

JOURNAL OF THE SENATE
THE SIXTY-SIXTH DAY

CARSON CITY (Wednesday), April 11, 2007

Senate called to order at 11:19 a.m.

President Krolicki presiding.

Roll called.

All present except Senator Care, who was excused.

Prayer by the Chaplain, Rosemary Smith.

Almighty God, Heavenly Father, we thank You for giving us this opportunity to serve the people of Nevada. We ask Your blessings upon the members of the Nevada State Senate. Lead them as they carry out the wishes of the people they represent. Keep them aware that the trust that has been given them is a sacred trust as well as their political obligation.

Bless not only our own Nevada Senators, but also those in our national Senate and House of Representatives who hold the future of all of us in the palms of their hands as God holds them in His. Be with our President and give him the wisdom to lead us safely into the future. We ask this in the Name of our Lord and Savior, Jesus Christ.

AMEN.

Pledge of Allegiance to the Flag.

Senator Raggio moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 53, 69, 86, 95, 100; Assembly Bill No. 9, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDOLPH J. TOWNSEND, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 456, 470; Assembly Bill No. 555, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WILLIAM J. RAGGIO, *Chair*

Mr. President:

Your Committee on Government Affairs, to which was referred Senate Bill No. 513, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, and rerefer to the Committee on Finance.

Also, your Committee on Government Affairs, to which was referred Senate Bill No. 514, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation and rerefer to the Committee on Finance.

WARREN B. HARDY II, *Chair*

Mr. President:

Your Committee on Human Resources and Education, to which were referred Senate Bills Nos. 5, 115, 169, 171, 184, 247, 266, 284, 326, 396, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAURICE E. WASHINGTON, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 132, 542; Senate Joint Resolution No. 9, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARK E. AMODEI, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which were referred Senate Bills Nos. 124, 267, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BARBARA K. CEGAUSKE, *Chair*

Mr. President:

Your Committee on Transportation and Homeland Security, to which were referred Senate Bills Nos. 43, 58, 90, 118, 206, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DENNIS NOLAN, *Chair*

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 10, 2007

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 229, 237, 385, 531, 552.

GARY GHIGGERI
Fiscal Analysis Division

April 11, 2007

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bill No. 131.

GARY GHIGGERI
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 18.

Resolution read.

Senator Washington moved the adoption of the resolution.

Remarks by Senator Washington.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

Senator Hardy moved that Senate Bill No. 513 be rereferred to the Committee on Finance.

Motion carried.

Senator Hardy moved that Senate Bill No. 514 be rereferred to the Committee on Finance.

Motion carried.

Senator Beers moved that Senate Bill No. 139 be taken from the Secretary's desk and placed on the bottom of the General File.

Remarks by Senator Beers.

Motion carried.

Senator Washington moved that Senate Bill No. 415 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senator Washington.

Motion carried.

Senator Amodei moved that Senate Bill No. 77 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Amodei.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 556—AN ACT relating to the judicial system; creating the Supreme Court Commission on Law Libraries and the District Court Commission on Law Libraries; and providing other matters properly relating thereto.

Senator Raggio moved that the bill be referred to the Committee on Finance.

Motion carried.

WAIVERS AND EXEMPTIONS WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Legislative Counsel.

For: Senate Bill No. 556.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.2.

Subsection 1 of Joint Standing Rule No. 14.3.

Subsection 2 of Joint Standing Rule No. 14.3.

Has been granted effective: April 9, 2007.

WILLIAM J. RAGGIO
Senate Majority Leader

BARBARA E. BUCKLEY
Speaker of the Assembly

SECOND READING AND AMENDMENT

Senate Bill No. 33.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 60.

"SUMMARY—~~Requires the manager of a gated community to provide to parole and probation officers the code or device which allows entry to the community.~~ Makes an appropriation to the Division of Parole and Probation of the Department of Public Safety for the acquisition and installation of electronic devices to access gated communities.

(BDR ~~16~~ S-560)"

"AN ACT ~~relating to supervision; requiring a parole and probation officer to request the code or device which allows entry to a gated community if a parolee or probationer who is under the supervision of the parole and probation officer resides or works in the gated community; requiring the manager of a gated community to provide the code or device which allows~~

~~entry to the community to a parole and probation officer who makes such a request,] making an appropriation to the Division of Parole and Probation of the Department of Public Safety for the acquisition and installation of electronic devices to access gated communities; and providing other matters properly relating thereto."~~

~~[Legislative Counsel's Digest:~~

~~Existing law requires parole and probation officers to supervise all persons who are placed on parole or probation. (NRS 213.1096) This bill provides that if a person on parole or probation resides or works in a gated community, the parole and probation officer who is responsible for the supervision of that person must request from the manager of the gated community the code or device which allows entry to the community. If a parole and probation officer submits to the manager of the gated community a written request for the code or device which allows entry to the community and presents official identification, this bill requires the manager of the gated community to provide the code or device to the parole and probation officer.]~~

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

Delete existing sections 1 through 3 of this bill and replace with the following new sections 1 and 2:

Section 1. 1. There is hereby appropriated from the State General Fund to the Division of Parole and Probation of the Department of Public Safety the sum of \$24,300 for:

(a) The acquisition of electronic devices that allow entry into a gated community; and

(b) The installation of such devices in official vehicles of the Division.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 2. This act becomes effective on July 1, 2007.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 131.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 169.

