

We support business-liability protection for exposure to this virus that includes all visitors. If we are following clear rules from the government and, in our case, CDC guidelines, we should not be excluded. By excluding medical facilities from this bill, access to patient care will be impacted. Access to visitors, vendors, volunteers, medical trainees and others will be limited or no longer permitted. In addition, our ability to transfer patients will no longer require acute care to appropriate lower levels of care will be affected, understanding some acute medical facilities are also excluded from general-liability protection. Hospital patents will not be accepted by places like long-term care facilities, hospice and even your own home if home care is required. If we cannot discharge patients, beds will not be made available which will compromise hospital capacity impacting our ability to care for the communities we serve. We oppose Senate Bill No. 4 unless medical facilities are included and provided the same general-liability protections as all other Nevada businesses. We urge you to vote "no" on Senate Bill No. 4.

MATTHEW SHARP (Nevada Justice Association):

We oppose Senate Bill No. 4. There is a hysteria that has no basis in reality. There have been no COVID lawsuits in this State, yet this Legislature is convening at the dead of night and considering giving essentially complete immunity to certain businesses. This is not what the Special Session is for, and what we are looking at is a solution working for our problem. We have listened for two-and-a-half hours and have been provided no information for what a controlling healthcare standard is. This is section 29.3. A controlling healthcare standard is what the entire bill operates upon. The reason that has not been addressed is because if you look at the fine print of "controlling health standards," it requires "must." Most, if not nearly all, of the guidelines that should be followed are recommendations that responsible businesses should follow and will follow. This bill will reward bad business for bad practices.

SHARON REDCLIFFE (Chief Nursing Officer, Spring Valley Hospital):

I oppose Senate Bill No. 4 with section 25(2) included by the hospital community support, business-liability protection for exposure to COVID-19. As the Chief Nursing Officer, I cannot support legislation that unfairly targets the hospital, the staff caring for patients on the frontlines or other medical-care facilities. By excluding medical facilities from protection, patient care will absolutely be impacted. Frontline staff like nurses, techs and support staff may not come to work for fear of potential lawsuits against them. They are already under undue stress as a result of this pandemic, and this legislation could subject them to further, undue and unfair levels of stress. This will not enhance their ability to care for patients safely and compassionately. Medical facilities do not have additional liability protections during the pandemic. Medical-malpractice limitations apply to the treatment of a patient only. Business-liability protection would apply to hospital visitors, vendors and third parties just like any visitor to a restaurant or a casino. This law potentially impacts each of us, and access may be eliminated for visitors coming into the hospital. It is well known how the support of a loved one can positively impact the medical recuperation of a patient. Without this, patients may enter and leave this world alone. As the Chief Nursing Officer and on behalf of my team of dedicated healthcare professionals, I implore you to vote against Senate Bill No. 4 unless section 25(2) is deleted from the bill.

JENNIFER CANTLEY:

This week, I have listened to many teachers in my surrounding community who are terrified of going back to school and putting their family's life in danger. Hearing the Governor saying tonight that he has left it to the best judgement of counties to listen to the teachers, which I do not believe he has, he has bought enough PPE for everyone. How long will that PPE last in our own community? Numbers are starting to rise.

What caught my ear tonight was industry regulations. I have a family member who works in the hotel industry, is diabetic and terrified to go back to work every day. She is important to me. When I heard these industries were reopening in Phase 2 when they were supposed to open in Phase 1, I was disappointed. These industries are already cutting corners. It is difficult for these customers that are coming out of state who do not want to follow the rules, let alone employees who do not believe the virus is real, to enforce these rules. Even using words like "suggested guidelines" is sketchy in rural communities because I heard these fights over shields and masks, that they are the same thing, over and over in our community.

There is a high probability in the cities these rules will be followed, but in the rural communities, this will not happen. Just recently, I learned two friends were telling me there was no such thing as this virus, and it was fake. They refused to wear masks and are now in Reno on ventilators. When you have people saying this virus is fake and other people that are terrified of it, the rules are not clear. This will end up a mess. We need a Governor who is guiding us. It is not clear right now, and we do not have a precedent to follow. I am asking for my Nevada Government to lead us with clear guidance. Senate Bill No. 4 does not support us or protect Nevada workers or families. Vote "no" on Senate Bill No. 4.

WESTON PORTER:

I am in Senate District 35. I oppose Senate Bill No. 4 and am not neutral. I will keep this brief as I know others are waiting to speak, and it is well into the early morning. Reviewing your

hearing, I am appalled at the blatant disregard for public health and the human lives this bill would effect. As a son of a former Nevadan … (no further testimony).

SENATOR CANNIZZARO:
We will now open the hearing to those neutral to Senate Bill No. 4.

JOELLE GUTMAN DODSON (Government Affairs Liaison, Washoe County Health District):
Together with another Nevada Health District, we have submitted our concerns to the Governor's Office and want to thank them for their willingness to work with us. We hope to work out our concerns with Senate Bill No. 4. I want to put on the record two of our major concerns that we would like to work out. The Health Districts of Nevada have been at the forefront of the COVID-19 response since February, and we have quickly evolved to meet the needs of the ever-changing challenges of responding to this crisis. The global pandemic has tested our departments like nothing before in our lifetime. The Health District staff has been redeployed from their day-to-day duties to aid our COVID response leading much of our mandated responsibilities unattended to. Despite CARES dollars giving us the ability to hire and expand our operation, we are still overwhelmed and understaffed. Unfortunately, the duties laid out in this current draft are unattainable. The hiring and training of this specialized workforce, let alone the implementation of this process, are not attainable within the timeframes set forth. The funding is insufficient and temporary and leaves us with an unfunded mandate in less than six months.

With regard to worker safety set forth in Senate Bill No. 4, the presumption for permission for employees to return to work after exposure with a negative test is not the recommended protocol for a safe work environment. Employees that were in close contact with a COVID positive case must be quarantined for 14 days and cannot return to work after a negative test within the timeframe. This makes the three-day paid leave insufficient. Workers who test positive are required to recover and then be free of fever and symptoms which may require more than 14 days of leave.

We have submitted our additional concerns. Some of them have to do with the timeframe and compliance of the adoption of the regulation process, the submission of confidential plans and the potential liability that the health districts could be open to. We have sent in our list of concerns. We hope to have a productive conversation as soon as possible.

MATTHEW WILKIE:
Senate Bill No. 4 is moot. You say there are other laws and constitutional and other judicial processes that cover it. You are not offering any impartial universal protections. This has no basis. There is no precedent, so why the paranoia legislation?

IMANI PATTERSON:
I work for the Boys and Girls Club of Southern Nevada. I work with 72 kids daily ranging from ages 5 to 17. I am speaking to you with positive COVID-19 results. It is unfortunate because I know I contracted the virus from work; however, I cannot get sick pay. Although there has been plenty of staff who has been out of work with COVID-19, I have been told I cannot receive compensation for my absence because I did not come in contact with someone who has the virus. That is not true. I have been told a member said they were sick the same week I called off. That means they … (unintelligible statement) … and did not truthfully answer the scenario questions, screening questions. This is one scenario. I did not have the idea to sue my job. I simply want to get sick leave. I am under the impression that no … (unintelligible statement) … for COVID-19 at mine or other workplaces. Employers are being reactive and not proactive and treating employees case by case. The employer has no guidelines and not trained on the matter. They should be liable for the illness if employees contract COVID. Mind you, my job guidelines are coming soon, and I have not been trained on how to properly sanitize the facility, yet we are open for the public. If employers have procedures in place, like they say, why do they need liability immunity? Passing Senate Bill No. 4 is a danger to the community and allows the employers to be lazy and … (unintelligible statement) … staff on safety … (unintelligible statement). My center should have been shut down for retesting and well-being of the youth, but they were open today. This is the problem. As a youth mentor, this bill makes me not feel valued as a dedicated employee.

LILITH BARAN:

I am confused. I have watched the casino parking lot be full every day. I watch people smoke cigarettes with their mask around their chin. This is apparently in compliance. I cannot go to the library to do research and other people … (unintelligible statement)… not able to go to the library. I am confused about why we would not let people receive punitive damages when they are already desolate. (Unintelligible statement) … their unemployment and for their additional insurance that some people still have not had, as I heard people say last night in your Body. Some people have not received a nickel since March. That seems to be almost impossible. I want to understand why when people who are the most effected are younger and there are racial, ethnic and economical minority groups are being disproportionately affected. The factors are discrimination, healthcare, access to … (unintelligible statement) … occupation, educational income and … (unintelligible statement) … as well as housing. Nevada has the highest level of youth homelessness. Nonprofits such as ReStart, Eddie House, Nevada Youth Empowerment Project, Rise, et cetera, are all organizations that serve … (unintelligible statement) … . I guess. I mean, we have listened to you for six-and-a-half hours. This is ridiculous. There must be a better way to stay in a conversation with our government than having two minutes when we … (unintelligible statement).

ERIKA MINABERRY:

There is one good thing on Senate Bill No. 4 that requires some amount of paid time off. This is odd because last Session there were certain Senators who were convinced that paid time off would completely ruin the economy. It is great that you all got on board that the healthy populous is better for the economy. Unfortunately, it took a global pandemic for you to see it. Realistically, that is the only good thing. Everything else in this bill is not for health concerns. Saying things like "regularly cleaning throughout the day" is vague and unenforceable and especially only checking every two months. The Governor changed the social distance from six feet to three feet inside the school. Obviously, Senate Bill No. 4 is just for government immunity and not public health. While it may limit the legal actions workers can take, anyone who votes for this bill has blood on their hands. Hopefully, your moral judgement will win out on this one.

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

Senator Cancela seconded the motion.

Motion carried. Senators Goicoechea, Hansen and Hardy 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 2:29 a.m.

SENATE IN SESSION

At 2:36 a.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. 4, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

NICOLE J. CANNIZZARO, *Chair*

Senate Bill No. 3.

Bill read third time.

The following amendment was proposed by the Senate Majority Leader:

Amendment No. 4.

SUMMARY—Revises provisions relating to unemployment compensation. (BDR 53-10)

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.

Legislative Counsel's Digest:

Existing law requires various notices or other documents or communications relating to unemployment insurance to be mailed to or served upon persons. (NRS 612.365, 612.500, 612.515, 612.551, 612.630) Section 2 of this bill authorizes the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation or the Division to provide such documents or communications electronically to a person who has requested to receive such documents or communications electronically. Section 2 additionally provides that an electronic communication does not satisfy or relieve the Administrator or Division from a requirement of federal or state law to provide a document or communication in the manner required by the applicable law.

Existing law authorizes an agency to adopt an emergency regulation if the agency determines, and the Governor agrees, that an emergency exists. (NRS 233B.0613) Section 3 of this bill: (1) creates a similar process for the Administrator to adopt an emergency regulation; (2) provides for the review of an emergency regulation of the Administrator by the Legislative Commission; and (3) authorizes such an emergency regulation to be adopted more than once. Section 14 of this bill makes a conforming change.

Existing law generally deems a person to be unemployed, and therefore eligible for unemployment benefits, in any week during which the person: (1) performs no services and receives no remuneration for services; or (2) performs less than full-time work, but is paid remuneration that is less than the amount the person would otherwise receive in unemployment benefits. (NRS 612.185) Section 4 of this bill expands the eligibility for a person who performs less than full-time work to be deemed to be unemployed to include

persons who are paid remuneration that is less than one and one-half times the amount the person would otherwise receive in unemployment benefits.

Section 5 of this bill authorizes the Administrator, by regulation ~~[,]~~ and to the extent allowed by federal law, to suspend, modify, amend or waive any provision of the Unemployment Compensation Law for the duration of a state of emergency or declaration of disaster and for any additional period of time during which the emergency or disaster directly affects the requirements of the Unemployment Compensation Law if the Administrator makes certain determinations and the action is approved by the Governor. Sections 12 and 13 of this bill provide, for the purpose of compliance with federal law, similar authority for the Administrator, by regulation ~~[,]~~ and to the extent allowed by federal law, to suspend, modify, amend or waive specific provisions of the Unemployment Compensation Law relating to rates of contribution for employers and charging of benefits to the account of an employer.

The Families First Coronavirus Response Act, Pub. L. No. 116-127, provides for additional money being made available to states for their unemployment compensation programs. To qualify for the additional money, certain provisions must be included in state law. Sections 6 and 7 of this bill temporarily revise the definition of an "on" indicator for the purposes of extended unemployment benefits and revise the total extended benefit amount a person may receive in a benefit year during periods of high unemployment, which will allow Nevada to qualify for additional money under the Families First Coronavirus Response Act. Section 7 also requires the Governor to determine whether any subsequent federal law similarly provides for additional money to be made available to states for their unemployment compensation programs and to issue a proclamation to that effect, and the revisions in sections 6 and 7 become effective for the period of time identified in the proclamation by the Governor.

Existing law prohibits a person from receiving unemployment benefits for a week in which the claimant received certain payments, including, without limitation, severance pay or vacation pay. (NRS 612.420, 612.425, 612.430) Sections 8-10 of this bill authorize the Administrator, by regulation, to waive or modify the period in which a person is disqualified from benefits for receiving certain payments for good cause or upon the making of certain determinations. Section 17.5 of this bill applies the amendatory provisions of sections 8 and 9 retroactively to any week of unemployment ending on or after May 28, 2020, and authorizes a regulation adopted pursuant to sections 8 and 9 to apply retroactively to such weeks of unemployment.

Section 11 of this bill requires certain filings relating to judicial review of a decision by the Board of Review to be served or filed within a certain period of time.

Existing law requires a person to be disqualified from receiving unemployment benefits if the Administrator determines the person has failed to apply for or accept suitable work without good cause. (NRS 612.390) Section 15 of this bill requires the Administrator to establish, by regulation,

justifications related to the outbreak of the disease identified by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services as COVID-19 that constitute good cause for a person to refuse suitable work. Section 17.5 applies the provisions of section 15 retroactively to any week of unemployment ending on or after May 28, 2020, and authorizes a regulation adopted pursuant to section 15 to apply retroactively to such weeks of unemployment.

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

Section 1. Chapter 612 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. Except as otherwise provided by federal or state law, the Administrator or the Division may electronically provide a form, notice, claim, bill or other document or communication to a person if the person has requested to receive communications by electronic transmission, by electronic mail or other electronic communication.*

2. The electronic provision of a form, notice, claim, bill or other document or communication pursuant to subsection 1 does not satisfy or relieve the Administrator or Division of any obligation under federal or state law to provide the form, notice, claim, bill or other document or communication in the manner required by the applicable state or federal law.

Sec. 3. *1. If the Administrator determines that an emergency exists, the Administrator shall submit to the Governor a written statement of the emergency which sets forth the reasons for the determination. If the Governor endorses the statement of the emergency by written endorsement at the end of the full text of the statement of emergency on the original copy of a proposed regulation ~~[,]~~ and the proposed regulation is consistent with federal law, the regulation may be adopted. If the Administrator adopts the regulation, the Administrator shall submit the adopted emergency regulation to the Legislative Counsel for transmission 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. The statement of the emergency endorsed by the Governor must be included as a part of the regulation for all purposes.*

2. If practicable, the Administrator shall, not later than 9 a.m. on the first working day before the date on which the emergency regulation is submitted to the Legislative Counsel pursuant to subsection 1, make the emergency regulation available to the public by:

(a) Providing a copy of the emergency regulation to a member of the public upon request; and

(b) Making a copy of the emergency regulation available on its website on the Internet, if any.

3. If practicable, the Administrator shall, not later than 9 a.m. on the first working day before the date of any hearing at which the agency considers

the emergency regulation, make the version of the proposed emergency regulation that will be considered at the hearing available to the public by:

(a) Providing a copy of the proposed emergency regulation to a member of the public upon request; and

(b) Making a copy of the proposed emergency regulation available on its website on the Internet, if any.

4. The Legislative Commission has 15 days after the submission of an emergency regulation to the Legislative Counsel by the Administrator pursuant to subsection 1 to consider the emergency regulation. If the Legislative Commission:

(a) Does not consider the emergency regulation during the 15-day period, the emergency regulation is deemed approved and the Legislative Counsel shall promptly file the emergency regulation with the Secretary of State and notify the Administrator of the filing.

(b) Considers the emergency regulation during the 15-day period and:

(1) Approves the emergency regulation, the Legislative Counsel shall promptly file the emergency regulation with the Secretary of State and notify the Administrator of the filing.

(2) Objects to the emergency regulation after finding that the emergency regulation is not consistent with federal law or does not conform to statutory authority or carry out legislative intent, the Legislative Counsel shall attach to the emergency regulation a written notice of the objection and shall promptly return the emergency regulation to the Administrator. An emergency regulation returned to the Administrator pursuant to this subparagraph or any substantially identical regulation does not become effective until the regulation, including any amendment to the regulation determined to be necessary by the Administrator to address the objection of the Legislative Commission, is approved by the Legislative Commission at a subsequent meeting.

5. An emergency regulation adopted pursuant to this section becomes effective when the Legislative Counsel files with the Secretary of State the original of the final draft or revision of the emergency regulation, together with the informational statement prepared pursuant to NRS 233B.066. The Secretary of State shall maintain the original of the final draft or revision of each such emergency regulation in a permanent file to be used only for the preparation of official copies.

6. A regulation adopted pursuant to this section may be effective for a period of not longer than 120 days.

7. A regulation may be adopted by this emergency procedure more than once by the Administrator.

8. If the Administrator adopts, after providing notice and the opportunity for a hearing as required in chapter 233B of NRS, a permanent or temporary regulation which becomes effective and is substantially identical to an effective emergency regulation, the emergency regulation expires automatically on the effective date of the temporary or permanent regulation.

Sec. 4. NRS 612.185 is hereby amended to read as follows:

612.185 1. A person shall be deemed "unemployed" in any week during which the person performs no services and with respect to which no remuneration is payable to the person or in any week of less than full-time work if the remuneration payable to the person with respect to such week is less than *one and one-half times* the person's weekly benefit amount if the person has no dependents or less than *one and one-half times* the person's augmented weekly benefit amount if the person has dependents.

2. The Administrator shall adopt regulations applicable to unemployed persons, making such distinctions in the procedures as to total unemployment, partial unemployment of persons who were totally unemployed, partial unemployment of persons who retain their regular employment and other forms of part-time work, as the Administrator deems necessary.

3. No person shall be deemed to be unemployed in any week in which the person:

(a) Is self-employed;

(b) Receives benefits for a temporary total disability or a temporary partial disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS; or

(c) Receives money for rehabilitative services pursuant to chapters 616A to 616D, inclusive, or 617 of NRS.

Sec. 5. NRS 612.220 is hereby amended to read as follows:

612.220 The Administrator:

1. Shall administer this chapter.

2. Is responsible for the administration, through the Administrator of the Commission on Postsecondary Education, of the provisions of NRS 394.383 to 394.560, inclusive.

3. Has power and authority to adopt, amend or rescind such rules and regulations ~~[,]~~ *consistent with the provisions of federal law,* to employ, in accordance with the provisions of this chapter, such persons, make such expenditures, require such reports, make such investigations, and take such other action as the Administrator deems necessary or suitable to that end.

4. Shall determine his or her own organization and methods of procedure for the Division in accordance with the provisions of this chapter.

5. ~~[May,]~~ To the extent allowed by federal law, may, by regulation, suspend, modify, amend or waive any requirement of this chapter for the duration of a state of emergency or declaration of disaster proclaimed pursuant to NRS 414.070 and for any additional period of time during which the emergency or disaster directly affects the requirement of this chapter if:

(a) The Administrator determines the action is:

(1) In the best interest of the Division, this State or the general health, safety and welfare of the citizens of this State; or

(2) Necessary to comply with instructions received from the Department of Labor; and

(b) The action of the Administrator is approved by the Governor.

Sec. 6. NRS 612.377 is hereby amended to read as follows:

612.377 As used in NRS 612.377 to 612.3786, inclusive, unless the context clearly requires otherwise:

1. "Extended benefit period" means a period which begins with the third week after a week for which there is a Nevada "on" indicator and ends with the third week after the first week for which there is a Nevada "off" indicator or the 13th consecutive week after it began, except that no extended benefit period may begin by reason of a Nevada "on" indicator before the 14th week following the end of a prior extended benefit period which was in effect for Nevada.

2. There is a "Nevada 'on' indicator" for a week if the Administrator determines, in accordance with the regulations of the Secretary of Labor, that ~~[for]~~ *:*

(a) For the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment in Nevada (not seasonally adjusted) under NRS 612.377 to 612.3786, inclusive:

~~[(a)]~~ *(1)* Equaled or exceeded 120 percent of the average of those rates for the corresponding 13-week period ending in each of the preceding 2 calendar years and equaled or exceeded 5 percent; or

~~[(b)]~~ *(2)* Equaled or exceeded 6 percent ~~[.]~~ *; or*

(b) For weeks of unemployment beginning on or after March 18, 2020, and ending on or before the week ending 4 weeks before the last week for which full federal sharing is authorized by section 4105(a) of Public Law No. 116-127, or which occur during a period of time specified by the Governor in a proclamation issued pursuant to subsection 4 of NRS 612.378, the average rate of total seasonally adjusted unemployment in Nevada, as determined by the Secretary of Labor, for the period consisting of the most recent 3 months for which data for all states are published before the close of such week:

(1) Equaled or exceeded 6.5 percent; and

(2) Equaled or exceeded 110 percent of the average rate for the corresponding 3-month period ending in either of the 2 preceding calendar years.

3. There is a "Nevada 'off' indicator" for a week if the Administrator determines, in accordance with the regulations of the Secretary of Labor, that for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment in Nevada (not seasonally adjusted):

(a) Was less than 120 percent of the average of those rates for the corresponding 13-week period ending in each of the preceding 2 calendar years; or

(b) Was less than 5 percent.

4. "Rate of insured unemployment," for purposes of subsections 2 and 3, means the percentage derived by dividing the average weekly number of persons filing claims in this State for the weeks of unemployment for the most recent period of 13 consecutive weeks, as determined by the Administrator on the basis of the Administrator's reports to the Secretary of Labor using the

average monthly employment covered under this chapter as determined by the Administrator and recorded in the records of the Division for the first four of the most recent six completed calendar quarters ending before the end of the 13-week period.

5. "Regular benefits" means benefits payable to a person under this chapter or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen or ex-servicewomen pursuant to 5 U.S.C. §§ 8501 et seq.) other than extended benefits.

6. "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen or ex-servicewomen pursuant to 5 U.S.C. §§ 8501 et seq.) payable to a person under the provisions of NRS 612.377 to 612.3786, inclusive, for the weeks of unemployment in the person's eligibility period.

7. "Additional benefits" means benefits payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law. Any person who is entitled to both additional and extended benefits for the same week must be given the choice of electing which type of benefit to claim regardless of whether his or her rights to additional and extended benefits arise under the law of the same state or different states.

8. "Eligibility period" of a person means the period consisting of the weeks in the person's benefit year under this chapter which begin in an extended benefit period and, if that benefit year ends within the extended benefit period, any weeks thereafter which begin in that period.

9. "Exhaustee" means a person who, with respect to any week of unemployment in the person's eligibility period:

(a) Has received, before that week, all of the regular, seasonal or nonseasonal benefits that were available to him or her under this chapter or any other state law (including augmented weekly benefits for dependents and benefits payable to federal civilian employees and ex-servicemen or ex-servicewomen under 5 U.S.C. §§ 8501 et seq.) in the person's current benefit year which includes that week, except that, for the purposes of this paragraph, a person shall be deemed to have received all of the regular benefits that were available to him or her, although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in that benefit year, the person may subsequently be determined to be entitled to added regular benefits; or

(b) His or her benefit year having expired before that week, has no, or insufficient, wages on the basis of which the person could establish a new benefit year which would include that week,

➥ and has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, 45 U.S.C. §§ 351 et seq., the Trade Expansion Act of 1962, 19 U.S.C. §§ 1801 et seq., the Automotive Products Trade Act of 1965, 19 U.S.C. §§ 2001 et seq. and such other federal laws as are specified in regulations issued by the Secretary of Labor, and has

not received and is not seeking unemployment benefits under the unemployment compensation law of Canada. If the person is seeking such benefits and the appropriate agency finally determines that the person is not entitled to benefits under that law the person is considered an exhaustee.

10. "State law" means the unemployment insurance law of any state, approved by the Secretary of Labor under Section 3304 of the Internal Revenue Code of 1954.

Sec. 7. NRS 612.378 is hereby amended to read as follows:

612.378 1. ~~[The]~~ *Except as otherwise provided in subsection 2, the* total extended benefit amount payable to any eligible person for the person's applicable benefit year is the lesser of the following amounts:

(a) Fifty percent of the basic benefits which were payable to him or her in the benefit year. If the amount computed is not a multiple of $1, it must be computed to the next lower multiple of $1.

(b) Thirteen times the person's average weekly benefit amount which was payable to him or her under this chapter for a week of total unemployment in the applicable benefit year. If the amount computed is not a multiple of $1, it must be computed to the next lower multiple of $1.

(c) Thirty-nine times the person's average weekly benefit amount which was payable to him or her under this chapter for a week of total unemployment in the applicable benefit year, reduced by the basic benefits which were payable to him or her in the benefit year. If the amount computed is not a multiple of $1, it must be computed to the next lower multiple of $1.

2. *In weeks beginning in a high unemployment period on or after March 18, 2020, and ending on or before the week ending 3 weeks before the last week for which full federal sharing is authorized by section 4105(a) of Public Law No. 116-127, or which occur during a period of time specified by the Governor in a proclamation issued pursuant to subsection 4, the total extended benefit amount payable to any eligible person for the person's applicable benefit year is the lesser of the following amounts:*

(a) Eighty percent of the basic benefits which were payable to him or her in the benefit year. If the amount computed is not a multiple of $1, it must be computed to the next lower multiple of $1.

(b) Twenty times the person's average weekly benefit amount which was payable to him or her under this chapter for a week of total unemployment in the applicable benefit year. If the amount computed is not a multiple of $1, it must be computed to the next lower multiple of $1.

(c) Forty-six times the person's average weekly benefit amount which was payable to him or her under this chapter for a week of total unemployment in the applicable benefit year, reduced by the basic benefits which were payable to him or her in the benefit year. If the amount computed is not a multiple of $1, it must be computed to the next lower multiple of $1.

3. If the benefit year of any person ends within an extended benefit period, the remaining balance of extended benefits that the person would, but for this subsection, be entitled to receive in that period, with respect to weeks of

unemployment beginning after the end of the benefit year, must be reduced by the product of the number of weeks for which the person received any amounts as trade readjustment allowances pursuant to 19 U.S.C. § 2291 within that benefit year, multiplied by the weekly benefit amount of extended benefits, but the balance must not be reduced below zero.

4. If the Governor determines that a federal law authorizes full federal sharing for one or more weeks to cover the costs of extended benefits incurred pursuant to subsection 2, the Governor shall issue a proclamation stating that determination and specifying the weeks during which the extended benefits are available.

5. As used in this section, "high unemployment period" means any period during which the average rate of total seasonally adjusted unemployment in Nevada, as determined by the Secretary of Labor, for the period consisting of the most recent 3 months for which data for all states are published before the close of such week:

(a) Equaled or exceeded 8 percent; and

(b) Equaled or exceeded 110 percent of the average rate for the corresponding 3-month period ending in either of the 2 preceding calendar years.

Sec. 8. NRS 612.420 is hereby amended to read as follows:

612.420 ~~[A]~~

1. Except as otherwise provided in subsection 2, a person is disqualified for benefits for any week with respect to which the person receives either wages in lieu of notice or severance pay.

2. The Administrator may, by regulation, waive or modify the period of disqualification set forth in subsection 1:

(a) For good cause; or

(b) If the Administrator determines such action is necessary to expedite benefits and protect the health, safety and well-being of claimants.

Sec. 9. NRS 612.425 is hereby amended to read as follows:

612.425 ~~[A]~~

1. Except as otherwise provided in subsection 2, a claimant shall be disqualified for benefits for any week with respect to which the claimant is on paid vacation.

2. The Administrator may, by regulation, waive or modify the period of disqualification set forth in subsection 1:

(a) For good cause; or

(b) If the Administrator determines such action is necessary to expedite benefits and protect the health, safety and well-being of claimants.

Sec. 10. NRS 612.430 is hereby amended to read as follows:

612.430 ~~[A]~~

1. Except as otherwise provided in subsection 2, a claimant shall be disqualified for benefits for any week following termination of work, which could have been compensated by vacation pay had termination not occurred,

if the claimant actually receives such compensation at the time of separation or on regular paydays immediately following termination.

2. The Administrator may, by regulation, waive or modify the period of disqualification set forth in subsection 1:

(a) For good cause; or

(b) If the Administrator determines such action is necessary to expedite benefits and protect the health, safety and well-being of claimants.

Sec. 11. NRS 612.530 is hereby amended to read as follows:

612.530 1. Within 11 days after the decision of the Board of Review has become final, any party aggrieved thereby or the Administrator may secure judicial review thereof by commencing an action in the district court of the county where the employment which is the basis of the claim was performed for the review of the decision, in which action any other party to the proceedings before the Board of Review must be made a defendant.

2. In such action, a petition which need not be verified, but which must state the grounds upon which a review is sought, must *, within 45 days after the commencement of the action,* be served upon the Administrator, unless the Administrator is the appellant, or upon such person as the Administrator may designate, and such service shall be deemed completed service on all parties, but there must be left with the party so served as many copies of the petition as there are defendants, and the Administrator shall forthwith mail one such copy to each defendant.

3. *The Administrator shall file with the court an answer within 45 days after being served with a petition pursuant to subsection 2 or, if the Administrator is the appellant, the Administrator shall serve the petition upon each other party within 45 days after commencement of the action.* With the Administrator's answer or petition, the Administrator shall certify and file with the court originals or true copies of all documents and papers and a transcript of all testimony taken in the matter, together with the Board of Review's findings of fact and decision therein. The Administrator may certify to the court questions of law involved in any decision.

4. In any judicial proceedings under this section, the finding of the Board of Review as to the facts, if supported by evidence and in the absence of fraud, is conclusive, and the jurisdiction of the court is confined to questions of law.

5. Such actions, and the questions so certified, must be heard in a summary manner and must be given precedence over all other civil cases except cases arising under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

6. An appeal may be taken from the decision of the district court to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court of Nevada pursuant to Section 4 of Article 6 of the Nevada Constitution in the same manner, but not inconsistent with the provisions of this chapter, as is provided in civil cases.

7. It is not necessary, in any judicial proceeding under this section, to enter exceptions to the rulings of the Board of Review, and no bond may be required for entering the appeal.

8. Upon the final determination of the judicial proceeding, the Board of Review shall enter an order in accordance with the determination.

9. A petition for judicial review does not act as a supersedeas or stay unless the Board of Review so orders.

Sec. 12. NRS 612.550 is hereby amended to read as follows:

612.550 1. As used in this section:

(a) "Average actual duration" means the number of weeks obtained by dividing the number of weeks of benefits paid for weeks of total unemployment in a consecutive 12-month period by the number of first payments made in the same 12-month period.

(b) "Average annual payroll" for each calendar year means the annual average of total wages paid by an employer subject to contributions for the 3 consecutive calendar years immediately preceding the computation date. The average annual payroll for employers first qualifying as eligible employers must be computed on the total amount of wages paid, subject to contributions, for not less than 10 consecutive quarters and not more than 12 consecutive quarters ending on December 31, immediately preceding the computation date.

(c) "Beneficiary" means a person who has received a first payment.

(d) "Computation date" for each calendar year means June 30 of the preceding calendar year.

(e) "Covered worker" means a person who has worked in employment subject to this chapter.

(f) "First payment" means the first weekly unemployment insurance benefit paid to a person in the person's benefit year.

(g) "Reserve balance" means the excess, if any, of total contributions paid by each employer over total benefit charges to that employer's experience rating record.

(h) "Reserve ratio" means the percentage ratio that the reserve balance bears to the average annual payroll.

(i) "Total contributions paid" means the total amount of contributions, due on wages paid on or before the computation date, paid by an employer not later than the last day of the second month immediately following the computation date.

(j) "Unemployment risk ratio" means the ratio obtained by dividing the number of first payments issued in any consecutive 12-month period by the average monthly number of covered workers in employment as shown on the records of the Division for the same 12-month period.

2. The Administrator shall, as of the computation date for each calendar year, classify employers in accordance with their actual payrolls, contributions and benefit experience, and shall determine for each employer the rate of contribution which applies to that employer for each calendar year in order to reflect his or her experience and classification. The contribution rate of an employer may not be reduced below 2.95 percent, unless there have been 12 consecutive calendar quarters immediately preceding the computation date throughout which the employer has been subject to this chapter and his or her

account as an employer could have been charged with benefit payments, except that an employer who has not been subject to the law for a sufficient period to meet this requirement may qualify for a rate less than 2.95 percent if his or her account has been chargeable throughout a lesser period not less than the 10-consecutive-calendar-quarter period ending on the computation date.

3. Any employer who qualifies under paragraph (b) of subsection 9 and receives the experience record of a predecessor employer must be assigned the contribution rate of the predecessor.

4. Benefits paid to a person up to and including the computation date must be charged against the records, for experience rating, of the person's base-period employers in the same percentage relationship that wages reported by individual employers represent to total wages reported by all base period employers, except that:

(a) If one of the base period employers has paid 75 percent or more of the wages paid to the person during the person's base period, and except as otherwise provided in NRS 612.551, the benefits, less a proportion equal to the proportion of wages paid during the base period by employers who make reimbursement in lieu of contributions, must be charged to the records for experience rating of that employer. The proportion of benefits paid which is equal to the part of the wages of the claimant for the base period paid by an employer who makes reimbursement must be charged to the record of that employer.

(b) No benefits paid to a multistate claimant based upon entitlement to benefits in more than one state may be charged to the experience rating record of any employer when no benefits would have been payable except pursuant to NRS 612.295.

(c) Except for employers who have been given the right to make reimbursement in lieu of contributions, extended benefits paid to a person must not be charged against the accounts of the person's base-period employers.

5. The Administrator shall, as of the computation date for each calendar year, compute the reserve ratio for each eligible employer and shall classify those employers on the basis of their individual reserve ratios. The contribution rate assigned to each eligible employer for the calendar year must be determined by the range within which the employer's reserve ratio falls. The Administrator shall, by regulation, prescribe the contribution rate schedule to apply for each calendar year by designating the ranges of reserve ratios to which must be assigned the various contribution rates provided in subsection 6. The lowest contribution rate must be assigned to the designated range of highest reserve ratios and each succeeding higher contribution rate must be assigned to each succeeding designated range of lower reserve ratios, except that, within the limits possible, the differences between reserve ratio ranges must be uniform.

6. Each employer eligible for a contribution rate based upon experience and classified in accordance with this section must be assigned a contribution

rate by the Administrator for each calendar year according to the following classes:

Class 1	0.25 percent
Class 2	0.55 percent
Class 3	0.85 percent
Class 4	1.15 percent
Class 5	1.45 percent
Class 6	1.75 percent
Class 7	2.05 percent
Class 8	2.35 percent
Class 9	2.65 percent
Class 10	2.95 percent
Class 11	3.25 percent
Class 12	3.55 percent
Class 13	3.85 percent
Class 14	4.15 percent
Class 15	4.45 percent
Class 16	4.75 percent
Class 17	5.05 percent
Class 18	5.40 percent

7. On September 30 of each year, the Administrator shall determine:

(a) The highest of the unemployment risk ratios experienced in the 109 consecutive 12-month periods in the 10 years ending on March 31;

(b) The potential annual number of beneficiaries found by multiplying the highest unemployment risk ratio by the average monthly number of covered workers in employment as shown on the records of the Division for the 12 months ending on March 31;

(c) The potential annual number of weeks of benefits payable found by multiplying the potential number of beneficiaries by the highest average actual duration experienced in the 109 consecutive 12-month periods in the 10 years ending on September 30; and

(d) The potential maximum annual benefits payable found by multiplying the potential annual number of weeks of benefits payable by the average payment made to beneficiaries for weeks of total unemployment in the 12 months ending on September 30.

8. The Administrator shall issue an individual statement, itemizing benefits charged during the 12-month period ending on the computation date, total benefit charges, total contributions paid, reserve balance and the rate of contributions to apply for that calendar year, for each employer whose account is in active status on the records of the Division on January 1 of each year and whose account is chargeable with benefit payments on the computation date of that year.

9. If an employer transfers its trade or business, or a portion thereof, to another employer:

(a) And there is substantially common ownership, management or control of the employers, the experience record attributable to the transferred trade or business must be transferred to the employer to whom the trade or business is transferred. The rates of both employers must be recalculated, and the recalculated rates become effective on the date of the transfer of the trade or business. If the Administrator determines, following the transfer of the experience record pursuant to this paragraph, that the sole or primary purpose of the transfer of the trade or business was to obtain a reduced liability for contributions, the Administrator shall combine the experience rating records of the employers involved into a single account and assign a single rate to the account.

(b) And there is no substantially common ownership, management or control of the employers, the experience record of an employer may be transferred to a successor employer as of the effective date of the change of ownership if:

(1) The successor employer acquires the entire or a severable and distinct portion of the business, or substantially all of the assets, of the employer;

(2) The successor employer notifies the Division of the acquisition in writing within 90 days after the date of the acquisition;

(3) The employer and successor employer submit a joint application to the Administrator requesting the transfer; and

(4) The joint application is approved by the Administrator.

➥ The joint application must be submitted within 1 year after the date of issuance by the Division of official notice of eligibility to transfer.

(c) Except as otherwise provided in paragraph (a), a transfer of the experience record must not be completed if the Administrator determines that the acquisition was effected solely or primarily to obtain a more favorable contribution rate.

(d) Any liability to the Division for unpaid contributions, interest or forfeit attributable to the transferred trade or business must be transferred to the successor employer. The percentage of liability transferred must be the same as the percentage of the experience record transferred.

10. Whenever an employer has paid no wages in employment for 8 consecutive calendar quarters following the last calendar quarter in which the employer paid wages for employment, the Administrator shall terminate the employer's experience rating account, and the account must not thereafter be used in any rate computation.

11. The Administrator may adopt reasonable accounting methods to account for those employers which are in a category for providing reimbursement in lieu of contributions.

12. ~~[The]~~ To the extent allowed by federal law, the Administrator may, by regulation, suspend, modify, amend or waive any requirement of this section for the duration of a state of emergency or declaration of disaster proclaimed pursuant to NRS 414.070 and for any additional period of time during which the emergency or disaster directly affects the requirement of this section if:

(a) The Administrator determines the action is:

(1) In the best interest of the Division, this State or the general health, safety and welfare of the citizens of this State; or

(2) Necessary to comply with instructions received from the Department of Labor; and

(b) The action of the Administrator is approved by the Governor.

Sec. 13. NRS 612.551 is hereby amended to read as follows:

612.551 1. Except as otherwise provided in subsections 2, 3 and 7, if the Division determines that a claimant has earned 75 percent or more of his or her wages during his or her base period from one employer, it shall notify the employer *by mail* of its determination and advise him or her that he or she has a right to protest the charging of benefits to his or her account pursuant to subsection 4 of NRS 612.550.

2. Benefits paid pursuant to an elected base period in accordance with NRS 612.344 must not be charged against the record for experience rating of the employer.

3. Except as otherwise provided in subsection 7, if a claimant leaves his or her last or next to last employer to take other employment and leaves or is discharged by the latter employer, benefits paid to the claimant must not be charged against the record for experience rating of the former employer.

4. If the employer provides evidence within 10 working days after the notice required by subsection 1 was mailed which satisfies the Administrator that the claimant:

(a) Left his or her employment voluntarily without good cause or was discharged for misconduct connected with the employment; or

(b) Was the spouse of an active member of the Armed Forces of the United States and left his or her employment because the spouse was transferred to a different location,

➥ the Administrator shall order that the benefits not be charged against the record for experience rating of the employer.

5. The employer may appeal from the ruling of the Administrator relating to the cause of the termination of the employment of the claimant in the same manner as appeals may be taken from determinations relating to claims for benefits.

6. A determination made pursuant to this section does not constitute a basis for disqualifying a claimant to receive benefits.

7. If an employer who is given notice of a claim for benefits pursuant to subsection 1 fails to submit timely to the Division all known relevant facts which may affect the claimant's rights to benefits as required by NRS 612.475, the employer's record for experience rating is not entitled to be relieved of the amount of any benefits paid to the claimant as a result of such failure that were charged against the employer's record pursuant to NRS 612.550 or 612.553.

8. ~~[The]~~ To the extent allowed by federal law, the Administrator may, by regulation, suspend, modify, amend or waive any requirement of this section for the duration of a state of emergency or declaration of disaster proclaimed

pursuant to NRS 414.070 and for any additional period of time during which the emergency or disaster directly affects the requirement of this section if:

(a) The Administrator determines the action is:

(1) In the best interest of the Division, this State or the general health, safety and welfare of the citizens of this State; or

(2) Necessary to comply with instructions received from the Department of Labor; and

(b) The action of the Administrator is approved by the Governor.

Sec. 14. NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

(a) The Governor.

(b) Except as otherwise provided in NRS 209.221, the Department of Corrections.

(c) The Nevada System of Higher Education.

(d) The Office of the Military.

(e) The Nevada Gaming Control Board.

(f) Except as otherwise provided in NRS 368A.140 and 463.765, the Nevada Gaming Commission.

(g) Except as otherwise provided in NRS 425.620, the Division of Welfare and Supportive Services of the Department of Health and Human Services.

(h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services.

(i) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.

(j) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.

(k) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.

(l) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 445C.310.

(m) The Silver State Health Insurance Exchange.

(n) The Cannabis Compliance Board.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the *adoption of an emergency regulation or the* distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

(d) NRS 90.800 for the use of summary orders in contested cases,

➥ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;

(c) A regulation adopted by the State Board of Education pursuant to NRS 388.255 or 394.1694;

(d) The judicial review of decisions of the Public Utilities Commission of Nevada;

(e) The adoption, amendment or repeal of policies by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation pursuant to NRS 426.561 or 615.178;

(f) The adoption or amendment of a rule or regulation to be included in the State Plan for Services for Victims of Crime by the Department of Health and Human Services pursuant to NRS 217.130; or

(g) The adoption, amendment or repeal of rules governing the conduct of contests and exhibitions of unarmed combat by the Nevada Athletic Commission pursuant to NRS 467.075.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

Sec. 15. Notwithstanding any provision of NRS 612.390 to the contrary, for the period of time that any emergency directive issued by the Governor pursuant to chapter 414 of NRS relating to the outbreak of the disease identified by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services as COVID-19 remains in effect, the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation shall, by regulation, establish justifications related to COVID-19 that may constitute

good cause for a person to refuse suitable work. Such justifications may include, without limitation, that:

1. 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 because the person falls into one of the categories deemed high risk for contracting COVID-19 by the Centers for Disease Control and Prevention.

2. The person is sick or in isolation as a direct result of COVID-19.

3. There is an unreasonable risk of exposure to COVID-19 at the place of employment of the person and the person falls into one of the categories deemed high risk for contracting COVID-19 by the Centers for Disease Control and Prevention.

4. 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.

5. The person is caring for a child who is unable to attend school or a child care facility because of COVID-19.

6. The person is 65 years of age or older.

7. The person is under any other circumstance that the Administrator determines, when considering the totality of the person's circumstances, constitutes good cause.

Sec. 16. Notwithstanding the provisions of NRS 218D.430 and 218D.435, a committee may vote on this act before the expiration of the period prescribed for the return of a fiscal note in NRS 218D.475. This section applies retroactively from and after August 2, 2020.

Sec. 17. As soon as practicable, upon determining that sufficient resources are available to the Employment Security Division of the Department of Employment, Training and Rehabilitation to carry out the amendatory provisions of section 4 of this act, the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation shall notify the Governor and the Director of the Legislative Counsel Bureau of that fact, and shall publish on the Internet website of the Division notice to the public of that fact.

Sec. 17.5. To the extent allowed by federal law:

1. The amendatory provisions of sections 8, 9 and 15 of this act apply retroactively to any week of unemployment ending on or after May 28, 2020.

2. Any regulation adopted by the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation pursuant to section 8, 9 or 15 of this act may be applied retroactively to any week of unemployment ending on or after May 28, 2020.

Sec. 18. 1. This section and sections 1, 2, 3 and 5 to ~~[17.]~~ 17.5, inclusive, of this act become effective upon passage and approval.

2. Section 4 of this act becomes effective:

(a) Sixty days after passage and approval of this act; or

(b) On the date on which the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation, pursuant to section 17 of this act, notifies the Governor and the Director of the Legislative Counsel Bureau that sufficient resources are available to enable the Division to carry out the amendatory provisions of section 4 of this act, whichever occurs first.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 4 to Senate Bill No. 3 adds the phrase "to the extent allowed by federal law" to provisions allowing the Administrator to waive statutory provisions, which clarifies that the regulations should not go beyond the intent of federal law. It makes retroactive to any week ending on or after May 23, 2020, provisions relating to deductible income for severance pay and vacation pay, as well as provisions in section 15 of the bill relating to the showing of good cause for refusing to work due to COVID-19 reasons.

Amendment adopted.

Bill read third time.

Remarks by Senators Woodhouse, Hammond, Cancela and Pickard.

SENATOR WOODHOUSE:

Senate Bill No. 3 makes numerous changes to provisions relating to unemployment compensation, including streamlining the procedures by which such compensation is granted and expanding eligibility requirements for receipt of unemployment benefits. The measure extends the authority to adopt emergency administrative regulations to the Administrator of the Employment Security Division of DETR. It allows the Administrator, with the Governor's approval, to adopt regulations during a State of Emergency or Declaration of Disaster, to not modify, suspend or waive requirements relating to unemployment compensation in the best interests of the Division and the public and to comply with instructions received from the United States Department of Labor.

Senate Bill No. 3 amends provisions relating to extended unemployment benefits to allow the State to receive additional federal money for its unemployment-insurance program. The bill expands the eligibility for unemployment benefits for persons who perform less than full-time work, modifies various triggers in the law for the receipt of extended benefits, and specifies the method of determining the amount of extended benefits that are payable to persons during high-unemployment periods. The Administrator is granted regulator authority to waive or modify the period of disqualification from benefit payments for good cause shown or if he or she determines such action is necessary to expedite benefits and protect the health, safety and well-being of claimants. In addition, the Administrator must establish, by regulation, the justifications relating to the outbreak of COVID-19 that constitute good cause for a person to refuse suitable work, including being sick or in isolation due to COVID-19, the unreasonable risk of exposure to the disease or the need to care for a family member who is suffering from COVID-19.

This regulatory authority is retroactive to any week of unemployment ending on or after May 28, 2020, and any regulations adopted using this authority also apply retroactively to those weeks of unemployment.

Finally, Senate Bill No. 3 authorizes the Administrator to provide documents or communications relating to unemployment insurance electronically upon request. Such electronic communication does not relieve the Administrator from any obligation to provide a form, notice or other document in different format as required by federal or State laws.

SENATOR HAMMOND:

Most of my colleagues in this Chamber know me well and will tell you I have a generally calm and collected manner. It takes a lot to make me angry or upset. This, however, is one of those times.

Since the beginning of quarantine, I have attempted to hold weekly tele-town hall meetings; occasionally, it has been every other week, and many people tune in to listen. The audience has grown from just people in my district, District 18, to now include people from across the State. They heard they could get some help or just listened to know they were not alone. For one hour each week, and many hours afterwards on the phone, I had the opportunity to hear from Nevadans. They are worried they will not have enough food on the table, gas in the car to get to work or money to pay their bills. I have had thousands of Nevadans call, and I have listened, with a broken heart, to their stories. I have done everything in my power to help them every week since this started 138 days ago. I want my colleagues to remember that number, 138 days.

We have been in two Special Sessions for 16 days, and this is the first time legislation relating to DETR has come forth. It is the first time a true piece of emergency legislation is before us. We are just now getting to a piece of legislation that helps Nevada families and changes or affects their lives. This brings shame to this Chamber and our system of governance. We have failed our people. In place of their hurt and fear, we have put nonsense and phony emergencies.

I motioned for this to be an emergency measure. I do not know why this did not come up earlier in this Session or in the 31st Special Session. It is a failure of leadership and a complete meltdown of governance. This Body owes Nevada families more than a check. We owe them an apology for the repeated failure to address their fears, concerns and financial difficulties. This bill does not address all of the issues related to DETR and unemployment insurance. Nevadans are suffering, and they need this money and need it now. This piece of legislation rises to the level of an emergency and deserves our immediate attention. It cannot wait any longer. I urge the Body's support of this bill.

SENATOR CANCELA:

I rise in support of this bill. I entered my supporting testimony on the record yesterday. I want to inform the Body the language in this bill is based on conversations with the Department of Labor and applying their feedback to comply with current federal language. Upon the Department's recommendations, additional language was added in order to solve any challenges that may be brought forward relating to whether or not the Department of Labor would support this language moving forward. I urge your support.

SENATOR PICKARD:

I truly appreciate the Majority Leader and everyone who have listened, and with particularity, my colleague from Senate District 15, who made an impassioned request to retroactively process this bill. I appreciate the fact it was heard. We have made the appropriate decisions and have accomplished what we came here to do. I thank the Body for making this change and making this possible.

Roll call on Senate Bill No. 3:

YEAS—21.

NAYS—None.

Senate Bill No. 3 having received a constitutional majority, President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, August 3, 2020

To the Honorable the Senate:

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

CAROL AIELLO-SALA

Assistant Chief Clerk of the Assembly

Senator Cannizzaro moved that the Senate adjourn until Tuesday, August 4, 2020, at 1:00 p.m.

Motion carried.

Senate adjourned at 2:50 a.m.

Approved: MOISES DENIS
President pro Tempore of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate