

THE TENTH DAY

CARSON CITY (Wednesday), February 16, 2011

Senate called to order at 11:07 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

God of Grace and God of Glory, when we have prayed for guidance and it comes, let us not think it strange if it be something we would not have thought of, for Your thoughts are not our thoughts and our ways are not Yours.

Make us eager to follow Your will and Your way of dealing with situations, rather than devising our own plans and then asking You to bless them.

Then we will discover how much better Your way is and how happy are those who walk in it. In Your name we pray.

AMEN.

Prayer by Mujahid Ramadan.

Mr. Mujahid Ramadan of 100 Black Men of Las Vegas read a prayer from the State President's Report to Delegates given on Thursday, April 28, 1988 by Ina J. Hughs, Children's Defense Fund.

We pray for children who put chocolate fingers everywhere, who like to be tickled, who stomp in puddles and ruin their new pants, who sneak popsicles before supper, who erase holes in math workbooks, who can never find their shoes.

And we pray for those who stare at photographers from behind barbed wire, who can't bound down to the street in a new pair of sneakers, who never "counted potatoes," who are born in places we wouldn't be caught dead, who never go to the circus, who live in an x-rated world.

We pray for children who bring us sticky kisses and fistfuls of dandelions, who sleep with the dog and bury goldfish, who hug us in a hurry and forget their lunch money, who cover themselves with Band-Aids and sing off key, who squeeze toothpaste all over the sink, who slurp their soup.

And we pray for those who never get dessert, who have no safe blanket to drag behind them, who watch their parents watch them die, who can't find any bread to steal, who don't have any rooms to clean up, whose pictures aren't on anybody's dresser, whose monsters are real.

We pray for children who spend all their allowance before Tuesday, who throw tantrums in the grocery store and pick at their food, who like ghost stories, who shove dirty clothes under the bed and never rinse out the tub, who get visits from the tooth fairy, who don't like to be kissed in front of the carpool, who squirm in church or temple and scream in the phone, whose tears we sometimes laugh at and whose smiles can make us cry.

And we pray for those whose nightmares come in the daytime, who will eat anything, who have never seen a dentist, who aren't spoiled by anybody, who go to bed hungry and cry themselves to sleep, who live and move, but have no being.

We pray for children who want to be carried and for those who must, for those we never give up on and for those who don't get a second chance.

For those we smother...and for those who will grab the hand of anybody kind enough to offer it.

AMEN.

Pledge of Allegiance to the Flag.

Senator Horsford 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, Labor and Energy, to which were referred Senate Bills Nos. 17, 18, 19, 37, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Senate Bill No. 55, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

VALERIE WIENER, *Chair*

COMMUNICATIONS

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-2801

February 15, 2011

THE HONORABLE STEVEN A. HORSFORD, *Senate Majority Leader*, State of Nevada Senate,

Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747

DEAR MAJORITY LEADER HORSFORD:

I am writing to you today to express my desire to address both houses of the Legislature during the 2011 Legislative Session. It appears that April 20, 2011, is available and I would enjoy the opportunity to share my views with the Legislature on national issues and the challenges that confront us in the Congress. Many of these issues will affect Nevada citizens directly and the perspectives of the members of the Nevada Legislature are paramount to my decision making.

If you could let my staff know the details regarding my visit and address, I would appreciate it. I look forward to your response. Please direct any communication to my District Director, Tod Story. He can be reached at 702-220-9823.

Sincerely,

SHELLEY BERKLEY
Member of Congress

MOTIONS, RESOLUTIONS AND NOTICES

By Senators Settlemeyer, McGinness, Hardy, Cegavske, Gustavson, Brower, Halseth, Kieckhefer, Rhoads, Roberson; Assemblymen Goicoechea, Grady, Hansen, Goedhart, Ellison, Hambrick, Hammond, Hardy, Hickey, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart and Woodbury:

Senate Joint Resolution No. 6—Claiming sovereignty under the Tenth Amendment to the U.S. Constitution.

