

THE NINETY-NINTH DAY

CARSON CITY (Monday), May 13, 2013

Senate called to order at 12:27 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Rob Jennings-Teats.

This prayer has been slightly modified from Margaret Thatcher's first prayer as Prime Minister.

Look graciously, O Lord, upon this State and on those who are elected to make its laws. Where there is pride, subdue it. Where there is need, supply it. Where there is division, unite it. Where there is error, rectify it. Where there is exhaustion, provide strength. Where there is misunderstanding, give pardon. Where there is despair, bring hope. Where there are those who are vulnerable and weak, bring compassion and justice. Where there is hatred, sow acts of kindness. Where there is callous disregard for the poor and the distressed, bring comfort and support. And where there is the will to do the right and loving thing, support it.

AMEN.

Pledge of Allegiance to the Flag.

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

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

Your Committee on Finance, to which was referred Senate Bill No. 462, 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. 468, 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 were re-referred Senate Bills Nos. 447, 467, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass as amended.

DEBBIE SMITH, *Chair**Mr. President:*

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 59, 65, 249, 493, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DAVID R. PARKS, *Chair**Mr. President:*

Your Committee on Health and Human Services, to which were referred Assembly Bills Nos. 28, 53, 183, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JUSTIN C. JONES, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 407, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PAT SPEARMAN, *Chair*

Mr. President:

Your Committee on Natural Resources, to which were referred Assembly Bills Nos. 128, 483; Assembly Joint Resolutions Nos. 3, 4, 5, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

AARON D. FORD, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 9, 2013

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 462, 465, 468, 469, 472, 477, 481.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 24, 478.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

By Senators Roberson, Kieckhefer, Hardy, Brower, Hammond and Hutchison:

Senate Bill No. 513—AN ACT relating to taxation for public education; proposing the Education Priority Act as a different measure on the same subject contained in Initiative Petition No. 1 to compete on the general election ballot for approval or disapproval by the voters; imposing an excise tax upon mineral extraction by certain businesses engaged in mining in this State and upon mineral royalties; providing for the administration and collection of the tax and the distribution of increased revenue from the tax to fund certain K-12 programs in Nevada's public education system; temporarily increasing the payroll tax imposed on certain financial institutions and providing for the distribution of the increased revenue to fund certain K-12 programs; exempting certain mineral proceeds and mineral royalties from the personal property tax; providing penalties; making an appropriation; providing for submission of this act to the voters; and providing other matters properly relating thereto.

Senator Roberson moved that the bill be referred to the Committee on Revenue and Economic Development.

Motion carried.

By the Committee on Finance:

Senate Bill No. 514—AN ACT relating to taxation; providing for the imposition of the payroll tax on larger gold and silver mining operations at the same rate as the payroll tax imposed on financial institutions; revising the rate of the payroll tax that is applicable to other employers; and providing other matters properly relating thereto.

Senator Smith moved that the bill be referred to the Committee on Revenue and Economic Development.

Motion carried.

Assembly Bill No. 24.

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

Motion carried.

Assembly Bill No. 462.

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

Motion carried.

Assembly Bill No. 465.

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

Motion carried.

Assembly Bill No. 468.

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

Motion carried.

Assembly Bill No. 469.

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

Motion carried.

Assembly Bill No. 472.

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

Motion carried.

Assembly Bill No. 477.

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

Motion carried.

Assembly Bill No. 478.

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

Motion carried.

Assembly Bill No. 481.

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

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 12.

Bill read second time and ordered to third reading.

Assembly Bill No. 22.

Bill read second time and ordered to third reading.

Assembly Bill No. 179.

Bill read second time and ordered to third reading.

Assembly Bill No. 206.

Bill read second time and ordered to third reading.

Assembly Bill No. 331.

Bill read second time and ordered to third reading.

Assembly Bill No. 492.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 362.

Bill read third time.

Remarks by Senators Spearman, Jones, Hardy and Smith.