"SUMMARY—Makes various changes regarding certain court fees charged ~~and collected~~ by county clerks ~~and~~ and information collected by governmental entities. (BDR 2-385)"

"AN ACT relating to ~~county clerks;~~ governmental administration; authorizing each county clerk to charge and collect an additional fee to pay for the acquisition and improvement of technology used in the office of the county clerk; increasing the amount of certain court fees charged and collected by county clerks; requiring the Department of Cultural Affairs to conduct a study of the feasibility of creating a shared digital archive for electronic records and information collected by governmental entities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires each county clerk to charge and collect certain fees relating to certain civil actions and proceedings in district court. (NRS 19.013-19.0335) Section 2 of this bill increases certain fees charged and collected by each county clerk and authorizes each county clerk to charge and collect an additional fee not to exceed \$5 for filing and recording a bond of a notary public, per name. The additional fee, if charged and collected, must be credited to an account described in section 1 of this bill. (NRS 19.013) Section 1 provides that if a county clerk charges and collects an additional fee for filing and recording a bond of a notary public, the proceeds must be accounted for separately in the county general fund and the money in the account must be used only to acquire technology for or to improve technology used in the office of the county clerk.

Section 3 of this bill directs the Department of Cultural Affairs, in consultation with the Department of Information Technology, to conduct a study to determine the feasibility of creating and maintaining a shared digital archive to store, preserve and provide access to permanent digital records and other electronic information collected by the State and local governments.

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

Section 1. Chapter 19 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If a county clerk imposes an additional fee pursuant to subsection 2 of NRS 19.013, the proceeds collected from such a fee must be accounted for separately in the county general fund. Any interest earned on money in the account, after deducting any applicable charges, must be credited to the account. Money that remains in the account at the end of a fiscal year does not revert to the county general fund, and the balance in the account must be carried forward to the next fiscal year.*

2. *The money in the account must be used only to acquire technology for or to improve technology used in the office of the county clerk, including, without limitation, costs related to acquiring or improving technology for converting and archiving records, purchasing hardware and software,*

maintaining the technology, training employees in the operation of the technology and contracting for professional services relating to the technology.

Sec. 2. NRS 19.013 is hereby amended to read as follows:

19.013 1. Except as otherwise provided by specific statute, each county clerk shall charge and collect the following fees:

- On the commencement of any action or proceeding in the district court, or on the transfer of any action or proceeding from a district court of another county, except probate or guardianship proceedings, to be paid by the party commencing the action, proceeding or transfer.....~~[\$56]~~ \$70
- On an appeal to the district court of any case from a justice court or a municipal court, or on the transfer of any case from a justice court or a municipal court~~[42]~~ 52
- On the filing of a petition for letters testamentary, letters of administration, setting aside an estate without administration, or a guardianship, which fee includes the court fee prescribed by NRS 19.020, to be paid by the petitioner:
 - Where the stated value of the estate is more than \$2,500.....~~[72]~~ 85
 - Where the stated value of the estate is \$2,500 or less, no fee may be charged or collected.
- On the filing of a petition to contest any will or codicil, to be paid by the petitioner.....~~[44]~~ ~~/\$7~~ 55
- On the filing of an objection or cross-petition to the appointment of an executor, administrator or guardian, or an objection to the settlement of account or any answer in an estate or guardianship matter~~[44]~~ 55
- On the appearance of any defendant or any number of defendants answering jointly, to be paid upon the filing of the first paper in the action by him or them~~[44]~~ 55
- For filing a notice of appeal~~[24]~~ 30
- For issuing a transcript of judgment and certifying thereto.....3
- For preparing any copy of any record, proceeding or paper, for each page 1
- For each certificate of the clerk, under the seal of the court.....3
- For examining and certifying to a copy of any paper, record or proceeding prepared by another and presented for his certificate.....5
- For filing all papers not otherwise provided for, other than papers filed in actions and proceedings in court and papers filed by public officers in their official capacity5
- For issuing any certificate under seal, not otherwise provided for 6 ~~10~~

For searching records or files in his office, for each year.....1
 For filing and recording a bond of a notary public, per name15
 For entering the name of a firm or corporation in the register
 of the county clerk.....20

2. *A county clerk may charge and collect, in addition to any fee that a county clerk is otherwise authorized to charge and collect, an additional fee not to exceed \$5 for filing and recording a bond of a notary public, per name. On or before the fifth day of each month, the county clerk shall pay to the county treasurer the amount of fees collected by him pursuant to this subsection for credit to the account established pursuant to section 1 of this act.*

3. Except as otherwise provided by specific statute, all fees prescribed in this section are payable in advance if demanded by the county clerk.

~~{3-}~~ 4. The fees set forth in subsection 1 are payment in full for all services rendered by the county clerk in the case for which the fees are paid, including the preparation of the judgment roll, but the fees do not include payment for typing, copying, certifying or exemplifying or authenticating copies.

~~{4-}~~ 5. No fee may be charged to any attorney at law admitted to practice in this State for searching records or files in the office of the clerk. No fee may be charged for any services rendered to a defendant or his attorney in any criminal case or in habeas corpus proceedings.

~~{5-}~~ 6. Each county clerk shall, on or before the fifth day of each month, account for and pay to the county treasurer all fees collected during the preceding month.

Sec. 3. 1. The Department of Cultural Affairs shall, during the 2007-2009 interim, conduct a study to determine the feasibility of creating and maintaining a shared digital archive to store, preserve and provide access to the permanent digital records, publications, images and other electronic information collected by the State and local governments.

2. In conducting the study pursuant to subsection 1, the Department of Cultural Affairs shall work in consultation with and solicit advice and recommendations from the Department of Information Technology.

3. The Director of the Department of Cultural Affairs shall submit a report of the results of the study and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature.

Sec. 4. This act becomes effective on July 1, 2007.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 163.

Bill read second time and ordered to third reading.

Senate Bill No. 174.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 163.

"SUMMARY—Provides that an expression of apology or regret made by or on behalf of a provider of health care is inadmissible in any civil or administrative proceeding brought against the provider of health care based upon alleged professional negligence. (BDR 4-794)"

"AN ACT relating to evidence; providing that an expression of apology or regret made by or on behalf of a provider of health care is inadmissible in any civil or administrative proceeding brought against the provider of health care based upon alleged professional negligence; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill, which is patterned after similar legislation that has been enacted in other states, provides that an expression of apology or regret made by or on behalf of a provider of health care is inadmissible in any civil or administrative proceeding brought against the provider of health care based upon alleged professional negligence.

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

Section 1. Chapter 48 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *In any civil proceeding or administrative proceeding brought against a provider of health care based upon alleged professional negligence, evidence of any written or oral communication, gesture or conduct that:*

(a) *Is made by or on behalf of the provider of health care;*

(b) *Expresses apology, regret, ~~fault~~ sympathy, commiseration, condolence or compassion relating to the pain, suffering or death of the alleged victim of professional negligence or the immediate family of the alleged victim; and*

(c) *Is made to the alleged victim, the immediate family of the alleged victim, or a friend of the alleged victim or immediate family of the alleged victim,*

↪ *is not admissible for any purpose.*

2. *As used in this section:*

(a) *"Civil proceeding" includes, without limitation, arbitration and mediation.*

(b) *"Immediate family" means persons who are related by blood, adoption or marriage, within the second degree of consanguinity or affinity.*

(c) *"Professional negligence" has the meaning ascribed to it in NRS 41A.015.*

(d) *"Provider of health care" has the meaning ascribed to it in NRS 41A.017.*

Sec. 2. The amendatory provisions of this act apply to any civil proceeding or administrative proceeding that is conducted on or after October 1, 2007.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 228.

Bill read second time and ordered to third reading.

Senate Bill No. 282.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 193.

"SUMMARY—Makes supplemental appropriations to the Department of Corrections for increased costs at various facilities. (BDR S-1258)"

"AN ACT making supplemental appropriations to the Department of Corrections for increased costs at various facilities; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State General Fund to the Department of Corrections the sum of ~~[\$5,697,616]~~ \$6,473,243 for ~~increased costs at various facilities to be allocated as follows:~~

~~1. For~~ unanticipated revenue shortfalls, personnel, operating, maintenance, inmate transportation, inmate-driven expenses and utilities for the Fiscal Year 2006-2007 ~~the sum of \$4,560,201~~ allocated as follows:

1. Revenue shortfalls of \$640,709 allocated as follows:

(a) Office of the Director \$1,776

(b) Nevada State Prison \$28,276

(c) Ely State Prison \$26,101

(d) Casa Grande Transitional Housing \$584,556

2. Personnel expenses of \$616,919 allocated as follows:

(a) Medical care \$408,358

(b) Office of the Director \$208,561

~~(a)~~ 3. Operating expenses of ~~[\$32,661]~~ \$45,740 allocated as follows:

~~(1) Indian Springs Conservation Camp~~ ~~\$3,271~~

(a) Nevada State Prison \$18,703

~~(2)~~ (b) Southern Desert Correctional Center ~~[\$3,749]~~ \$1,152

~~(3)~~ (c) Ely State Prison ~~[\$25,641]~~ \$25,885

4. General maintenance expenses allocated to the

Northern Nevada Correctional Center \$7,398

~~(b)~~ 5. Maintenance contract expenses ~~for the Southern~~
Nevada Women's Correctional Center \$12,960

~~(c)~~ allocated to Nevada State Prison \$628

6. Inmate transportation expenses allocated to the Office of the Director	[\$26,000]
(d)	\$982
7. Inmate-driven expenses of [\$2,165,848] <u>\$3,003,130</u> allocated as follows:	
(1) (a) Medical care	[\$1,872,625]
(2)	\$2,213,205
(b) Northern Nevada Correctional Center	\$66,873
(c) Nevada State Prison	\$30,754
(d) Southern Desert Correctional Center	[\$111,180]
(3)	\$248,480
(e) Jean Conservation Camp	[\$26,415]
(4)	\$24,643
(f) Silver Springs Conservation Camp	\$3,640
(5) Ely State Prison	[\$122,686]
(6)	\$186,155
Southern Nevada Women's Correctional Center	\$29,302
(e) (g) High Desert State Prison	\$233,020
8. Utility expenses of [\$2,322,732] <u>\$2,157,737</u> allocated as follows:	
(1) (a) Northern Nevada Correctional Center	[\$624,253]
(2)	\$535,100
(b) Nevada State Prison	[\$222,000]
(3)	\$220,022
(c) Stewart Conservation Camp	\$12,295
(4) Pioche Conservation Camp	\$14,080
(5) Northern Nevada Restitution Center	\$4,249
(6) Indian Springs Conservation Camp	\$14,292
(7) Southern Desert Correctional Center	[\$140,772]
(8) Wells Conservation Camp	\$10,858
(9) Humboldt Conservation Camp	\$23,775
(10) Ely Conservation Camp	\$32,351
(11)	\$237,009
(d) Jean Conservation Camp	[\$36,178]
(12)	\$54,880
(e) Silver Springs Conservation Camp	[\$20,636]
(13)	\$3,885
(f) Ely State Prison	[\$282,786]
(14) Carlin Conservation Camp	\$5,050
(15) Tonopah Conservation Camp	\$32,307
(16) Lovelock Correctional Center	\$100,548
(17) Southern Nevada Women's Correctional Center	\$18,738
(18)	\$187,997
(g) High Desert State Prison	[\$727,564]
2. For a portion of the building lease purchase payment for Casa Grande Transitional Housing for the Fiscal Year 2006-2007	\$400,000

~~3. For salaries and support costs for seven Senior Correctional Officers and three Correctional Officers in the Disruptive Group housing unit for Lovelock Correctional Center for the Fiscal Year 2006-2007..... \$737,415] \$918,844~~

Sec. 2. The appropriation made in section 1 of this act is supplemental to that made by section 23 of chapter 434, Statutes of Nevada 2005, at page 1941.

Sec. 3. This act becomes effective upon passage and approval.

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 398.

Bill read second time and ordered to third reading.

Senate Bill No. 409.

Bill read second time and ordered to third reading.

Senate Bill No. 419.

Bill read second time and ordered to third reading.

Senate Bill No. 444.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 173.

"SUMMARY—Makes a supplemental appropriation to the Office of the Governor for ~~terminal leave~~ *dues for the National Governors Association* and other costs. (BDR S-1240)"

"AN ACT making a supplemental appropriation to the Office of the Governor for ~~terminal leave~~ *increased dues for the National Governors Association* and other costs; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State General Fund to the Office of the Governor the sum of ~~[\$80,726 to provide terminal leave costs, a \$10,000 increase in]~~ *\$63,357 for increased dues to the National Governors Association, ~~and~~ consultant costs for the Governor's Commission on Medical Education, Research and Training and contract costs related to maintaining a bill tracking database for the 2007 Legislative Session.* This appropriation is supplemental to that made by section 2 of chapter 434, Statutes of Nevada 2005, at page 1936.

Sec. 2. This act becomes effective upon passage and approval.

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.
Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 515.
Bill read second time and ordered to third reading.

Senate Bill No. 520.
Bill read second time and ordered to third reading.

Senate Bill No. 534.
Bill read second time and ordered to third reading.

Assembly Bill No. 607.
Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Senate Bill No. 33 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 131 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 14.

Bill read third time.

Remarks by Senators Carlton, McGinness, Titus, Amodei, Rhoads, Mathews, Cegavske and Coffin.

Senator Coffin requested that the following remarks be entered in the Journal.

SENATOR CARLTON:

Thank you, Mr. President. I would like to preface my questions with a statement that I grew up with parents who smoked. It bothered me for years. I lost my mother to smoking. I understand what we are trying to achieve with children and smoking.

The concern I have with this law as it applies to young people, is that when they turn 18 they will fill out a job application and, there is a little box on the application asking about encounters with law enforcement, traffic tickets, citations, felonies and whatever. Could this possibly harm them in the future when they are trying to seek employment? I think when a person turns 18, we should try to give them a clean slate. We should not hold those mistakes against them. However, once they enter a system and there is documentation on that, will it come back to haunt them when they are 19 and 20 years old?

SENATOR MCGINNESS:

Thank you, Mr. President. We have put a provision in the bill that once they reach the age of 18 and have successfully completed the Tobacco Awareness and Cessation Program that the court must seal the records.

SENATOR TITUS:

Thank you, Mr. President. I know it is already illegal to sell to children under the age of 18, and now, we are going to make it illegal for children under 18 to purchase, have or use tobacco products. We are going to put the police in charge of finding them and citing them. Nevada has overcrowded courts. We have become a haven for sex offenders. We are the third worst state in the Country for car theft. Violent crimes are up in our urban areas. Should not our resources for courts, police, parole officers and the Judicial Branch be focused on those crimes as opposed to whether an 18-year-old has a cigarette or not?

SENATOR AMODEI:

Absolutely, this is why, after extensive input from the juvenile probation community, it was changed to a traffic offense matter. We conducted extensive hearings to make certain that we did not use any resources of juvenile probation or juvenile court. The other side is, in the face of an initiative petition state-wide concerning the rigors of smoking, it does not make much sense to make it illegal to sell to those under 18 years of age and have no way to enforce that. The committee heard a lot of testimony from schools about the areas across the street from the schools being used by people under 18 using tobacco products. Tobacco use in this State is something that this Legislature has dealt with extensively since the time I have been here, continues to deal with extensively, and it appears on the ballot. We deal with adults telling them where you can, and cannot use tobacco. We give all the information on tobacco and then turn a blind eye to those who are under 18 using tobacco products. We require absolutely no consequence for them breaking the law. It did not seem like the right value judgment or message to send to the youth of our State.

We have turned this into what is essentially a traffic-ticket offense. We say to them, "While we are not going to put you into the full force of the juvenile system, if you are going to openly break the law, which, I believe, is a good value judgment to give to young people, there is a consequence." The first time caught, it is a \$25 ticket; the second, a \$50; the third, a \$75 ticket, and the fourth time, \$75 and a requirement to attend a class. That is not unleashing the full resources of law enforcement, and it not clogging the courts in any way, shape or form.

SENATOR RHOADS:

Thank you, Mr. President. I was wondering if the fiscal notes are right in our book since the bill has now been amended. It says Carson City, \$80,000 a year to police this bill; Churchill County, \$50,000; Elko County, \$107,000; Lander County, \$680,000; and Washoe County, \$177,000. Was the bill changed so that these costs are no longer there?

SENATOR AMODEI:

That was preamendment language. It now has the support of all of the Counties mentioned as well as the other juvenile probation counties and departments not mentioned.

SENATOR MCGINNESS:

Aside from the health issues, which I think should be paramount, this bill was requested by the Churchill County School District because they, like so many other high schools in the State, have, across the street from the high school, a smoker's corner. This area is used by the students because it is not legal to smoke on the school grounds. The sidewalks and grounds of the property become littered with cigarette butts. The children from the middle school must run the gamut of the smokers on their way to an elementary school just down the street. Churchill County School District has asked us for a method to police this activity. The Fallon Police Department is ready to step up and do this. I am certain that if there is someone robbing a bank downtown, the police are not going to sit out by the high school watching for smokers. They say they are ready to enforce this and any other problems that may come up.

While I was researching this, almost every person I talked to said, "I know at my kid's school, they go across to the park or to the church across the street." This would give law enforcement the opportunity to police this.

SENATOR MATHEWS:

Thank you, Mr. President. We cannot get enforcement for the nonsmoking petition passed during the last election. People are still fighting it. We cannot get anyone to decide who is going

enforce this law. Is this a primary offense bill? By the way, I am a lifelong nonsmoker and do not endorse smoking for anyone.

SENATOR AMODEI:

If they want to send the issue to Committee on Judiciary, we will get you something to talk about.

SENATOR CEGAVSKE:

Thank you, Mr. President. I rise in support of Senate Bill No. 14. As a previous 7-11 owner for 13 years, we saw children standing outside the store who asked adults to not only buy them alcohol but also cigarettes. The children could be arrested and charged for possession of alcohol but not for the cigarettes. I commend the committee who worked on this. It was frustrating as an owner to watch the children ask adults to get these products; yet, the only crime the children could be charged with was possession of alcohol not the cigarettes.

SENATOR COFFIN:

Thank you, Mr. President. I have a question on section 5 where it talks about stopping or detaining someone by an officer. If a traffic officer observes a young person driving and is not certain of the age and sees them smoking in the car, and chooses to pull them over to check their age, is this a primary offense?

SENATOR AMODEI:

Yes.

SENATOR COFFIN:

That statement alone forces me to have to vote "no" on this bill.

SENATOR TITUS:

Thank you, Mr. President. To go back to the point, if the problem in Churchill County is trespassing and littering, that is how we should deal with the problem not by creating this law, which can have greater, unintended consequences, create bigger problems and strain law enforcement and the judicial resources.

Even if the offense is treated as a traffic ticket, someone has to enforce it. Some police officer has to make a stop. Someone has to report the violation. Someone has to collect the fine. Someone has to run the school they are going to attend. If we really wanted them not to smoke, we should say that on the first offense they should have to go to the school and not wait until the third offense because they are already smoking, which is bad for their health and bad for society.

Roll call on Senate Bill No. 14:

YEAS—14.

NAYS—Carlton, Coffin, Horsford, Lee, Mathews, Titus—6.

EXCUSED—Care.

Senate Bill No. 14 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 31.

Bill read third time.

Roll call on Senate Bill No. 31:

YEAS—20.

NAYS—None.

EXCUSED—Care.

Senate Bill No. 31 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 89.

Bill read third time.

Roll call on Senate Bill No. 89:

YEAS—20.

NAYS—None.

EXCUSED—Care.

Senate Bill No. 89 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 129.

Bill read third time.

Roll call on Senate Bill No. 129:

YEAS—20.

NAYS—None.

EXCUSED—Care.

Senate Bill No. 129 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 143.

Bill read third time.

Remarks by Senator Washington.

Roll call on Senate Bill No. 143:

YEAS—20.

NAYS—None.

EXCUSED—Care.

Senate Bill No. 143 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 288.

Bill read third time.

Roll call on Senate Bill No. 288:

YEAS—20.

NAYS—None.

EXCUSED—Care.

Senate Bill No. 288 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 289.

Bill read third time.

Roll call on Senate Bill No. 289:

YEAS—20.

NAYS—None.

EXCUSED—Care.

Senate Bill No. 289 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 300.

Bill read third time.

Roll call on Senate Bill No. 300:

YEAS—20.

NAYS—None.

EXCUSED—Care.

Senate Bill No. 300 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 139.

Bill read third time.

The following amendment was proposed by Senator Beers:

Amendment No. 110.

"SUMMARY—Revises provisions relating to certain cooperative or interlocal agreements. (BDR 22-485)"

"AN ACT relating to governmental administration; revising requirements pertaining to certain cooperative or interlocal agreements between public agencies; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, two or more political subdivisions of this State may, by formal resolution or ordinance, enter into a cooperative agreement to perform any governmental function. (NRS 277.045) Section 1 of this bill eliminates the requirement of enacting a formal resolution or ordinance as a condition to entering into such a cooperative agreement unless it is reasonably foreseeable that a political subdivision will be required to expend more than \$25,000 to carry out the agreement. Section 1 also requires political subdivisions to maintain for at least 3 years written documentation of such agreements that are expected to cost \$25,000 or less to carry out.

Existing law allows public agencies in this State to enter into agreements or interlocal contracts with other public agencies within and outside this State to carry out certain joint or cooperative action or to perform certain governmental services, activities or undertakings. To become effective, such an agreement or contract is required to be: (1) ratified by the governing bodies of the participating public agencies; (2) approved by the Attorney General; and (3) in writing if it is reasonably foreseeable that a participating public agency will be required to expend \$2,000 or more to carry out the agreement or contract. (NRS 277.110, 277.140, 277.180) Sections 2-4 of this bill increase to \$25,000 the minimum threshold above which such an agreement or contract is required to be in writing and make the requirements of ratification and approval only applicable to agreements or contracts that exceed the minimum threshold amount. Sections 2-4 also require public

agencies to maintain for at least 3 years written documentation of such agreements and contracts that are expected to cost \$25,000 or less to carry out.

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

Section 1. NRS 277.045 is hereby amended to read as follows:

277.045 1. Except as limited by NRS 280.105 and 711.175, any two or more political subdivisions of this State, including, without limitation, counties, incorporated cities and towns, unincorporated towns, school districts and special districts, may enter into a cooperative agreement for the performance of any governmental function. Such an agreement may include the furnishing or exchange of personnel, equipment, property or facilities of any kind, or the payment of money.

2. ~~Every such~~ *If it is reasonably foreseeable that a political subdivision of this State will be required to* ~~expend~~ *:*

(a) Expend more than \$25,000 to carry out such an agreement, the agreement must be by formal resolution or ordinance of the governing body of each political subdivision included, and must be spread at large upon the minutes, or attached in full thereto as an exhibit, of each governing body.

(b) Expend \$25,000 or less to carry out such an agreement, the governing body of each participating political subdivision shall maintain written documentation of the terms of the agreement for at least 3 years after the date on which the agreement was entered into.

3. Each participating political subdivision shall provide in its annual budget for any expense to be incurred under any such agreement, the money for which is not made available through grant, gift or other source.

Sec. 2. NRS 277.110 is hereby amended to read as follows:

277.110 Except as limited by NRS 280.105 and 711.175:

1. Any power, privilege or authority exercised or capable of exercise by a public agency of this State, including, but not limited to, law enforcement, may be exercised jointly with any other public agency of this State, and jointly with any public agency of any other state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise. Any agency of this State when acting jointly with any other public agency may exercise all the powers, privileges and authority conferred by NRS 277.080 to 277.180, inclusive, upon a public agency.

2. Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of NRS 277.080 to 277.170, inclusive. ~~[Those agreements become effective only upon ratification by appropriate ordinance, resolution or otherwise pursuant to law on the part of the governing bodies of the participating public agencies.]~~

3. If it is reasonably foreseeable that a participating public agency will be required to ~~expend~~ *[\$2,000 or* *;*

(a) Expend more than \$25,000 to carry out such an agreement, the agreement ~~must~~ :

~~[(a)] (1) Must be in writing.~~

~~[(b)] (2) Becomes effective only upon ratification by appropriate ordinance, resolution or otherwise pursuant to law on the part of the governing bodies of the participating public agencies.~~

(b) Expend \$25,000 or less to carry out such an agreement, each participating public agency shall maintain written documentation of the terms of the agreement for at least 3 years after the date on which the agreement was entered into.

Sec. 3. NRS 277.140 is hereby amended to read as follows:

277.140 As conditions precedent to the entry into force of any agreement made pursuant to NRS 277.080 to 277.170, inclusive ~~[-]~~, *for which it is reasonably foreseeable that a public agency will be required to expend more than \$25,000:*

1. The agreement must be submitted to the Attorney General, who shall determine whether it is in proper form and compatible with the laws of this State. The Attorney General shall set forth in detail, in writing, addressed to the governing bodies of the public agencies concerned, any specific respects in which he finds that the proposed agreement fails to comply with the requirements of law. Any failure by the Attorney General to disapprove an agreement submitted under the provisions of this section within 30 days after its submission shall be deemed to constitute his approval.

2. ~~[-]~~ *The agreement ~~is in writing, it~~ must be recorded with the county recorder of each county in which a participating political subdivision of this State is located ~~[-]~~ and filed with the Secretary of State.*

Sec. 4. NRS 277.180 is hereby amended to read as follows:

277.180 1. Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform. ~~[-]~~

2. If it is reasonably foreseeable that a public agency will be required to:

(a) Expend more than \$25,000 to carry out a contract, the contract must:

~~[(a)] (1) Set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties; ~~and~~~~

~~[(b) If it is reasonably foreseeable that a public agency will be required to expend more than \$25,000 to carry out the contract.~~

~~[(1)] (2) Be ratified by appropriate official action of the governing body of each party to the contract as a condition precedent to its entry into force;~~

~~[(b) Set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties; and~~

~~[(c)] ~~[(2)] (3) If an agency of this State is a party to the contract, be approved by the Attorney General as to form and compliance with law ~~[-]~~~~~~

~~→ If it is reasonably foreseeable that a contracting party will be required to expend \$2,000 or more to carry out the contract, the contract must be ~~[-]~~ ; and~~

~~4(3)~~ (4) Be in writing.

(b) Expend \$25,000 or less to carry out a contract, each participating public agency shall maintain written documentation of the terms of the contract for at least 3 years after the date on which the contract was entered into.

~~2.1~~ 3. The authorized purposes of agreements made pursuant to subsection 1 include, but are not limited to:

(a) The joint use of hospitals, road construction and repair equipment, and such other facilities or services as may and can be reasonably used for the promotion and protection of the health and welfare of the inhabitants of this State.

(b) The joint use of county and city personnel, equipment and facilities, including sewer systems, drainage systems, street lighting systems, fire alarm systems, sewage disposal plants, playgrounds, parks and recreational facilities, and public buildings constructed by or under the supervision of the board of county commissioners or the city council of the county and city concerned, upon such terms and agreements, and within such areas within the county as may be determined, for the promotion and protection of health, comfort, safety, life, welfare and property of the inhabitants of the counties and cities.

(c) The joint employment of clerks, stenographers and other employees in the offices of the city and county auditor, city and county assessor, city and county treasurer, or any other joint city and county office existing or hereafter established in the several counties, upon such terms and conditions as may be determined for the equitable apportionment of the expenses of the joint city and county office.

(d) The joint and cooperative use of fire-fighting and fire-protection equipment for the protection of property and the prevention and suppression of fire.

(e) The joint use of county and city personnel, equipment and facilities, upon such terms and conditions, and within such areas within the county as may be determined, for the promotion and protection of the health of the inhabitants of the county and city through the regulation, control and prohibition of the excessive emission of dense smoke and air pollution.

(f) The joint and cooperative use of law enforcement agencies.

(g) The joint use or operation of a system of public transportation.

~~2.1~~ 4. Each public agency which has entered into an agreement pursuant to this section shall annually at the time of preparing its budget include an estimate of the expenses necessary to carry out such agreement, the funds for which are not made available through grant, gift or other source, and provide for such expense as other items are provided in its budget. Each such public agency may furnish property, personnel or services as necessary to carry out the agreement.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

REMARKS FROM THE FLOOR

Senator Raggio requested that his remarks be entered in the Journal.

Thank you, Mr. President and members of the Senate. Those of us who have been in the Senate for any length of time appreciate the fact that during our regular sessions we are able to honor the recipient of the Desert Research Institute Nevada Medal. Today, we have with us the newest recipient of the medal. I would like to take this opportunity to introduce Dr. Susan Lindquist. Some of us were at the dinner last night when the medal and the monetary award were bestowed upon her. This award is given under the sponsorship of AT&T. We are impressed with Dr. Lindquist's presentation. She spoke about the process of protein folding. I understand but cannot explain it. It was a well-done presentation. Dr. Lindquist's research in protein folding is a groundbreaking process. She is presently at the Massachusetts Institute of Technology and has been recognized for her contributions to science, particularly in the field of molecular biology.

She has had an enormous impact in fields as diverse as medicine, bioengineering, basic molecular and cell biology, and evolution. Dr. Lindquist is a member and former director of the Whitehead Institute. She is a professor of biology at MIT and a Howard Hughes Medical Institute investigator. At the University of Chicago, she was the Albert D. Lasker Professor of Medical Sciences from 1999-2001 and a professor in the Department of Molecular Biology since 1978. She received her Ph.D. in biology from Harvard University in 1976. Dr. Lindquist was elected to the American Academy of Arts and Sciences in 1997, the National Academy of Sciences in 1997 and the Institute of Medicine in 2006. She was honored in *Discover Magazine's* 2002 list of the top 50 women scientists and *Scientific American's* top 50 leaders in business, policy and research. She has an impressive resume.

The Nevada Medal is the only science medal awarded by any state in the United States. It was established at the Desert Research Institute in 1988 to acknowledge outstanding achievement in science and engineering. A \$20,000 honorarium and a beautiful minted silver medal are given with the award. Since the inception of the award, AT&T has given this prestigious award. Dr. Lindquist joins a long list of eminent scientists.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Cegavske, the privilege of the floor of the Senate Chamber for this day was extended to Landon White.

On request of Senator Horsford, the privilege of the floor of the Senate Chamber for this day was extended to Al Gourrier.

On request of Senator Raggio, the privilege of the floor of the Senate Chamber for this day was extended to Dr. Susan Lindquist, Hal Lenox, Dr. Stephen Wells, Edward Buckbee and John Gardner.

On request of Senator Townsend, the privilege of the floor of the Senate Chamber for this day was extended to the following students, chaperone and teacher from the Mountain View Montessori School: Nia Anders, Lauren Becker, Demiree Eberle, Brendan Fagen, Joey Grimes, Ryan Hodin, Courtney Leonard, Jack Merrill, Hoyt Scharff, Sawako Sentoku; chaperone: Sonja Leonard and teacher: Olivia Coronel.

On request of President Krolicki, the privilege of the floor of the Senate Chamber for this day was extended to Caroline Krolicki.

Senator Raggio moved that the Senate adjourn until Thursday, April 12, 2007, at 11 a.m.

Motion carried.

Senate adjourned at 12:27 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate