

## THE TWELFTH DAY

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CARSON CITY (Friday), February 13, 2009

Assembly called to order at 11:14 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblyman Hardy, who was excused.

Prayer by the Chaplain, Pastor Albert Tilstra.

Two weeks in a row we are wearing red in honor of our hearts. Last Friday, we were reminded of the need to take good care of our physical hearts. This week we celebrate our emotional heart. We call it love. Three little words will be used this weekend, "I love you." May all of us be reminded of the source and the meaning of those words. One writer counsels us: "Dear friends, let us love one another, for love comes from God . . . . since God so loved us, we also ought to love one another."

When we open our mouths to speak eloquently about love, but don't act lovingly, we would only be making meaningless noise like a loud gong or clanging cymbal. If I give everything I have to the poor and even sacrifice my body, I could boast about it; but if I did not love others, I would be of no value whatsoever.

Love is patient and kind. Love is not jealous or boastful or proud or rude. Love does not demand its own way. Love is not irritable, and it keeps no record of when it has been wronged. It is never glad about injustice but rejoices whenever the truth wins out. Love never gives up, never loses faith, is always hopeful, and endures through every circumstance.

There are three things that will endure—faith, hope, love—and the greatest of these is love.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

### MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 12, 2009

*To the Honorable the Assembly:*

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 4.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 15, 28, 90, 91.

SHERRY L. RODRIGUEZ  
*Assistant Secretary of the Senate*

### MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Concurrent Resolution No. 5—Directing the Legislative Commission to conduct an interim study of issues relating to women incarcerated in Nevada.

Assemblyman Ocegüera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Buckley, Parnell, Conklin, Anderson, Ocegüera, Aizley, Arberry, Atkinson, Bobzien, Carpenter, Claborn, Denis, Dondero Loop, Gansert, Goicoechea, Grady, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McClain, Mortenson, Munford, Ohrenschall, Pierce, Segerblom, Smith, Spiegel, Stewart, and Woodbury; Senators Care, Wiener, Parks, Horsford, Hardy, Breeden, Coffin, Copening, Mathews, and Schneider:

Assembly Bill No. 165—AN ACT relating to state financial administration; revising the provisions governing the Fund to Stabilize the Operation of the State Government; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By Assemblymen Segerblom, Koivisto, Ohrenschall, Kihuen, Aizley, Mortenson, Munford, and Pierce; Senators Parks and Copening:

Assembly Bill No. 166—AN ACT relating to employment practices; prohibiting employers from subjecting an employee to abusive conduct in a work environment; requiring a court to award damages, back pay and attorney's fees consistent with provisions set forth in Title VII of the Civil Rights Act of 1964 on prevailing claims of unlawful employment practices; revising provisions relating to unlawful employment practices to prohibit employers from discriminating against an employee with respect to a physical characteristic of the employee; revising provisions relating to the time in which an employee may seek relief in district court for a claim of unlawful employment practices; and providing other matters properly relating thereto.

Assemblyman Segerblom moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Segerblom, Koivisto, Ohrenschall, McClain, Aizley, Arberry, Atkinson, Bobzien, Claborn, Horne, Kihuen, Leslie, Mortenson, Parnell, Pierce, Smith, and Spiegel; Senators Parks and Copening:

Assembly Bill No. 167—AN ACT relating to insurance; requiring certain policies of health insurance and health care plans to provide coverage for acupuncture treatments in certain circumstances; and providing other matters properly relating thereto.

Assemblyman Segerblom moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 168—AN ACT relating to controlled substances; revising sentencing provisions relating to certain convicted persons who provide substantial assistance in the investigation or prosecution of other persons involved in trafficking in controlled substances; and providing other matters properly relating thereto.

Assemblyman Anderson requested that the Assembly recess subject to the call of the Chair.

Assembly in recess at 11:22 a.m.

#### ASSEMBLY IN SESSION

At 11:23 a.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Atkinson, McClain, Segerblom, Anderson, Arberry, Carpenter, Claborn, Conklin, Denis, Dondero Loop, Goicoechea, Hardy, Hogan, Horne, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, Mortenson, Parnell, Pierce, Smith, and Spiegel:

Assembly Bill No. 169—AN ACT relating to motor carriers; requiring impounding of certain vehicles when no certificate of public convenience and necessity has been issued to authorize their operation; and providing other matters properly relating thereto.

Assemblyman Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen Atkinson, Anderson, Horne, Segerblom, Conklin, Carpenter, Claborn, Denis, Dondero Loop, Hogan, Kirkpatrick, Koivisto, McClain, Mortenson, Pierce, and Smith:

Assembly Bill No. 170—AN ACT relating to personal identification; requiring the Department of Motor Vehicles to maintain a database of thumbprints of applicants for drivers' licenses and identification cards; requiring the Department to include the thumbprint of a person on any driver's license or identification card issued to the person and to use the thumbprint to establish or confirm the identity of the person; requiring an applicant for the issuance or renewal of a driver's license or identification

card to submit his right thumbprint to the Department; and providing other matters properly relating thereto.

Assemblyman Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblyman Segerblom:

Assembly Bill No. 171—AN ACT relating to cosmetology; requiring the State Board of Cosmetology to allow the use of fish in pedicures; and providing other matters properly relating thereto.

Assemblyman Segerblom moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Transportation:

Assembly Bill No. 172—AN ACT relating to license plates; requiring certain charitable organizations which receive proceeds from the issuance of special license plates to provide annually to the Commission on Special License Plates and to the Department of Motor Vehicles certain additional information pertaining to the charitable organization; and providing other matters properly relating thereto.

Assemblyman Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen Mastroluca, Ocegüera, Horne, Conklin, Smith, Atkinson, Bobzien, Buckley, Denis, Dondero Loop, Kirkpatrick and Parnell:

Assembly Bill No. 173—AN ACT relating to occupational diseases; exempting certain claims for occupational diseases from requirements relating to the burden of proof that disease arose out of and in course of employment; providing that certain occupational diseases are occupational diseases of arson investigators; and providing other matters properly relating thereto.

Assemblywoman Mastroluca moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblywoman Kirkpatrick:

Assembly Bill No. 174—AN ACT relating to public works; exempting the State Public Works Board from the requirements relating to construction managers at risk; and providing other matters properly relating thereto.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Atkinson, Horne, Ocegüera, Smith, Conklin, Anderson, Arberry, Buckley, Claborn, Denis, Dondero Loop, Hogan, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, Ohrenschall, Parnell, Pierce and Spiegel:

Assembly Bill No. 175—AN ACT relating to public works; temporarily revising the provisions governing the prequalification of bidders on public works of this State; and providing other matters properly relating thereto.

Assemblyman Atkinson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 15.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 28.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 90.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 91.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 103.

Bill read third time.

Remarks by Assemblymen Leslie, Gansert, Anderson, and Carpenter.

Assemblyman Ocegüera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN LESLIE:

Madam Speaker, Assembly Bill 103 requires the legislative auditor to conduct performance audits of governmental and private facilities for children to determine whether these facilities adequately protect the health, safety, and welfare and civil rights for the children in their care. The measure also requires any governmental or private facility for children to cooperate with the legislative auditor in the performance of his duties and to forward to the legislative auditor any complaint filed by a child or any other person on his behalf concerning the child's welfare.

Many in this body will remember the CRIPA investigation back in 2001, when it started the Civil Rights of Institutionalized Persons Act. That complaint was initiated by many youth and adults in relationship to one of our state institutions, the Youth Training Center, out in Elko.

These complaints were forwarded to the Department of Justice, and they began an investigation that thankfully has been resolved without additional federal intervention.

The CRIPA investigation contained many disturbing complaints from the youths that were substantiated by the investigators. These included reports of our staff using excessive force against these youths, punching youths in the chest; kicking their legs; grabbing shirts; shoving youths against lockers and walls; dipping, which means throwing youths to the floor; slapping them in the face; smashing youths' heads against doors; and pulling youths from their beds to the floor. The investigators found that typically the triggers for the use of force were youths disobeying or failing to follow directions, rather than posing an immediate harm or threat of harm to themselves or others. They were also subjected to verbal abuse in which their race, their family, their physical appearance and stature, their intelligence, or their perceived sexual orientation was aggressively attacked. It was very clear to the CRIPA investigators that staff used verbal abuse to provoke these youths into physical confrontations to provide a pretext for the use of force.

Thankfully, the situation has greatly improved out in Elko. We instituted a great training program and we put more mental health counselors out there. A number of us visited the institution and have been following it very closely over the years.

As a result of the CRIPA investigation, we are very concerned that the Legislature had not known that any of these problems existed, not only in our state institutions but also in our county detention facilities and other private institutions where youths are placed. So we had a bill last session where we set aside a little money and asked the legislative auditor to conduct a performance audit of every place where these children go under our authority. That audit is out if you want to pick up a copy. It's called the Review of Governmental and Private Facilities for Children, 2008. It has some very interesting findings; they reviewed thirteen of the facilities and their detailed findings and responses by the different placement agencies are contained in this audit. What A.B.103 does is institutionalize these kinds of audits in our legislative auditor, and we put it there because we wanted it to be an independent audit, not the Executive Branch investigating itself. We have very good results from the audit, lots of good information coming out, lots of recommendations for how we can improve these facilities. I urge your support of this bill and commend ourselves as a collective body, which was a bipartisan effort, to make sure that the youth placed in our care that their civil rights are protected, their physical rights are protected, and we can make sure that the kids in our care are getting the very best care that they can. I urge your support.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. I rise in support of A.B. 103. I was on the Committee of Elections, Procedures, and Ethics when the auditors came in and talked about this. They did an outstanding job of going over the material and I think that this check on the system is very important for our youth. I appreciate the efforts on their behalf.

ASSEMBLYMAN ANDERSON:

I, too, rise in support of this piece of legislation. As you know, Madam Speaker, our colleague from Assembly District 33—as well as yourself and several others of us—were involved in a study over this particular issue, over some time. The former representative from Assembly District 9, who is no longer a member of this body but is now a Clark County Commissioner, took an early trip to Elko when the first FBI reports came in relative to the practices out there. We have, as a legislative body, been concerned about this particular issue. I do not believe that this particular problem, unfortunately, is going to come to an end, but we are now going to take yet another important step. I applaud my colleague for continuing to follow-up on this particular issue and think that it is a very, very important first step. I am pleased to see it as the first step of legislation that this body will take.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. As we have heard, we have had some problems, mainly in Elko. These problems have been pretty well resolved and I think our facilities for children out there now are doing quite well. I think we need to keep an eye on these facilities because you

never know what might happen. I believe putting it in the hands of our auditor gives us more control. I ask for your support of A.B. 103.

Roll call on Assembly Bill No. 103:

YEAS—41.

NAYS—None.

EXCUSED—Hardy.

Assembly Bill No. 103 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Kevin Clifford.

Assemblyman Ocegüera moved that the Assembly adjourn until Monday, February 16, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 11:40 a.m.

Approved:

BARBARA E. BUCKLEY  
*Speaker of the Assembly*

Attest: SUSAN FURLONG REIL  
*Chief Clerk of the Assembly*