SENATOR SPEARMAN:

Thank you, Mr. President. Senate Bill No. 362 prescribes certain provisions for health care facilities with more than 70 beds that are located in a county whose population is 100,000 or more, currently Clark and Washoe Counties. Specifically, the bill requires: (1) the inclusion of certified nursing assistants on these facilities' staffing committees; (2) the creation of documented staffing plans to include the number of certified nursing assistants in a unit and protocols to ensure adequate staffing in the event of an emergency; (3) that facilities be staffed in accordance with their plan; and (4) the staffing committee to develop written policies governing when a certified nursing assistant or a licensed nurse may refuse or object to a work assignment.

Senate Bill No. 362 prohibits a medical facility from retaliating or discriminating against a certified nursing assistant or licensed nurse who requests to be relieved of, refuses or objects to a work assignment. This bill also requires the Health Division of the Department of Health and Human Services to adopt necessary regulations to carry out certain provisions of the bill and to ensure general compliance with those provisions. Finally, it allows the Health Division to enforce the requirements of the measure as part of its existing inspection process. This bill is effective on October 1, 2013.

SENATOR JONES:

Thank you very much, Mr. President. I rise in support of Senate Bill No. 362. I want to commend my colleague from Senate District No. 1 for the tremendous effort she put forward with this bill. We had a contentious hearing in the Senate Committee on Health and Human Services with hospitals and nurses associations adamantly opposed to the positions. My colleague from Senate District No. 1 has spent hours and hours coming to a resolution on this bill, getting us to a place where everyone agrees we are doing something positive for health care in our State. I urge the passage of Senate Bill No. 362.

SENATOR HARDY:

Thank you, Mr. President. I rise in support of Senate Bill No. 362. This is a bill that my colleague from Senate District No. 1 has been working on for a short period of time. We, as a Body in both Houses and in Interim Committees, have been working on this for 10 years. My

colleague from Senate District No. 1 has come up with a rational, reasonable opportunity to bring people together instead of dividing them apart. My hat is off to her. I appreciate her efforts.

SENATOR SMITH:

Thank you, Mr. President. I rise in support of Senate Bill No. 362. I also commend my colleague from Senate District No. 1 for her hard work on this legislation. I also commend the Chair of the Senate Committee on Health and Human Services. As a former Chair of a health and human services committee, I have seen this legislation evolve over time. Senate Bill No. 362 is hopefully a resolution that will work for many years to come. I also commend the parties involved because everyone had to give up a little something in this. I believe that is what has made it successful: the hard work they have done together. I hope my colleagues will support this bill.

Roll call on Senate Bill No. 362:

YEAS—21.

NAYS—None.

Senate Bill No. 362 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 459.

Bill read third time.

Remarks by Senators Smith and Kieckhefer.

SENATOR SMITH:

Thank you, Mr. President. I rise in support of Senate Bill No. 459 which appropriates General Fund dollars totaling \$26,912,908 in fiscal year 2013 for expenditures resulting from an unanticipated increase in caseload for medical services and costs per eligible for Medicaid recipients and retroactive payments for Upper Payment Limit and Graduate Medical Education costs. It also authorizes federal Medicaid and other funds totaling approximately \$47 million for these same purposes.

Although it may sound like a lot of money, the allocation has been amended down from the original proposal. And because it is a supplemental appropriation, it is effective upon passage and approval. I urge your support.

SENATOR KIECKHEFER:

Thank you, Mr. President. I rise in support of Senate Bill No. 459 and to clarify that those voting in favor are voting to spend \$70 million.

Roll call on Senate Bill No. 459:

YEAS—21.

NAYS—None.

Senate Bill No. 459 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 461.

Bill read third time.

Remarks by Senator Goicoechea.

Thank you, Mr. President. Senate Bill No. 461 makes a one-time General Fund appropriation of \$29,553 in fiscal year 2013 to replace computer equipment used beyond its normal scheduled replacement. Equipment replacement scheduled for the 2011-13 Biennium was deferred due to budget reductions.

Roll call on Senate Bill No. 461:

YEAS—21.

NAYS—None.

Senate Bill No. 461 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 480.

Bill read third time.

Remarks by Senators Woodhouse and Denis.

SENATOR WOODHOUSE:

Thank you, Mr. President. Senate Bill No. 480 makes a General Fund appropriation totaling \$2,000,436 to the Gaming Control Board to convert from a Common Business-Oriented Language-based, or COBOL-based, technology system, to a modern technology system. Funds appropriated to the Gaming Control Board for this purpose must be obligated by June 30, 2015, and any funds not spent prior to September 18, 2015, must be reverted to the General Fund. This act becomes effective upon passage and approval. I urge your support.

SENATOR DENIS:

Thank you, Mr. President. I am in support of Senate Bill No. 480; however, I would like to comment that while COBOL is a stable programming language that has been around for several decades, it is time to move on. It is getting harder and harder to find people who program in this language. I urge your support.

Roll call on Senate Bill No. 480:

YEAS—21.

NAYS—None.

Senate Bill No. 480 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 13.

Bill read third time.

Remarks by Senator Goicoechea.

Thank you, Mr. President. Assembly Bill No. 13 requires the Local Government Employee-Management Relations Board to conduct a hearing within 180 days, instead of 90 days, after the Board decides to hear a complaint. The bill is effective upon passage and approval.

Roll call on Assembly Bill No. 13:

YEAS—21.

NAYS—None.

Assembly Bill No. 13 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 16.

Bill read third time.

Remarks by Senator Manendo.

Thank you, Mr. President. Assembly Bill No. 16 creates the *State Administrative Manual* in statute. It establishes certain procedural requirements to be met by the Chief of the Budget Division or Director of Department of Administration, as applicable, in connection with the adoption, amendment or repeal of policies and procedures to be compiled and published in the *State Administrative Manual*. This bill is effective on January 1, 2014.

Roll call on Assembly Bill No. 16:

YEAS—21.

NAYS—None.

Assembly Bill No. 16 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 41.

Bill read third time.

Remarks by Senator Hammond.

Thank you, Mr. President. Assembly Bill No. 41 moves the provisions governing contracting with current and former State employees out of personnel laws and into State purchasing laws. It requires the using agency to submit a written disclosure to the State Board of Examiners regarding the services to be provided and to specify when approval by the State Board of Examiners must occur.

The measure raises the threshold for requiring formal contracts for purchases by the State from \$25,000 to \$50,000. It further increases the delegated authority of the Clerk of the State Board of Examiners from \$10,000 to \$50,000 for contracts including those contracts necessary to preserve life and property, which is raised from \$25,000 to \$50,000. New language is added to prohibit an agency from splitting a contract to avoid the competitive bid process. Further, a contract is void if it does not comply with statutory and regulatory provisions. Both the head of the using agency and the employee entering the contract are personally liable for the costs of services delivered pursuant to the void contract.

Roll call on Assembly Bill No. 41:

YEAS—21.

NAYS—None.

Assembly Bill No. 41 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 45.

Bill read third time.

Remarks by Senator Spearman.

Thank you, Mr. President. Assembly Bill No. 45 eliminates the requirement that the Administrator of the State Library and Archives, Department of Administration, must maintain custody of and carefully preserve the description of the State Seal and other such seals and expired official bonds approved by the Governor. It expands the inspection authority of the Administrator to include confidential or privileged information, with certain requirements, in records in the custody of State or local governmental agencies and prohibits the Administrator from disclosing any such confidential or privileged information. The Division of State Library and Archives is authorized to provide microfilming and digital imaging services for the records of the Legislative and Judicial Branches of State Government, upon request. Finally, Assembly Bill No. 45 eliminates certain duplicative provisions found in State law. This measure is effective upon passage and approval.

Roll call on Assembly Bill No. 45:

YEAS—21.

NAYS—None.

Assembly Bill No. 45 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 57.

Bill read third time.

Remarks by Senator Parks.

Thank you, Mr. President. Assembly Bill No. 57 requires the Administrator of the Nevada Equal Rights Commission, instead of the Nevada Equal Rights Commission, to prepare and submit a biennial report concerning the activities of the Commission to the Governor and to the Director of the Legislative Counsel Bureau. This bill is effective on October 1, 2013.

Roll call on Assembly Bill No. 57:

YEAS—21.

NAYS—None.

Assembly Bill No. 57 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 85.

Bill read third time.

Remarks by Senator Goicoechea.

Thank you, Mr. President. Assembly Bill No. 85 prohibits a local government; the Administrator of the Purchasing Division of the Department of Administration; and a board of trustees of a school district from joining, using, or entering into a contract or agreement previously established by another public body with the vendor if a contractor's license is required for any portion of the contract or agreement.

Roll call on Assembly Bill No. 85:

YEAS—21.

NAYS—None.

Assembly Bill No. 85 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 252.

Bill read third time.

Remarks by Senator Hammond.

Thank you, Mr. President. Assembly Bill No. 252 makes various changes to the Nevada Administrative Procedure Act. The measure requires an agency to submit a notice of any meeting or workshop relating to the adoption of a regulation to the Director of the Legislative Counsel Bureau at the same time that the agency posts notice of the meeting or workshop on the Website maintained by the Legislative Counsel Bureau. If any regulation is not adopted within two years after the date on which it is submitted to the Legislative Counsel, the executive head of an agency is required to appear before the Legislative Commission to explain the failure to do so.

An agency must include a clear and concise explanation of the need for the adopted regulation when submitting the required informational statement with any proposed regulation.

The Legislative Commission or the Subcommittee to Review Regulations may object to a regulation if the agency did not provide a satisfactory explanation of the need for the regulation or if the informational statement is insufficient or incomplete. The provisions of this bill apply retroactively to any regulation which has been proposed but not adopted before July 1, 2013, and to any regulation adopted on or after July 1, 2013.

Roll call on Assembly Bill No. 252:

YEAS—21.

NAYS—None.

Assembly Bill No. 252 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 356.

Bill read third time.

Remarks by Senator Manendo.

Thank you, Mr. President. Assembly Bill No. 356 encourages Carson City, any nonprofit organization and any other interested stakeholder to work cooperatively with various State agencies to develop recommendations for the preservation of the Nevada State Prison in Carson City, Nevada, for use as a historical, educational and scientific resource for the State of Nevada. On May 18, 2012, after 150 years of continuous service, the Nevada State Prison was decommissioned.

Roll call on Assembly Bill No. 356:

YEAS—21.

NAYS—None.

Assembly Bill No. 356 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

REMARKS FROM THE FLOOR

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

SENATOR ROBERSON:

Thank you, Mr. President. I had great hopes that things would be different this Legislative Session. I hoped that as citizen Legislators we could buck the trend of Washington D.C.-style partisan politics and work together on real solutions for Nevada.

We waited patiently for the Majority Party to fulfill their promise of an open and honest debate about the future of this great State. But after promising an early and open discussion this year on Nevada's tax structure—Day 2 if you will recall—the Majority Party has once again waited until the last possible minute to reveal their plan to impose job-killing—yes, job-killing—taxes on Nevada families and businesses.

I have seen this movie before. I know how it is going to end. Speaking of movies, just last week on Day 94 of this Legislative Session, a bill to expand the taxes on entertainment was introduced by Democrats in the Nevada Assembly. The "Nevada Family Fun Tax," as it has come to be called, will force Nevada families to pay more for recreational activities like bowling, baseball games, museums and movies to name only a few.

Forcing hard-working Nevada families to pay yet another regressive tax is not my idea of good tax reform. Today, on Day 99 of this Legislative Session, we learned that the Majority Party here in the State Senate intends to punish even more businesses that hire Nevadans. Expanding the payroll tax on Nevada businesses is no way to grow our economy. It

will not put Nevadans who have struggled to find and maintain employment back to work. A massive expansion in the payroll tax will instead result in more Nevadans losing their jobs.

The Majority Party's tax plan calls for more than a quarter of a billion dollars in new payroll taxes. As part of that plan, the payroll tax on mining would increase to two percent. It is my understanding that the revenue raised from this increase on mining would amount to somewhere between \$14 and \$22 million per Biennium. To put this in context, the gross revenue of gold and silver mining over the past two years was just under \$20 billion. Raising the mining tax to two percent would increase taxes on mining by an amount equal to one-tenth of one percent of mining's revenues.

With all due respect to the Majority Party, this is what you call "a rounding error." It is the kind of tax reform only mining lobbyists could love. As our State grows slowly out of the painful recession, I cannot support this type of short-sighted, counterproductive proposal that penalizes struggling businesses while, once again, allowing big mining to dictate its own tax policy.

SENATOR DENIS:

Thank you, Mr. President. I appreciate my colleague from Senate District No. 20 and his desire to do things differently. As one who has been working hard to do things differently since Day 2 of this Legislative Session, I think we have. It is interesting that many of the comments made on the different proposals are things we have discussed before today, yet they are not mentioned.

The Majority Party is willing to work together, and we have tried to "reach across the aisle" this Session. That is why, today, we introduced a plan that would help kids in our State. The most common thing we have heard from every one of our constituents is to help our education system. What we are proposing is the only thing that will help. We did it through discussions with businesses and other constituencies. We have been doing this over the last several months.

We continue to hope we can work together to come to solutions that will help our kids today and help Nevada move forward. The opportunity is before us. It takes a long time to go through this process. We have reached across the aisle throughout this Legislative Session and will continue to do so.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Brower, the privilege of the Floor of the Senate Chamber for this day was extended to Phyllis Bassett, Barbara Glotzer and Elveria Jeffery.

On request of Senator Denis, the privilege of the Floor of the Senate Chamber for this day was extended to Charlie Christy, Elizabeth Rassinger Austin, Bob Winegar, Janet Winegar and Marzella Yates.

On request of Senator Goicoechea, the privilege of the Floor of the Senate Chamber for this day was extended to Mike D'Alessio, Sharon D'Alessio, Claudia Nicholas and Alecia Sibio.

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to Nathaniel "Nate" Ramirez.

On request of Senator Hutchison, the privilege of the Floor of the Senate Chamber for this day was extended to Suzanne Myers.

On request of Senator Kieckhefer, the privilege of the Floor of the Senate Chamber for this day was extended to Christel Citko.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to Gary Duffel, Nicole Duffel and Dorothy Guralnik.

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

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

On request of Senator Settlemeyer, the privilege of the Floor of the Senate Chamber for this day was extended to Sally Bilyeu, Barbara Grove and Patricia Mallory.

On request of Senator Smith, the privilege of the Floor of the Senate Chamber for this day was extended to the students and teachers from the Academy for Career Education, students: Dillon Black, Justin Brent, Kuron Briggs, Andres Chavez, Kyree Dewees, Sierra Dosch, Cody Esson, Jose Estrada, Ashly Flores, Gerardo Flores, Thomas Friberg, Amanda Giantvalley, Alexis Gill, Omar Gonzalez, Scott Hatfield, Maryann Jardine, Esmeralda Jaramillo, Jordan Kress, Ian Martinmaas, Schuyler Minnick, Daniel Nguyen, Rafael Verdin, Donald Wendland and Sarah Wood; and teachers: Karen Fleischmann and Dan Senger.

On request of Senator Woodhouse, the privilege of the Floor of the Senate Chamber for this day was extended to Bill Simecka and Sue Simecka.

Senator Denis moved that the Senate adjourn until Wednesday, May 15, 2013, at 11:30 a.m.

Motion carried.

Senate adjourned at 1:14 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate