

THE NINETIETH DAY

CARSON CITY (Saturday), May 7, 2011

Senate called to order at 11:33 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by Valerie Wiener, RScP.

As we take a moment to inhale and exhale the magnificence of this day, in knowing that in this moment right here and right now, all is God.

Yes, all is God. For, in the beginning, the now, and the eternity, there is only God, the one power and the one presence. God is the creator of itself and all that is. Each idea. Each being. Each action. Each interaction, all of this is God.

In knowing this, as we begin our day together, in each moment, in the presence of all, we are graced with the opportunities to serve. In the truth of who we are, we remember that we are the divine expressions of the one power and the one presence.

We have boundless opportunities to do good work. For this is who we are, not just what we do. As we celebrate the infinite possibilities that are ours for the claiming, I rejoice in the greatest of gratitude for all that is before us, moment by moment—in the now and beyond. For this and so much more, I say, "And so it is."

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 Assembly Bills Nos. 150, 352, 429, 441, 538, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce, Labor and Energy, to which was referred Assembly Bill No. 215, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 450, 472, 481; Assembly Bill No. 556, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was re-referred Senate Bill No. 445, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

STEVEN A. HORSFORD, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which was referred Assembly Bill No. 350, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

ALLISON COPENING, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 6, 57, 194, 226, 355, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

VALERIE WIENER, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 6, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 480, 498, 534.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 167, 363.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Legislative Operations and Elections:

Senate Bill No. 497—AN ACT relating to elections; revising the legislative districts from which the members of the Senate and Assembly are elected; revising the districts from which Representatives in the Congress of the United States are elected; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 498—AN ACT relating to unarmed combat; expanding the authorized use of proceeds from the additional fee for each ticket sold for admission to a live professional contest of unarmed combat; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 499—AN ACT relating to the State Judicial Department; repealing the provisions creating the Fund for the National Judicial College and the Fund for the National College of Juvenile and Family Law; and providing other matters properly relating thereto.

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

Motion carried.

Assembly Bill No. 167.

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

Motion carried.

Assembly Bill No. 363.

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

Motion carried.

Assembly Bill No. 480.

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

Motion carried.

Assembly Bill No. 498.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 534.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bill No. 75 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 25.

Bill read second time and ordered to third reading.

Assembly Bill No. 36.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 552.

"SUMMARY—Makes various changes concerning the Fund for Hospital Care to Indigent Persons. (BDR 38-282)"

"AN ACT relating to indigent persons; revising provisions governing the Fund for Hospital Care to Indigent Persons; revising the membership of the Board of Trustees of the Fund; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Fund for Hospital Care to Indigent Persons to pay certain costs of hospital care provided to persons injured in motor vehicle accidents who are indigent. The Fund is composed of money collected or recovered from certain taxes and from certain charges against a county for unpaid charges for hospital care not greater than \$3,000. (NRS 428.115-428.255)

Section 2 of this bill changes the membership of the Board of Trustees of the Fund to require the Governor to appoint a director of a social services agency of a county as one of the five members of the Board. **Section 2** further authorizes such a director of a social services agency to designate another person to carry out his or her duties on the Board when the director is unavailable.

Sections 1 and 4 of this bill require the money deposited in the Fund by a county for unpaid hospital charges not exceeding \$3,000 to be accounted for separately in the Fund and used to reimburse or partially reimburse a hospital for unpaid hospital charges.

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

Section 1. NRS 428.175 is hereby amended to read as follows:

428.175 1. The Fund for Hospital Care to Indigent Persons is hereby created as a special revenue fund for the purposes described in NRS 428.115 to 428.255, inclusive.

2. ~~All~~ *Except as otherwise provided in subsection 3*, money collected or recovered pursuant to NRS 428.115 to 428.255, inclusive, and the interest earned on the money in the Fund must be deposited for credit to the Fund.

3. *Any money paid by a county pursuant to NRS 428.255 must be accounted for separately in the Fund and must be used to reimburse or partially reimburse a hospital for unpaid charges for hospital care pursuant to NRS 428.115 to 428.255, inclusive, as other claims against the Fund are paid.*

4. Claims against the Fund must be paid on claims approved by the Board.

Sec. 2. NRS 428.195 is hereby amended to read as follows:

428.195 1. The Fund must be administered by a Board of Trustees composed of five *members appointed by the Governor as follows:*

(a) *Four county commissioners; and*

(b) *One director of a social services agency of a county.*

2. *The members of the Board of Trustees must be* appointed by the Governor from a list of ~~ten~~ nominees submitted by the Board of Directors of the Nevada Association of Counties.

~~2~~ *The list of nominees must include six nominees who are county commissioners and three nominees who are directors of a social services agency of a county.*

3. Each member of the Board of Trustees shall serve a term of ~~1 year~~ 2 years or until a successor has been appointed and has qualified.

~~3~~ 4. The position of a member of the Board of Trustees shall be considered vacated upon the loss of any of the qualifications required for the appointment of the member and in that event the Governor shall appoint a successor from a list of ~~two~~ nominees submitted by the Board of Directors of the Nevada Association of Counties. *The list of nominees must include two county commissioners if the member of the Board is a county*

commissioner or two directors of a social services agency if the member of the board is the director of a social services agency of a county.

5. The director of a social services agency who is appointed to the Board of Trustees may designate a person to carry out his or her duties on the Board of Trustees when the director is unavailable, and any such designee has the same power as any other member of the Board of Trustees for the period in which he or she is designated to act on behalf of the director.

6. As used in this section, "social services agency" means any public agency or organization that provides social services in this State, including, without limitation, providing welfare and health care services.

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 428.255 is hereby amended to read as follows:

428.255 *1.* Any reimbursement or partial reimbursement made from the Fund for unpaid charges for hospital care furnished to a person which are not greater than \$3,000, is a charge upon the county in which:

~~1-1~~ *(a)* The accident occurred, if the person is not a resident of this state and the accident occurred in this state; or

~~1-2~~ *(b)* The person resides, if the person is a resident of this state,

↪ and must be paid *to the Fund* upon a claim presented by the Board as other claims against the county are paid.

2. Money paid by a county pursuant to this section must be accounted for separately and expended in accordance with the provisions of subsection 3 of NRS 428.175.

Sec. 5. This act becomes effective ~~on July 1, 2011~~ upon passage and approval.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Thank you, Mr. President. This is a simple amendment. It just changes the effective date to upon passage and approval.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 102.

Bill read second time and ordered to third reading.

Assembly Bill No. 181.

Bill read second time and ordered to third reading.

Assembly Bill No. 201.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 549.

"SUMMARY—Revises provisions pertaining to informational statements provided for the adoption of administrative regulations. (BDR 18-83)"

"AN ACT relating to administrative regulations; requiring that the name and contact information ~~for~~ of, and the name of the entity or organization represented by, each person who presented testimony at the hearing on the adoption of a regulation be included in the informational statement if such information was provided to the adopting agency; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes minimum procedural requirements for the adoption of regulations by certain agencies of the Executive Department of the State Government, including a requirement that these agencies file an informational statement with each regulation to indicate the manner in which public comment was solicited regarding the adoption of the regulation. (NRS 233B.040-233B.120) This bill adds a requirement that the name and contact information ~~for~~ of, and the name of the entity or organization represented by, each person who presented testimony at the hearing on the adoption of the regulation be included in the informational statement if such information was provided to the agency that adopted the regulation.

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

Section 1. NRS 233B.066 is hereby amended to read as follows:

233B.066 1. Except as otherwise provided in subsection 2, each adopted regulation which is submitted to the Legislative Counsel pursuant to NRS 233B.067 or filed with the Secretary of State pursuant to subsection 2 or 3 of NRS 233B.070 must be accompanied by a statement concerning the regulation which contains the following information:

(a) A description of how public comment was solicited, a summary of the public response and an explanation *of* how other interested persons may obtain a copy of the summary.

(b) The number of persons who:

- (1) Attended each hearing;
- (2) Testified at each hearing; and
- (3) Submitted to the agency written statements.

(c) ~~The name, profession or trade, home address and telephone number, business address and telephone number, and electronic mail address of~~ ***For each person identified in subparagraphs (2) and (3) of paragraph (b), if such the following information is if provided to the agency conducting the hearing is:***

(1) Name;

(2) Telephone number;

(3) Business address;

(4) Business telephone number;

(5) Electronic mail address; and

(6) Name of entity or organization represented.

(d) A description of how comment was solicited from affected businesses, a summary of their response and an explanation *of* how other interested persons may obtain a copy of the summary.

~~[(d)]~~ *(e)* If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

~~[(e)]~~ *(f)* The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:

- (1) Both adverse and beneficial effects; and
- (2) Both immediate and long-term effects.

~~[(f)]~~ *(g)* The estimated cost to the agency for enforcement of the proposed regulation.

~~[(g)]~~ *(h)* A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

~~[(h)]~~ *(i)* If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

~~[(i)]~~ *(j)* If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

2. The requirements of paragraphs (a) to ~~[(d)]~~ *(e)*, inclusive, of subsection 1 do not apply to emergency regulations.

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

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

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

Amendment No. 549 to Assembly Bill No. 201 clarifies the information that must be provided with each adopted regulation submitted to the Legislative Counsel Bureau or filed with the Office of the Secretary of State, if the information was provided at a State agency's regulation hearing. Specifically, the amendment provides that the entity or organization represented by the person who testified at the regulation hearing shall be provided and not the home address and home telephone number.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 214.

Bill read second time.

The following amendment was proposed by the Committee on Commerce, Labor and Energy:

Amendment No. 550.

"SUMMARY—Revises provisions governing certain disbursements of money from escrow accounts. (BDR 54-1016)"

"AN ACT relating to escrow accounts; requiring that certain disbursements of money from escrow accounts be payable in United States currency; requiring that certain disbursements of money from escrow accounts be disbursed in accordance with federal law governing next-day availability of such money; **establishing provisions concerning the disbursement of money from an escrow account by a title insurer, title agent or escrow officer**; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law governs the disbursement of money held in escrow **by an escrow officer or escrow agent** relating to certain transactions and prohibits disbursements from an escrow account on the same business day as the money is deposited unless the deposit is made in certain forms which allow for the immediate withdrawal of the money. (NRS 645A.171) ~~{This}~~

Section 1 of this bill requires certain disbursements **by an escrow agent** which are available on the same business day as that on which the money is deposited to be payable in United States currency. ~~{This bill}~~ **Section 1** also requires that money in an escrow account which is accorded next-day availability be disbursed **by the escrow agent** in accordance with all applicable federal laws.

Section 2 of this bill establishes provisions concerning the disbursement of money from an escrow account by a title insurer, title agent or escrow officer with respect to real estate transactions. Section 2 prohibits the disbursement of such money until deposits that are at least equal to the proposed disbursement have been received, prohibits the disbursement unless the deposit is made in certain forms which allow for the immediate withdrawal of the money and requires that money in an escrow account which is accorded next-day availability be disbursed by the title insurer, title agent or escrow officer in accordance with all applicable federal laws.

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

Section 1. NRS 645A.171 is hereby amended to read as follows:

645A.171 1. ~~{No escrow officer or person who acts as an}~~ **An** escrow agent ~~{may}~~ **shall not** disburse money from an escrow account unless deposits which are at least equal in value to the proposed disbursements and which relate directly to the transaction for which the money is to be disbursed have been received.

2. ~~{No escrow officer or person who acts as an}~~ **An** escrow agent ~~{may}~~ **shall not** disburse money from an escrow account on the same business day as the money is deposited unless the deposit is made in one of the following forms:

- (a) Cash;

(b) Interbank electronic transfer such that the money deposited is available for immediate withdrawal without condition ~~†~~ *and payable in United States currency;*

(c) Negotiable order of withdrawal, money order, cashier's check or certified check which is payable in this State and which is drawn from a financial institution located in this State;

(d) Any depository check, including any cashier's check or teller's check, that is governed by the Expedited Funds Availability Act, 12 U.S.C. §§ 4001 et seq.; or

(e) Any other form that permits conversion of the deposit to cash on the same day as the deposit is made.

3. *An escrow ~~officer or person who acts as an escrow~~ agent who disburses money from an escrow account pursuant to this section on the next business day after the day on which the money is deposited shall comply with all applicable federal laws or regulations with respect to the disbursement of money accorded next-day availability that is deposited in an escrow account.*

~~4. As used in this section, "escrow officer" has the meaning ascribed to it in NRS 692A.028.~~

Sec. 2. Chapter 692A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A title insurer, title agent or escrow officer shall not disburse money from an escrow account unless deposits which are at least equal in value to the proposed disbursements and which relate directly to the transaction for which the money is to be disbursed have been received.

2. A title insurer, title agent or escrow officer shall not disburse money from an escrow account on the same business day as the money is deposited unless the deposit is made in one of the following forms:

(a) Cash;

(b) Interbank electronic transfer such that the money deposited is available for immediate withdrawal without condition and payable in United States currency;

(c) Negotiable order of withdrawal, money order, cashier's check or certified check which is payable in this State and which is drawn from a financial institution located in this State;

(d) Any depository check, including any cashier's check or teller's check, that is governed by the Expedited Funds Availability Act, 12 U.S.C. §§ 4001 et seq.; or

(e) Any other form that permits conversion of the deposit to cash on the same day as the deposit is made.

3. A title insurer, title agent or escrow officer who disburses money from an escrow account pursuant to this section on the next business day after the day on which the money is deposited shall comply with all applicable federal laws or regulations with respect to the disbursement of

money accorded next-day availability that is deposited in an escrow account.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Thank you, Mr. President. This amendment clarifies that monies disbursed from an escrow account has to be deposited in U.S. currency available to be disbursed the next day.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 537.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 32.

Bill read third time.

Roll call on Assembly Bill No. 32:

YEAS—21.

NAYS—None.

Assembly Bill No. 32 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 62.

Bill read third time.

Roll call on Assembly Bill No. 62:

YEAS—21.

NAYS—None.

Assembly Bill No. 62 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 91.

Bill read third time.

Roll call on Assembly Bill No. 91:

YEAS—21.

NAYS—None.

Assembly Bill No. 91 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 203.

Bill read third time.

Roll call on Assembly Bill No. 203:

YEAS—21.

NAYS—None.

Assembly Bill No. 203 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 211.

Bill read third time.

The following amendment was proposed by Senator Parks:

Amendment No. 560.

"SUMMARY—~~Prohibits~~ **Revises provisions governing** discriminatory employment practices ~~based upon gender identity or expression.~~ (BDR 53-272)"

"AN ACT relating to employment practices; prohibiting discriminatory employment practices based upon the gender identity or expression of a person; **authorizing the Nevada Equal Rights Commission to investigate certain acts of prejudice against a person with regard to employment based on gender identity or expression and sexual orientation;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes that it is the policy of this State to foster the right of all persons to reasonably seek, obtain and hold employment without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, national origin or ancestry. (NRS 233.010) Consistent with that policy, existing law protects against such discrimination with respect to apprenticeships. (NRS 610.010, 610.020, 610.150, 610.185) In addition, existing law prohibits certain employers, employment agencies, labor organizations, joint labor-management committees or contractors from engaging in certain discriminatory employment practices. For example, it is an unlawful employment practice to fail to hire or to fire or otherwise discriminate against a person, or to limit or segregate or classify an employee on the basis of race, color, religion, sex, sexual orientation, age, disability or national origin, except in certain circumstances. (NRS 338.125, 613.330, 613.340, 613.350, 613.380) **Sections 2-4, 7-13, 16 and 17** of this bill add "gender identity or expression" to the list of categories upon which discrimination is prohibited, and **sections 1, 5 and 14** of this bill define "gender identity or expression" to mean the gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

Existing law authorizes the Nevada Equal Rights Commission to investigate tensions, practices of discrimination and acts of prejudice against any person with regard to employment based on race, color, creed, sex, age, disability, national origin or ancestry. (NRS 233.150) **Section 15** of this bill adds "gender identity or expression" **and "sexual orientation"** to the list of categories upon which the Commission may investigate such allegations of discrimination.

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

Section 1. NRS 610.010 is hereby amended to read as follows:

610.010 As used in this chapter, unless the context otherwise requires:

1. "Agreement" means a written and signed agreement of indenture as an apprentice.
2. "Apprentice" means a person who is covered by a written agreement, issued pursuant to a program with an employer, or with an association of employers or an organization of employees acting as agent for an employer.
3. "Disability" means, with respect to a person:
 - (a) A physical or mental impairment that substantially limits one or more of the major life activities of the person;
 - (b) A record of such an impairment; or
 - (c) Being regarded as having such an impairment.
4. ***"Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.***
5. "Program" means a program of training and instruction as an apprentice in an occupation in which a person may be apprenticed.
- ~~5.~~ 6. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 2. NRS 610.020 is hereby amended to read as follows:

610.020 The purposes of this chapter are:

1. To open to people, without regard to race, color, creed, sex, sexual orientation, ***gender identity or expression***, religion, disability or national origin, the opportunity to obtain training that will equip them for profitable employment and citizenship.
2. To establish, as a means to this end, an organized program for the voluntary training of persons under approved standards for apprenticeship, providing facilities for their training and guidance in the arts and crafts of industry and trade, with instruction in related and supplementary education.
3. To promote opportunities for employment for all persons, without regard to race, color, creed, sex, sexual orientation, ***gender identity or expression***, religion, disability or national origin, under conditions providing adequate training and reasonable earnings.
4. To regulate the supply of skilled workers in relation to the demand for skilled workers.
5. To establish standards for the training of apprentices in approved programs.
6. To establish a State Apprenticeship Council with the authority to carry out the purposes of this chapter and provide for local joint apprenticeship committees to assist in carrying out the purposes of this chapter.
7. To provide for a State Director of Apprenticeship.
8. To provide for reports to the Legislature and to the public regarding the status of the training of apprentices in the State.

9. To establish procedures for regulating programs and deciding controversies concerning programs and agreements.

10. To accomplish related ends.

Sec. 3. NRS 610.150 is hereby amended to read as follows:

610.150 Every agreement entered into under this chapter must contain:

1. The names and signatures of the contracting parties and the signature of a parent or legal guardian if the apprentice is a minor.

2. The date of birth of the apprentice.

3. The name and address of the sponsor of the program.

4. A statement of the trade or craft in which the apprentice is to be trained, and the beginning date and expected duration of the apprenticeship.

5. A statement showing the number of hours to be spent by the apprentice in work and the number of hours to be spent in related and supplemental instruction, which instruction must not be less than 144 hours per year.

6. A statement setting forth a schedule of the processes in the trade or division of industry in which the apprentice is to be trained and the approximate time to be spent at each process.

7. A statement of the graduated scale of wages to be paid the apprentice and whether or not compensation is to be paid for the required time in school.

8. Statements providing:

(a) For a specific period of probation during which the agreement may be terminated by either party to the agreement upon written notice to the State Apprenticeship Council; and

(b) That after the probationary period the agreement may be cancelled at the request of the apprentice, or suspended, cancelled or terminated by the sponsor for good cause, with due notice to the apprentice and a reasonable opportunity for corrective action, and with written notice to the apprentice and the State Apprenticeship Council of the final action taken.

9. A reference incorporating as part of the agreement the standards of the program as it exists on the date of the agreement and as it may be amended during the period of the agreement.

10. A statement that the apprentice will be accorded equal opportunity in all phases of employment and training as an apprentice without discrimination because of race, color, creed, sex, sexual orientation, ***gender identity or expression***, religion or disability.

11. A statement naming the State Apprenticeship Council as the authority designated pursuant to NRS 610.180 to receive, process and dispose of controversies or differences arising out of the agreement when the controversies or differences cannot be adjusted locally or resolved in accordance with the program or collective bargaining agreements.

12. Such additional terms and conditions as are prescribed or approved by the State Apprenticeship Council not inconsistent with the provisions of this chapter.

Sec. 4. NRS 610.185 is hereby amended to read as follows:

610.185 The State Apprenticeship Council shall suspend for 1 year the right of any employer, association of employers or organization of employees acting as agent for an employer to participate in a program under the provisions of this chapter if the Nevada Equal Rights Commission, after notice and hearing, finds that the employer, association or organization has discriminated against an apprentice because of race, color, creed, sex, sexual orientation, ***gender identity or expression***, religion, disability or national origin in violation of this chapter.

Sec. 5. NRS 613.310 is hereby amended to read as follows:

613.310 As used in NRS 613.310 to 613.435, inclusive, unless the context otherwise requires:

1. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person, including, without limitation, the human immunodeficiency virus;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. "Employer" means any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, but does not include:

(a) The United States or any corporation wholly owned by the United States.

(b) Any Indian tribe.

(c) Any private membership club exempt from taxation pursuant to 26 U.S.C. § 501(c).

3. "Employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer, but does not include any agency of the United States.

4. ***"Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.***

5. "Labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or other conditions of employment.

~~5.~~ 6. "Person" includes the State of Nevada and any of its political subdivisions.

~~6.~~ 7. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 6. NRS 613.320 is hereby amended to read as follows:

613.320 1. The provisions of NRS 613.310 to 613.435, inclusive, do not apply to:

(a) Any employer with respect to employment outside this state.

(b) Any religious corporation, association or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of its religious activities.

2. The provisions of NRS 613.310 to 613.435, inclusive, concerning unlawful employment practices related to sexual orientation **and gender identity or expression** do not apply to an organization that is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 7. NRS 613.330 is hereby amended to read as follows:

613.330 1. Except as otherwise provided in NRS 613.350, it is an unlawful employment practice for an employer:

(a) To fail or refuse to hire or to discharge any person, or otherwise to discriminate against any person with respect to the person's compensation, terms, conditions or privileges of employment, because of his or her race, color, religion, sex, sexual orientation, **gender identity or expression**, age, disability or national origin; or

(b) To limit, segregate or classify an employee in a way which would deprive or tend to deprive the employee of employment opportunities or otherwise adversely affect his or her status as an employee, because of his or her race, color, religion, sex, sexual orientation, **gender identity or expression**, age, disability or national origin.

2. It is an unlawful employment practice for an employment agency to:

(a) Fail or refuse to refer for employment, or otherwise to discriminate against, any person because of the race, color, religion, sex, sexual orientation, **gender identity or expression**, age, disability or national origin of that person; or

(b) Classify or refer for employment any person on the basis of the race, color, religion, sex, sexual orientation, **gender identity or expression**, age, disability or national origin of that person.

3. It is an unlawful employment practice for a labor organization:

(a) To exclude or to expel from its membership, or otherwise to discriminate against, any person because of his or her race, color, religion, sex, sexual orientation, **gender identity or expression**, age, disability or national origin;

(b) To limit, segregate or classify its membership, or to classify or fail or refuse to refer for employment any person, in any way which would deprive or tend to deprive the person of employment opportunities, or would limit the person's employment opportunities or otherwise adversely affect the person's status as an employee or as an applicant for employment, because of his or her race, color, religion, sex, sexual orientation, **gender identity or expression**, age, disability or national origin; or

(c) To cause or attempt to cause an employer to discriminate against any person in violation of this section.

4. It is an unlawful employment practice for any employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining, including, without limitation, on-the-job

training programs, to discriminate against any person because of his or her race, color, religion, sex, sexual orientation, ***gender identity or expression***, age, disability or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

5. It is an unlawful employment practice for any employer, employment agency, labor organization or joint labor-management committee to discriminate against a person with a disability by interfering, directly or indirectly, with the use of an aid or appliance, including, without limitation, a service animal, by such a person.

6. It is an unlawful employment practice for an employer, directly or indirectly, to refuse to permit an employee with a disability to keep the employee's service animal with him or her at all times in his or her place of employment.

7. As used in this section, "service animal" has the meaning ascribed to it in NRS 426.097.

Sec. 8. NRS 613.340 is hereby amended to read as follows:

613.340 1. It is an unlawful employment practice for an employer to discriminate against any of his or her employees or applicants for employment, for an employment agency to discriminate against any person, or for a labor organization to discriminate against any member thereof or applicant for membership, because the employee, applicant, person or member, as applicable, has opposed any practice made an unlawful employment practice by NRS 613.310 to 613.435, inclusive, or because he or she has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under NRS 613.310 to 613.435, inclusive.

2. It is an unlawful employment practice for an employer, labor organization or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification or discrimination, based on race, color, religion, sex, sexual orientation, ***gender identity or expression***, age, disability or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification or discrimination based on religion, sex, sexual orientation, ***gender identity or expression***, age, physical, mental or visual condition or national origin when religion, sex, sexual orientation, ***gender identity or expression***, age, physical, mental or visual condition or national origin is a bona fide occupational qualification for employment.

Sec. 9. NRS 613.350 is hereby amended to read as follows:

613.350 1. It is not an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any person, for a labor organization to classify its membership or to classify or refer for employment any person, or for an

employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any person in any such program, on the basis of his or her religion, sex, sexual orientation, ***gender identity or expression***, age, disability or national origin in those instances where religion, sex, sexual orientation, ***gender identity or expression***, age, physical, mental or visual condition or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

2. It is not an unlawful employment practice for an employer to fail or refuse to hire and employ employees, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of a disability in those instances where physical, mental or visual condition is a bona fide and relevant occupational qualification necessary to the normal operation of that particular business or enterprise, if it is shown that the particular disability would prevent proper performance of the work for which the person with a disability would otherwise have been hired, classified, referred or prepared under a training or retraining program.

3. It is not an unlawful employment practice for an employer to fail or refuse to hire or to discharge a person, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of his or her age if the person is less than 40 years of age.

4. It is not an unlawful employment practice for a school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if the school or institution is, in whole or in substantial part, owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society, or if the curriculum of the school or institution is directed toward the propagation of a particular religion.

5. It is not an unlawful employment practice for an employer to observe the terms of any bona fide plan for employees' benefits, such as a retirement, pension or insurance plan, which is not a subterfuge to evade the provisions of NRS 613.310 to 613.435, inclusive, as they relate to discrimination against a person because of age, except that no such plan excuses the failure to hire any person who is at least 40 years of age.

6. It is not an unlawful employment practice for an employer to require employees to adhere to reasonable workplace appearance, grooming and

dress standards so long as such requirements are not precluded by law, except that an employer shall allow an employee to appear, groom and dress consistent with the employee's gender identity or expression.

Sec. 10. NRS 613.380 is hereby amended to read as follows:

613.380 Notwithstanding any other provision of NRS 613.310 to 613.435, inclusive, it is not an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, if those differences are not the result of an intention to discriminate because of race, color, religion, sex, sexual orientation, *gender identity or expression*, age, disability or national origin, nor is it an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test, if the test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex, sexual orientation, *gender identity or expression*, age, disability or national origin.

Sec. 11. NRS 613.400 is hereby amended to read as follows:

613.400 Nothing contained in NRS 613.310 to 613.435, inclusive, requires any employer, employment agency, labor organization or joint labor-management committee subject to NRS 613.310 to 613.435, inclusive, to grant preferential treatment to any person or to any group because of the race, color, religion, sex, sexual orientation, *gender identity or expression*, age, disability or national origin of the individual or group on account of an imbalance which exists with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, *gender identity or expression*, age, disability or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of that race, color, religion, sex, sexual orientation, *gender identity or expression*, age, disability or national origin in any community, section or other area, or in the available workforce in any community, section or other area.

Sec. 12. NRS 613.405 is hereby amended to read as follows:

613.405 Any person injured by an unlawful employment practice within the scope of NRS 613.310 to 613.435, inclusive, may file a complaint to that effect with the Nevada Equal Rights Commission if the complaint is based on discrimination because of race, color, sex, sexual orientation, *gender identity or expression*, age, disability, religion or national origin.

Sec. 13. NRS 233.010 is hereby amended to read as follows:

233.010 1. It is hereby declared to be the public policy of the State of Nevada to protect the welfare, prosperity, health and peace of all the people of the State, and to foster the right of all persons reasonably to seek, obtain

and hold ~~employment and~~ housing accommodations without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, national origin or ancestry.

2. It is hereby declared to be the public policy of the State of Nevada to protect the welfare, prosperity, health and peace of all the people of the State, and to foster the right of all persons reasonably to seek and be granted services in places of public accommodation without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, sexual orientation, national origin or ancestry.

3. ***It is hereby declared to be the public policy of the State of Nevada to protect the welfare, prosperity, health and peace of all the people of the State, and to foster the right of all persons reasonably to seek, obtain and hold employment without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, sexual orientation, gender identity or expression, national origin or ancestry.***

4. It is recognized that the people of this State should be afforded full and accurate information concerning actual and alleged practices of discrimination and acts of prejudice, and that such information may provide the basis for formulating statutory remedies of equal protection and opportunity for all citizens in this State.

Sec. 14. NRS 233.020 is hereby amended to read as follows:

233.020 As used in this chapter:

1. "Administrator" means the Administrator of the Commission.

2. "Commission" means the Nevada Equal Rights Commission within the Department of Employment, Training and Rehabilitation.

3. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

4. ***"Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.***

5. "Member" means a member of the Nevada Equal Rights Commission.

~~5.~~ 6. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 15. NRS 233.150 is hereby amended to read as follows:

233.150 The Commission may:

1. Order its Administrator to:

(a) With regard to public accommodation, investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, national origin or ancestry, and may conduct hearings with regard thereto.

(b) With regard to ~~employment and~~ housing, investigate tensions, practices of discrimination and acts of prejudice against any person or group

because of race, color, creed, sex, age, disability, national origin or ancestry, and may conduct hearings with regard thereto.

(c) With regard to employment, investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, gender identity or expression, national origin or ancestry, and may conduct hearings with regard thereto.

2. Mediate between or reconcile the persons or groups involved in those tensions, practices and acts.

3. Issue subpoenas for the attendance of witnesses or for the production of documents or tangible evidence relevant to any investigations or hearings conducted by the Commission.

4. Delegate its power to hold hearings and issue subpoenas to any of its members or any hearing officer in its employ.

5. Adopt reasonable regulations necessary for the Commission to carry out the functions assigned to it by law.

Sec. 16. NRS 281.370 is hereby amended to read as follows:

281.370 1. All personnel actions taken by state, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof must be based solely on merit and fitness.

2. State, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof shall not refuse to hire a person, discharge or bar any person from employment or discriminate against any person in compensation or in other terms or conditions of employment because of the person's race, creed, color, national origin, sex, sexual orientation, *gender identity or expression*, age, political affiliation or disability, except when based upon a bona fide occupational qualification.

3. As used in this section:

(a) "Disability" means, with respect to a person:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(2) A record of such an impairment; or

(3) Being regarded as having such an impairment.

(b) *"Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.*

(c) "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 17. NRS 338.125 is hereby amended to read as follows:

338.125 1. It is unlawful for any contractor in connection with the performance of work under a contract with a public body, when payment of the contract price, or any part of such payment, is to be made from public money, to refuse to employ or to discharge from employment any person because of his or her race, color, creed, national origin, sex, sexual orientation, *gender identity or expression*, or age, or to discriminate against

a person with respect to hire, tenure, advancement, compensation or other terms, conditions or privileges of employment because of his or her race, creed, color, national origin, sex, sexual orientation, **gender identity or expression**, or age.

2. Contracts between contractors and public bodies must contain the following contractual provisions:

In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation, **gender identity or expression**, or age, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including, without limitation, apprenticeship.

The contractor further agrees to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

3. Any violation of such provision by a contractor constitutes a material breach of contract.

4. As used in this section ~~the word "sexual"~~:

(a) **"Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.**

(b) **"Sexual orientation"** means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Senator Parks moved the adoption of the amendment.

Remarks by Senators Parks, Hardy, Horsford and President Krollicki.

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

SENATOR PARKS:

Amendment No. 560 revises two sections of *Nevada Revised Statutes (NRS)* section 233 which governs the Nevada Equal Rights Commission. This amendment would simply make all subsections uniform and consistent with other bills that have already passed out of this House.

SENATOR HARDY:

Thank you, Mr. President. In speaking to the amendment, it talks about employment based gender identity or expression.

On page 3, it deals with that same definition of expression or behavior of a person. There is a distinct difference between allowing protection and expression or behavior.

We treasure the freedom of speech in this country, but it has limitations such as not yelling fire in a crowded theater. This amendment creates an extra right. It is ironic when we can consider that in the bill on page 3, Section 2, line 23 it states, "gender identity or expression, religion." You will notice "religion" is not followed by the word "expression."

In the workplace, we are hired to do a job and even if in the contract it does not say that I am allowed to say what religion I am, and why I believe, it becomes inappropriate at times to be preaching in the workplace. I see this as one of those expression issues that could be problematic in the schools, in the workplace, and in a public facility within a private facility.

I was further concerned when I got a letter from a constituent stating, "I am standing up for the right of all Nevadans to be treated fairly and to have protection under the law from discrimination based on their gender identity, or expression." I do not know where that expression ends and where it begins. I have concerns about that. The constituents have a perception of where that begins and ends. It is a real issue that we are giving a super right of expression instead of limiting that to a protection.

SENATOR HORSFORD:

Thank you, Mr. President. As a point of order, with respect to my colleague from District 12, the amendment before you has nothing to do with the expression issue. It is specifically related to sexual orientation, which was a technical oversight in the drafting of the initial bill which is current law.

MR. PRESIDENT:

Respectfully, I thought the Senator was addressing the amendment because the "expression" terminology is used in the amendment's description.

SENATOR HORSFORD:

Point of order, that is not. That is the bill as amended. Assembly Bill No. 211 is in the preamble of the bill. The amendment as before has the purple areas highlighted.

MR. PRESIDENT:

The point is there is a question about "expression." I allowed it. I do not think it changes what we are doing here. There is an amendment before us. There is a motion to pass it.

SENATOR HORSFORD:

I do not disagree I just want the body to be clear, that the amendment before you deals only with the language to add sexual orientation to the list.

SENATOR HARDY:

Thank you, Mr. President. It may be my misunderstanding. When I read the preamble to the bill, or as it is amended, it says, "authorizing Nevada Equal Rights Commission to investigate certain acts of prejudice against a person with regard to employment based on gender identity or expression and sexual orientation." All of which is in green, which was not in the original bill.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 220.

Bill read third time.

Roll call on Assembly Bill No. 220:

YEAS—21.

NAYS—None.

Assembly Bill No. 220 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 295.

Bill read third time.

Remarks by Senator Brower.

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

Thank you, Mr. President. I rise to thank the sponsor of this bill for bringing this issue to our attention and fixing a glitch in the State law.

As I have mentioned on this Floor before, these issues are happening with more regularity and affecting more families around this country than in recent memory.

When I was on active duty, I went through training on how to tell families that a loved one had been killed in action. Then, it was very abstract. It did not happen often. This is happening on a weekly basis in our country.

I appreciate my colleague from Washoe County as a cosponsor and the others who rose to the occasion to help veterans' groups make this small change. It is an important change and I urge your support.

Roll call on Assembly Bill No. 295:

YEAS—21.

NAYS—None.

Assembly Bill No. 295 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 296.

Bill read third time.

Roll call on Assembly Bill No. 296:

YEAS—21.

NAYS—None.

Assembly Bill No. 296 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 319.

Bill read third time.

Roll call on Assembly Bill No. 319:

YEAS—21.

NAYS—None.

Assembly Bill No. 319 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

May 7, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 498, 499.

MARK KRMPOTIC
Fiscal Analysis Division

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Assembly Bills Nos. 12, 18, 33, 55, 83, 97, 111, 121, 125, 142, 147, 156, 166, 168, 174, 217, 250, 261, 262, 348, 464; Assembly Concurrent Resolution No. 9.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to Andrew Clinger, Department of Administration.

Senator Horsford moved that the Senate adjourn until Monday, May 9, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 12:17 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate