

**THE FORTY-SIXTH DAY**

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CARSON CITY (Thursday), March 21, 2013

Senate called to order at 8:10 a.m.

President pro Tempore Parks presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

To You, O God, who by the spoken word was able to bring the universe into being, help us today to cultivate proper speech.

Surrounded as we are in this building by those who craft bills and resolutions in eloquent language, may we say what we mean and mean what we say. And may it be worth saying. Teach us economy in speech, that neither wounds nor offends, that affords light without generating heat. Bridle our tongues lest they stampede us into utterances of which later we shall be ashamed.

Thank You for Your willingness to listen to the words of this prayer.

AMEN.

Pledge of Allegiance to the Flag.

The President pro Tempore announced that under previous order, the reading of the Journal is waived for the remainder of the 77th Legislative Session and the President pro Tempore and Secretary are authorized to make any necessary corrections and additions.

REPORTS OF COMMITTEES

*Mr. President pro Tempore:*

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 203, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

PAT SPEARMAN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, March 20, 2013

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 111.

MATTHEW BAKER

*Assistant Chief Clerk of the Assembly*

COMMUNICATIONS  
CONGRESS OF THE UNITED STATES  
4TH DISTRICT, NEVADA

March 20, 2013

THE HONORABLE MOISES DENIS, *Senate Majority Leader*

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

DEAR SENATOR DENIS,

I respectfully request the opportunity to address the distinguished members of the Nevada Legislature on Tuesday, April 2, 2013 at 12:00 noon. As the Representative for Nevada's 4th Congressional District, I look forward to sharing information from the halls of Congress and the communities from the district that will affect Nevada.

I am honored, and look forward to this opportunity. Thank you in advance for your consideration.

Sincerely,  
STEVEN HORSFORD  
*Member of Congress*  
Nevada's 4th District

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 111.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 77.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 139.

Bill read third time.

Remarks by Senators Spearman, Hardy, Hutchison, Hammond and Settelmeyer.

SENATOR SPEARMAN:

Thank you, Mr. President pro Tempore. This is a very special day because I believe that it punctuates the Nevada Legislature's commitment to equality, equal access and equal protection under the law. There have been times in our history, both at the federal level and at the State level, when things have happened that upon later reflection, they do not adequately express who we are as children of God. Today we make those wrongs right.

For those among us who happen to be different but who are still created by God, and as someone who has experienced multiple incidences of discrimination in my lifetime, I am glad to see this day has come for the rest of our citizens.

SENATOR HARDY:

Thank you, Mr. President pro Tempore. Yesterday afternoon we had an amendment to Senate Bill No. 139. In researching that amendment and in talking with the Majority Leader, Assistant Majority Leader and Legal Counsel Brenda Erdoes last night, a concern I raised in 2011 still remains. As defined in 2011, gender identity means a gender-related identity, appearance, expression or behavior of a person regardless of the person's assigned sex at birth.

When we look at how the Federal Bureau of Investigation and the federal statute define it and recall our need to match the federal language, we have a mismatch. Regarding the intent of the behavior, when I look at it as amended, I am concerned that we are potentially giving a "super free speech" to a group of people seeking equality. I agree with equality but I do not agree with "super free speech."

I have tried to get my head and my soul around what we can do as a Body that would allow us to recognize there are parameters around free speech. In the spirit of equality, if we could add slightly different language such as, "gender identity or gender expression" I could be very supportive of this bill. As it stands now with "gender identity or expression," I feel it gives a "super free speech" and I cannot be supportive.

SENATOR HUTCHISON:

Thank you, Mr. President pro Tempore. I rise for two purposes today. First, I rise to echo what I understood from the deliberations of my colleagues in the Senate Committee on Judiciary: in the phrase "gender identity or expression," the word gender modifies both identity and expression. Similar to the phrase "blue car or truck" indicating both a blue car and a blue

truck. Thus, I read the phrase “gender identity or expression” to mean gender identity or gender expression.

Beyond that, I rise in support of Senate Bill No. 139. I support this bill because if there is actual legal evidence proving that a violent crime was motivated by a victim’s race, color, religion, national origin, physical or mental disability, sexual orientation or gender identity, there is proof of premeditation in the commission of a crime. In my view, this premeditation warrants an enhancement of the penalty for the crime imposed under Nevada law. In my judgment, this law does not address crimes of passion or opportunity or the like. This law applies when there is actual evidence that violence or criminal activity was visited on a victim, merely because of these enumerated characteristics.

As I noted in the Senate Committee on Judiciary when Senator Spearman presented Senate Bill No. 139, the history of my own religious faith is littered with instances of men, women and children being subjected to violent crimes and unspeakable acts because of their religious convictions. I believe they would have benefitted greatly from a law such as Senate Bill No. 139, and I believe all Nevadans will benefit from this law.

SENATOR HAMMOND:

Thank you, Mr. President pro Tempore. I rise in support of Senate Bill No. 139 and the comments already made by my fellow Senators. My colleague in Senate District 6 said it all and said it best. As we heard in the Senate Committee on Judiciary, Senate Bill No. 139 addresses those individuals who would target someone because of a certain characteristic as enumerated by my colleague in Senate District 6, not necessarily because of a crime of passion or opportunity, but because of who someone is. The intent of this bill is to send the message back to those who perpetrate harm on another because of a certain characteristic, and because of that, I rise in support of it and hope my colleagues will also support passage of this bill.

SENATOR SETTELMEYER:

Thank you, Mr. President pro Tempore. I appreciate the concerns that were expressed by my colleague in Senate District 12. I hope the sponsor of the Senate Bill No. 139, if this bill passes and moves to the Assembly, will have an opportunity to work on the expressed concerns. I think the concerns are valid.

As a Body, when we discuss enhancements and multipliers, we need to look at the concept that incarceration should be as long as necessary to decrease recidivism. I worry that we are taking the flexibility away from the courts and the parole boards in defining the appropriate time of incarceration.

Roll call on Senate Bill No. 139:

YEAS—20.

NAYS—Hardy.

Senate Bill No. 139 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

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

On request of Senator Kieckhefer, the privilege of the Floor of the Senate Chamber for this day was extended to the following students and teachers from Bordewich-Bray Elementary School: Gabe Crossman, Stacy Ferrel, Jonathan Francone, Gabrielle Frank, Olivia Frank, Hannah Grundy, Ryan Heidt, Cole Johnson, Pru Knox, Kelly McCready, Brooke Robinson, Elisah Romero, Lillian Sanders, Kyla West; teachers: Linda Hurzel and Laura Valley.

On request of Senator Spearman, the privilege of the Floor of the Senate Chamber for this day was extended to Peggy Bohn.

Senator Denis moved that the Senate adjourn until Monday, March 25, 2013, at 11:00 a.m.

Motion carried.

Senate adjourned at 8:27 a.m.

Approved:

DAVID R. PARKS  
*President pro Tempore of the Senate*

Attest: DAVID A. BYERMAN  
*Secretary of the Senate*