



**THE LEGISLATIVE COMMISSION  
OF THE STATE OF NEVADA**

In the Matter of Litigation in the Case of *Nevada  
Policy Research Institute v. Cannizzaro, et al.*,  
Case No. A-20-817757-C, Eighth Judicial  
District Court, Clark County.

**RESOLUTION OF THE  
LEGISLATIVE COMMISSION**

WHEREAS, On several occasions since 2002, the Legal Division of the Legislative Counsel Bureau (Legal Division), after receiving requests for a legal opinion under NRS 218F.710, has provided written legal opinions to members of the Legislature, who have elected to release the written legal opinions to the public, concluding that the separation-of-powers provision in Article 3, Section 1 of the Nevada Constitution (separation-of-powers provision) does not prohibit state legislators from holding positions of public employment with the state executive branch or with local governments; and

WHEREAS, In litigation before the Nevada Supreme Court in 2004, which involved a separation-of-powers challenge to state legislators holding positions of public employment with the state executive branch or with local governments, the Legal Division argued that the separation-of-powers provision does not prohibit state legislators from holding positions of public employment with the state executive branch or with local governments. (*Heller v. Legislature*, 120 Nev. 456 (2004)); and

WHEREAS, In the litigation before the Nevada Supreme Court in 2004, the Court decided the case on different legal grounds, and the Court did not decide the merits of the separation-of-powers challenge to state legislators holding positions of public employment with the state executive branch or with local

1 governments. (*Heller v. Legislature*, 120 Nev. 456 (2004)); and

2 WHEREAS, On August 8, 2020, after receiving a request for a written legal opinion under  
3 NRS 218F.710, the Legal Division provided a written legal opinion—which the requester has elected to  
4 release to the public—concluding that it remains the opinion of the Legal Division that the separation-  
5 of-powers provision does not prohibit state legislators from holding positions of public employment  
6 with the state executive branch or with local governments; and

7 WHEREAS, The question of constitutional law of whether the separation-of-powers provision  
8 prohibits state legislators from holding positions of public employment with the state executive branch  
9 or with local governments implicates the official interests of the Legislature; and

10 WHEREAS, Pursuant to NRS 281A.020, it is the public policy of this State that “State Legislators  
11 serve as ‘citizen Legislators’ who have other occupations and business interests, who are expected to  
12 have particular philosophies and perspectives that are necessarily influenced by the life experiences of  
13 the Legislator, including, without limitation, professional, family and business experiences, and who are  
14 expected to contribute those philosophies and perspectives to the debate over issues with which the  
15 Legislature is confronted.”; and

16 WHEREAS, On July 9, 2020, a civil action was filed in the case of *Nevada Policy Research*  
17 *Institute v. Cannizzaro, et al.*, Case No. A-20-817757-C, Eighth Judicial District Court, Clark County  
18 (NPRI action); and

19 WHEREAS, On July 28, 2020, in the NPRI action, the plaintiff filed an amended complaint; and

20 WHEREAS, In the amended complaint in the NPRI action, the plaintiff named the following  
21 members of the Legislature as defendants: Nicole J. Cannizzaro; Kasina Douglass-Boone; Jason  
22 Frierson; Osvaldo Fumo; Heidi Seevers Gansert; Glen Leavitt; Brittney Miller; Dina Neal; James  
23 Ohrenschall; Melanie Scheible; Teresa Benitez-Thompson; Jill Tolles; and Selena Torres; and

24 WHEREAS, On August 29, 2020, in the NPRI action, the plaintiff first served the summons and a

1 copy of the amended complaint on one of the defendants; and

2 WHEREAS, In the amended complaint in the NPRI action, the plaintiff alleges and pleads several  
3 claims for declaratory and injunctive relief against the defendants; and

4 WHEREAS, In the amended complaint in the NPRI action, the claims for declaratory and injunctive  
5 relief include allegations that the defendants are persons simultaneously holding elected offices in the  
6 Legislature and paid positions with the state executive branch or with local governments in violation of  
7 the separation-of-powers provision; and

8 WHEREAS, Pursuant to NRS 218F.720, when deemed necessary or advisable to protect the official  
9 interests of the Legislature in any action or proceeding before any court, the Legislative Commission  
10 may direct the General Counsel and the Legal Division to appear in, commence, prosecute, defend or  
11 intervene in the action or proceeding; and

12 WHEREAS, Pursuant to NRS 218F.720, when a party to any action or proceeding before any court:  
13 (1) alleges that the Legislature, by its actions or failure to act, has violated the Constitution, treaties or  
14 laws of the United States or the Constitution or laws of this State; or (2) challenges, contests or raises as  
15 an issue, either in law or in equity, in whole or in part, or facially or as applied, the meaning, intent,  
16 purpose, scope, applicability, validity, enforceability or constitutionality of any law, resolution,  
17 initiative, referendum or other legislative or constitutional measure, the Legislature may elect to  
18 intervene in the action or proceeding; and

19 WHEREAS, Pursuant to NRS 218F.720, the Legislature has an unconditional right and standing to  
20 intervene in the action or proceeding and to present its arguments, claims, objections or defenses, in law  
21 or fact, whether or not the Legislature's interests are adequately represented by existing parties and  
22 whether or not the State or any agency, officer or employee of the State is an existing party; and

23 WHEREAS, Pursuant to NRS 218F.720, when the Legislature intervenes in the action or  
24 proceeding, the Legislature has all the rights of a party; now, therefore, be it

1           RESOLVED BY THE LEGISLATIVE COMMISSION OF THE STATE OF NEVADA, That based on the  
2 allegations and claims in the NPRI action, the Legislative Commission hereby finds and deems that it is  
3 necessary and advisable to protect the official interests of the Legislature in the NPRI action and in any  
4 related, associated or similar actions or proceedings, including, without limitation, any appeals, any  
5 petitions or applications for extraordinary writs or any other appellate review or relief of any kind; and  
6 be it further

7           RESOLVED, That to protect the official interests of the Legislature in the NPRI action, the  
8 Legislative Commission hereby directs the General Counsel and the Legal Division to take any and all  
9 actions on behalf of the Legislature that they deem to be necessary or advisable for the Legislature to  
10 appear in, commence, prosecute, defend or intervene in the NPRI action and in any related, associated or  
11 similar actions or proceedings, including, without limitation, any appeals, any petitions or applications  
12 for extraordinary writs or any other appellate review or relief of any kind.