WHEREAS, The Tenth Amendment to the Constitution of the United States reads as follows: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people"; and

WHEREAS, The Tenth Amendment defines the total scope of federal power as being that specifically granted by the Constitution of the United States and no more; and

WHEREAS, The scope of power defined by the Tenth Amendment means that the Federal Government was created by the states specifically to be an agent of the states; and

WHEREAS, Today, in 2011, the states are demonstrably treated as agents of the Federal Government; and

WHEREAS, Many federal laws are directly in violation of the Tenth Amendment to the Constitution of the United States; and

WHEREAS, The Tenth Amendment ensures that we, the people of the United States of America and each sovereign state in the Union of States, now have, and have always had, rights the Federal Government may not usurp; and

WHEREAS, Section 4, Article IV, of the U.S. Constitution says, "The United States shall guarantee to every State in this Union a Republican Form of Government," and the Ninth Amendment states that, "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people"; and

WHEREAS, The United States Supreme Court has ruled in *New York v. United States*, 112 S.Ct. 2408 (1992), that Congress may not simply commandeer the Legislative Processes of the states by compelling the states to enact and administer federal programs; and

WHEREAS, A number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the Constitution of the United States; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the 76th Legislature of the State of Nevada hereby claim sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the Federal Government by the Constitution of the United States; and be it further

RESOLVED, That this resolution serves as notice and demand to the Federal Government to cease and desist, effective immediately, mandates that are beyond the scope of these constitutionally delegated powers; and be it further

RESOLVED, That all compulsory federal legislation which directs states to comply under threat of civil or criminal penalties or sanctions or which requires states to pass legislation or lose federal funding be prohibited or repealed; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the President of the United States, the Vice President of the United States as the presiding officer of the Senate and the Speaker of the House of Representatives, and each member of the Nevada Congressional Delegation with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Settlemeyer moved that the resolution be referred to the Committee on Government Affairs.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By Senators Cegavske, Leslie, McGinness, Horsford, Schneider, Breeden, Brower, Copening, Denis, Gustavson, Halseth, Hardy, Kieckhefer, Kihuen, Lee, Manendo, Parks, Rhoads, Roberson, Settlemeyer and Wiener:

Senate Bill No. 149—AN ACT relating to persons with disabilities; establishing the policy of this State relating to the considerate and respectful treatment of persons with intellectual disabilities; revising the preferred manner of referring to certain persons with intellectual disabilities in the Nevada Revised Statutes and Nevada Administrative Code; and providing other matters properly relating thereto.

Senator Cegavske moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Senator Schneider:

Senate Bill No. 150—AN ACT relating to liens; revising certain provisions governing liens of owners of facilities for storage; and providing other matters properly relating thereto.

Senator Schneider moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Senator Schneider:

Senate Bill No. 151—AN ACT relating to transportation; requiring certain governmental entities to work cooperatively to establish the Henderson to North Las Vegas Fixed Guideway Corridor; requiring those entities, to the extent practicable, to acquire any necessary rights-of-way for that purpose; and providing other matters properly relating thereto.

Senator Schneider moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Senator Schneider:

Senate Bill No. 152—AN ACT relating to insurance; revising provisions governing insurance adjusters; exempting certain persons from provisions of the Nevada Insurance Adjusters Law governing the licensing and regulation of adjusters; and providing other matters properly relating thereto.

Senator Schneider moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

By the Committee on Government Affairs:

Senate Bill No. 153—AN ACT relating to water; declaring the appropriation of certain water by a municipality or public utility to serve the present and reasonably anticipated future municipal, industrial or domestic needs of the municipality or public utility to be a beneficial use of that water; providing that certain provisions governing consideration by the State Engineer of the consumptive use of a water right do not apply to an application to appropriate water filed by a municipality under certain circumstances; revising the period within which an application of water for a certain municipal or quasi-municipal use must be made; setting forth the measure of reasonable diligence for determining whether a municipality is proceeding with good faith and reasonable diligence to perfect an appropriation of water for a beneficial use; revising the provisions which must be included in certain statements filed with the State Engineer concerning the application of water for municipal or quasi-municipal use; requiring the State Engineer to issue a certificate for a partially perfected application under certain circumstances; and providing other matters properly relating thereto.

Senator Lee moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Senator Settelmeyer:

Senate Bill No. 154—AN ACT relating to motor vehicles; providing for the issuance of special license plates for family members of persons who died as a result of injuries sustained while on active duty in the Armed Forces of the United States; and providing other matters properly relating thereto.

Senator Settelmeyer moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Senator McGinness:

Senate Bill No. 155—AN ACT relating to zoning; allowing certain unincorporated towns the option to control planning and zoning; and providing other matters properly relating thereto.

Senator McGinness moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Senator Gustavson (by request):

Senate Bill No. 156—AN ACT relating to liability of persons; limiting the liability of certain persons involved with an off-road sporting event; and providing other matters properly relating thereto.

Senator Gustavson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Senators Wiener, Horsford, Denis, Parks, Breeden, Copenig, Leslie and Manendo:

Senate Bill No. 157—AN ACT relating to elections; authorizing the donation of unspent campaign contributions to a governmental entity or fund of this State or a political subdivision of this State; and providing other matters properly relating thereto.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

By Senator Gustavson:

Senate Bill No. 158—AN ACT relating to air pollution; revising provisions governing the frequency of required inspections of the emissions of certain motor vehicles; and providing other matters properly relating thereto.

Senator Gustavson moved that the bill be referred to the Committee on Natural Resources.

Motion carried.

By Senator Gustavson:

Senate Bill No. 159—AN ACT relating to offenders; requiring the Director of the Department of Corrections to provide to an offender upon his or her release information regarding employment assistance; authorizing a court to require the earnings of a probationer to be held in trust for certain purposes; authorizing a court to require certain offenders to complete an alternative program, treatment or activity as a condition of probation; and providing other matters properly relating thereto.

Senator Gustavson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Senator Gustavson:

Senate Bill No. 160—AN ACT relating to taxation; repealing the modified business tax; and providing other matters properly relating thereto.

Senator Gustavson moved that the bill be referred to the Committee on Revenue.

Motion carried.

By Senator Gustavson:

Senate Bill No. 161—AN ACT relating to drivers' licenses; providing that any examination or test required to obtain a driver's license or motorcycle driver's license must be administered in the English language; and providing other matters properly relating thereto.

Senator Gustavson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Senator Gustavson:

Senate Bill No. 162—AN ACT relating to public employees; revising the subjects of mandatory bargaining; revising the matters reserved to the employer without negotiation; and providing other matters properly relating thereto.

Senator Gustavson moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

By Senator Gustavson:

Senate Bill No. 163—AN ACT relating to crimes; revising provisions governing the procedure upon arrest of a person alleged to have committed a battery constituting domestic violence; and providing other matters properly relating thereto.

Senator Gustavson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 9.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 23.

Bill read third time.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Senate Bill No. 23 clarifies that in the process of adopting a child with special needs, it is the child welfare or child placement agency with custody of the child that is responsible for scheduling necessary evaluations and providing certain assistance to the adoptive parents.

This particular measure is the result of a judicial review following the 2009 Legislative Session that indicated clarification was necessary to identify the responsible agency.

This measure is effective upon passage and approval.

Roll call on Senate Bill No. 23:

YEAS—21.

NAYS—None.

Senate Bill No. 23 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Breeden, the privilege of the Floor of the Senate Chamber for this day was extended to Larry Mosley.

On request of Senator Copening, the privilege of the Floor of the Senate Chamber for this day was extended to Tad Dillard and Willie Petteway.

On request of Senator Denis, the privilege of the Floor of the Senate Chamber for this day was extended to Mike Fennell.

On request of Senator Horsford, the privilege of the Floor of the Senate Chamber for this day was extended to Ronald Grogan, Brian Pauling and Steve Schorr.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to Ken Williams.

On request of Senator Lee, the privilege of the Floor of the Senate Chamber for this day was extended to Mike Smith.

On request of Senator Leslie, the privilege of the Floor of the Senate Chamber for this day was extended to Bill High and Dennis Obregon.

On request of Senator Manendo, the privilege of the Floor of the Senate Chamber for this day was extended to Mujahid Ramadan.

On request of Senator Parks, the privilege of the Floor of the Senate Chamber for this day was extended to Mike Amie.

On request of Senator Schneider, the privilege of the Floor of the Senate Chamber for this day was extended to Derrick Berry.

On request of Senator Wiener, the privilege of the Floor of the Senate Chamber for this day was extended to Shaundell Newsome.

Senator Horsford moved that the Senate adjourn until Thursday, February 17, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 11:46 a.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate