THE TWENTY-FOURTH DAY

CARSON CITY (Wednesday), March 1, 2017

Senate called to order at 11:43 a.m.

President Hutchison presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Nick Emery.

What a privilege it is to come to You in prayer and that You hear our prayers, Lord.

Father God, we thank You, Lord, for the opportunities that are before us this day. We ask for Your blessing upon the work of these Senators this day and that You would continue to bless our great State, Nevada.

We join our hearts and pray Philippians 1:9-11: That our love may abound more and more in knowledge and depth of insight so that we may be able to discern what is best and may be pure and blameless until the day of Christ, so that we may be filled with the fruit of righteousness that comes through Jesus Christ to the glory and praise of God.

We pray these things in the mighty Name of Jesus.

AMEN.

Pledge of Allegiance to the Flag.

By previous order of the Senate, the reading of the Journal is dispensed with, and the President and Secretary are authorized to make the necessary corrections and additions.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Education, to which was referred Senate Bill No. 38, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MOISES DENIS, *Chair*

Mr. President:

Your Committee on Finance, to which was referred Senate Bill No. 167, has had the same under consideration, and begs leave to report the same back with the recommendation: Re-refer to the Committee on Education.

JOYCE WOODHOUSE, *Chair*

Mr. President:

Your Committee on Transportation, to which were referred Senate Bills Nos. 14, 37, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARK A. MANENDO, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, February 28, 2017

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 2, 9, 13, 19.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

COMMUNICATIONS

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-2802

March 1, 2017

THE HONORABLE AARON FORD, Nevada Legislature, 401 South Carson Street, Carson City, Nevada 89701-4747

DEAR MAJORITY LEADER FORD:

Pursuant to past protocol, I would like to request permission as a Representative in the United States Congress of the Second District of Nevada to address a joint session of the Nevada Legislature on Monday, March 13, 2017, at 5:00 p.m.

Please contact Rachel Provost at 202.225.6155 to coordinate the details of my visit or if you have any further questions.

Your consideration of this request is greatly appreciated.

Sincerely,

MARK E. AMODEI
Member of Congress

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

February 28, 2017

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the exemption of: Senate Bills Nos. 72, 155, 167, 180, 190.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 107, 108, 109, 112, 114, 120, 126, 135, 136, 137, 139, 147, 154, 179, 181, 194, 221.

MARK KRMPOTIC
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Woodhouse moved that Senate Bill No. 167, just reported out of Committee, be re-referred to the Committee on Education.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Natural Resources:

Senate Bill No. 231—AN ACT relating to water; requiring the State Engineer to prepare a water budget and inventory of groundwater for each basin in this State; requiring an application for certain mining permits to include certain information relating to the use of water; requiring the State Engineer to post on the Internet certain information relating to the consumptive use of water by mining projects; and providing other matters properly relating thereto.

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

Motion carried.

By Senators Segerblom, Manendo, Cancela, Parks, Woodhouse; Assemblymen Neal, Araujo, Daly and Joiner:

Senate Bill No. 232—AN ACT relating to domestic workers; enacting the Domestic Workers' Bill of Rights; providing for the mandatory payment of wages and overtime wages for certain hours worked, limitations on deductions

for food and lodging, rest breaks and days off; and providing other matters properly relating thereto.

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

Motion carried.

By Senators Ratti, Cancela, Spearman, Cannizzaro, Woodhouse, Atkinson, Denis, Ford, Manendo, Parks and Segerblom:

Senate Bill No. 233—AN ACT relating to health care; requiring the State Plan for Medicaid and all health insurance plans to provide certain benefits relating to reproductive health care, hormone replacement therapy and preventative health care at no additional cost to the covered person; requiring a pharmacist to dispense up to a 12-month supply of certain contraceptives in certain circumstances; and providing other matters properly relating thereto.

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

Motion carried.

Assembly Bill No. 2.

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

Motion carried.

Assembly Bill No. 9.

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

Motion carried.

Assembly Bill No. 13.

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

Motion carried.

Assembly Bill No. 19.

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

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 22.

Bill read third time.

Remarks by Senator Manendo.

Senate Bill No. 22 makes various changes relating to the powers and duties of the Department of Administration and the Office of Finance. Among other things, the bill requires the Director of the Office of Finance to appoint a Deputy Director; authorizes the Director to delegate to the Deputy Director duties related to serving as Clerk of the State Board of Examiners; transfers from the Clerk to the Department of Administration the authority to appoint compensation officers and administer the program to compensate victims of crime; transfers from the Department to the Office of Finance the duty to contract annually for the services of an independent contractor to

provide projections of the number of persons who will be imprisoned, on probation, on parole and in residential confinement in Nevada; transfers from the Director to the Administrator of the Administrative Services Division of the Department the duty of preparing an annual statewide cost allocation plan to distribute indirect costs of service agencies within the Executive Branch and requires the Chief of the Budget Division to review and approve the plan; requires the Division of Human Resource Management of the Department to prepare and submit a quarterly report to the Budget Division concerning the amount of overtime worked by Executive Branch employees, and transfers from the Chief of the Budget Division to the Director of the Department the authority to deem certain information confidential for the purpose of maintaining public safety.

The provisions of this bill continue the reorganization of the Department of Administration that was initiated in 2015 with the enactment of Assembly Bill 469, which created the Office of Finance in the Office of the Governor and transferred the duties of the Budget Division and the Division of Internal Audits from the Department of Administration to the Office of Finance.

Roll call on Senate Bill No. 22:

YEAS—21.

NAYS—None.

Senate Bill No. 22 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to Assembly.

Senate Bill No. 56.

Bill read third time.

Remarks by Senator Hardy.

Senate Bill No. 56 provides a charter for the City of Mesquite. The charter establishes the structure of the City's governance including provisions relating to the legislative, executive and judicial departments of the City; authorizes the City Council to establish and impose various fees, and establishes other provisions concerning the ongoing operation of the City.

Testimony indicated the Mesquite City Council adopted the charter unanimously. This measure would not require a special election. Mesquite is the only city in Clark County without a charter; and this bill will make Mesquite the 13th charter city in the State.

Roll call on Senate Bill No. 56:

YEAS—19.

NAYS—Roberson, Settelmeyer 2.

Senate Bill No. 56 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Joint Resolution No. 2.

Resolution read third time.

Remarks by Senators Spearman, Hardy, Settelmeyer, Cannizzaro, Hammond, Gansert, Woodhouse, Ratti, Cancela, Ford, Segerblom, Harris and Roberson.

SENATOR SPEARMAN:

Senate Joint Resolution No. 2 is before us today for passage. In recent days, this legislation has been categorized by misinformation and false innuendos. The Equal Rights Amendment (ERA) is about equality for all citizens and placing that guarantee in our Constitution—nothing more. It is not a law to allow people to marry the Eiffel Tower; it is not a law to allow bestiality; it is not a law for surgical intrusion into a woman's reproductive anatomy; it is not a law that allows unfettered abortions; it is not a law that negates Social Security benefits for spouses; it is not a law

that prevents men from opening doors for women; it is not a law that forces women into combat. As a matter of fact, the asymmetric battlefield, by definition, already includes women in combat. Women drove fuel trucks in Iraq and Afghanistan; women worked in administrative roles in the Green Zone in Iraq and Afghanistan; women were medics, military police, logisticians and in every field within the military service.

The objections to ratifying the ERA are false, disingenuous and misleading. As such, opposition to passage creates a default position yielding to the antiquated notion of misogynistic patriarchy, the erroneous illusion that men are superior and women are inferior. As such, this line of social and cultural demagoguery is admirable for its asininity alone.

Supreme Court Justice Ruth Bader Ginsburg wrote in the *Harvard Women's Law Journal*: "With the Equal Rights Amendment, we may expect Congress and the state legislatures to undertake in earnest, systematically and pervasively, the law revision so long deferred. And in the event of legislative default, the courts will have an unassailable basis for applying the bedrock principle: All men and all women are created equal."

The Equal Rights Amendment is about equality—period.

We have delayed passage long enough. Now is the time to show the Country and the global neighborhood that we, as Nevadans, lead when it comes to equality for all. At every decision point in history, the quest for equality has met with stiff and recalcitrant opposition. Equal justice has never been given. During antebellum times, abolitionists persisted to end the heinous practice of slavery. In the early 1900s, women suffragettes persisted to gain the right to vote; Negroes in the South persisted to end Jim Crow laws; African-Americans persisted to get the 1964 Civil Rights Act passed; Cesar Chavez and migrant workers persisted to improve working conditions in the agriculture fields; Vietnam veterans persisted to get health care, recognition of their service and appreciation for their sacrifice; members of the LGBTQ community persisted to gain marriage equality for our posterity. Women all over this Country persisted for the right to get credit in their own name, to buy property in their name, to work and be promoted on merit in the corporate world. Hilary Rodham Clinton persisted to put more than 60 million cracks in the political glass ceiling. Yes, Mr. President, persistence, faith and hope fuel the indomitable spirit of this movement.

Today, at this hour and at this moment in history, this legislation to ratify the Equal Right Amendment is before us for consideration because millions of women, men, boys and girls have persisted. We have an obligation, yes, even a moral responsibility, to honor the sacrifices of our mothers, grandmothers and all of our fore parents. We must commit to the preservation of justice and equality for our posterity. Pass this resolution.

Galatians 6:9 says, "Be not weary in well doing, you will reap the harvest if you do not faint." We got tired, but we did not faint; we became weary, but we did not faint; we were vilified, ostracized and criticized, but we did not faint. I encourage my colleges to support and pass this legislation. We persist in the Name of all that is good.

SENATOR HARDY:

We have laws that limit inappropriate use of a male's procreative powers designed to initiate pregnancy and laws to limit a female's options to stop the procreative process after some time has passed. These laws recognize commonly held beliefs of private and, even to some, sacred feelings of the nature of our differences between a man and a woman. Surely, we must admit to ourselves that there is a difference between the sexes. These differences cannot be negated by a law or a constitutional amendment.

We have come a long way in our quest for equality before the law in the last 35 years. I have asked myself, what remains to be done? Do we really want compulsory combat duties for women and mothers? Do we really want more freedom to interrupt the gestational process without time limits? Do we want to remove the banks of the river of the family flow of our society? Are we proposing a political point or trying to justify our position that will make the family stronger? There are strident voices on all sides that may muffle the quiet strength of our Nation built upon the concept of family ideals and teachings in homes filled with love and understanding. I recognize that no family or member of the family is perfect, but the family is the keystone of our Nation and, indeed, society in general.

I, personally, feel that this proposal will not foster families in their quest to raise a generation of caring and responsible children. I feel that the discord we are having now over this sensitive

issue will have detrimental effects in the long term. It seems to me that we are stoking the ever-spreading fires of intolerance and hate. One side will obligate the other side to step up to the line of battle. I see that, in the space of not many years, we will become more antagonistic, fault finding, bickering and even fighting one another.

This resolution will only magnify and aggravate feelings on all sides. I will be voting for families, for children, for celebrating the differences of our God-given genders and for a more stable society with safeguards for women and children. This resolution will not solve our problems; indeed, it will exacerbate many of them.

I cannot, in good conscience, support this seemingly benign and symbolic gesture with all of its, both intended and unintended, consequences. There will be political consequences no matter how someone votes on this political agenda. I am at peace with myself and my innermost feelings as I stand in opposition to this resolution.

SENATOR SETTELMEYER:

Having heard this bill in Committee, there were some questions I asked the Legal Division to answer, but they have not gotten back to me so I will ask them, again, here. This is premised on the idea that Congress has the power to extend the deadline. It was cited as *Coleman v. Miller* in 1939 in reference to the 27th Amendment which was actually the second of 12 Articles that were proposed by the very first Congress in 1789. They were actually finished being ratified and became the 27th Amendment 202 years later. That discussion was that the date was in the enactment clause and not within the overall text. I do not understand how that case has bearing compared to the 1982 case which was now versus Idaho. In that case, the Supreme Court ruled on the section of the ERA stating: "On June 30th, 1982, the extended time frame for ratifying the Amendment expired." The Administrator informs us that no state transmitted a ratification of the Amendment during the period after the original expiration date of March 22, 1979. Congress has not passed any additional extension.

Consequently, the Amendment has failed adoption no matter what the resolution of the legal issues presented are, and the Administrator informs us that he would not certify to Congress that the Amendment had been adopted. Even if all ratifications remain valid, the rescissions area disregarded, Congress has conceded the power moot and cannot be done.

In an article from the *Las Vegas Sun* in 2004, Assemblywoman Kathy McClain stated she planned to introduce the ERA. She said the Legislature's legal advisors told her that because the 1982 deadline for adoption had passed, ratification efforts could only be resurrected by a vote in the U.S. Congress; therefore, I see no reason as to why we are voting on this today as it has no effect. I do not believe in doing things that are just symbolic when it comes to the Constitution.

I stand in opposition, based on the fact that five states have already withdrawn from that compact. Twenty-four of the states that actually signed the ERA explicitly referred in their contracts to the 1979 deadline. This needs to be brought up by Congress, not by us.

SENATOR CANNIZZARO:

In 1936, Sylvia Maguire was born in rural upstate New York, the daughter of potato farmers. As a young girl, Sylvia excelled at math in school and dreamed of graduating from high school and attending college. She was smart and hardworking, earning a scholarship to go to college. But rather than graduating high school and attending college, she was told college was not for girls; that was not what girls do. Girls, her parents explained, should not endeavor to seek an education. Sylvia never went to college. She married and soon was the mother of four children. When her husband left home one day, she suddenly found herself alone, struggling to raise her children. Neighbors would stare—what kind of person was a single mother? She struggled to find a job and, instead, ended up working multiple jobs and long hours just to provide for her children. When she attempted to get a home loan to put a roof over her children's heads, the bank refused to see her. A single woman simply could not get a loan without a husband.

Sylvia's daughter, Norma, found herself looking for employment rather than finishing high school so she could help her family. She moved to Las Vegas and, eventually, had children of her own, three daughters. She continued to work in restaurants and, eventually, found herself managing one of them. One day, she noticed an unexpected raise in pay. She discovered another female coworker had filed a lawsuit claiming there was disparity in pay among male and female

employees and had won. Unbeknownst to her, she was, in fact, making less than her male counterparts simply because she was a woman.

When Norma joined a local community service and civic organization, she looked to join the ranks of leadership, offering ideas about how to obtain grants and ways to spruce up the meeting place. She was repeatedly told that because she was a woman, she was better suited for the spouses' group and not the leadership of the organization.

Norma's oldest daughter early on decided she wanted to go to law school. There were many times when she was told by others she should rethink her career decision because women do not make good lawyers. She was asked how she would ever find a husband if her focus was on school and not on how well she could cook? Her daughter was told she would need to be twice as smart and three times as prepared if she wanted to compete with the men in her class for jobs, internships and the like. Imagine her surprise, when during a job interview for a legal position, she was asked if she knew how to make coffee and whether she would be capable of ensuring there was always hot coffee in the office if hired. Or, when she was asked if she planned on having children soon because the company felt it a problem when they hired someone who took maternity leave and did not come back, which could result in a vacancy.

I have been asked many times why this piece of legislation is important enough that we should be considering it. I have been asked how is it that this is even needed since, surely, we have come far in passing legislation to ensure women are not discriminated against, and certainly, we have come far from the days of prohibiting a woman from getting a home loan merely because she is a single woman. And certainly, that is a true statement. I have listened to lengthy testimony from women who shared their stories, not unlike those of Sylvia or Norma. And, so many of the comments asking why this or why now focused on the fact these are stories from the past.

One thing important to keep in mind is, this sense of equality is the result of expensive, hard-fought legal battles brought forward by women just like those who have shared their stories with us. The 14th Amendment to the United States Constitution purports to give equal protection under the law and surely, that is clear enough to render ratification of the ERA meaningless. But, here is the difference: without a Constitutional right to equality—if you challenge a law because it discriminates against someone on account of their sex—the court only has to consider whether the policy or law serves an important government interest and whether it is substantially related to that objective.

Conversely, if sex were treated the same as race, ethnicity or religion, the court would be required to evaluate the policy under strict scrutiny, requiring the state to provide a compelling interest for the challenged law and demonstrate the law is narrowly tailored to achieve that specific purpose. What this means is that discrimination based on sex can often be validated by basing such discrimination on long-held traditions because nowhere in the Constitution does it say women are equal.

There is a difference between relying upon other amendments and legal interpretation of laws by courts as opposed to ensuring a constitutional right to equality. When we can in a court of law justify discrimination by claiming it is based upon long-held beliefs or traditions, it becomes increasingly more apparent why these stories of discriminatory remarks or slighted suggestions on appropriateness of women for certain tasks are more than a complaint or a lack of being able to "handle it." They are more than just old stories from the past; they form the basis for the validity of discrimination.

There is a difference between a guaranteed right and having to continue to justify and fight for what equality means. When we tell our daughters and granddaughters and nieces they have to be twice as smart and three times more prepared, we deny women equal rights. When women have to answer questions about making coffee and how long they can expect to be employed before taking maternity leave, we deny women equal rights. When we are still talking about equal pay for equal work, we deny women equal rights. When we have young women who struggle to make the decision about having children because they are afraid their bosses will think they are not interested in working or are short-timers, yet we remove that consideration completely from our conversations with men in the workforce, we deny women equal rights. When we discourage women from pursuing jobs in law enforcement, science, math, engineering, we deny women equal rights. When the first question we ask rape victims is what they were wearing, how many drinks they had and were they sure they were not leading him on, we deny women equal rights. When

we have to resort to expensive legal battles focused on whether you could interpret a law as discriminatory on account of sex in order to validate equality under the law, we deny women equal rights.

I share with you Sylvia and Norma's stories because these strong, inspiring women are examples of why equality is so important. In 2016, Sylvia's granddaughter, Norma's daughter, was elected to represent the people of District 6 in the Nevada State Senate. Unlike my amazing grandmother, I was able to attend college, but I did not take a class in how to make coffee. I am proud to be their granddaughter and daughter, and I am proud to voice my support. I urge my colleagues to vote for Senate Joint Resolution No. 2.

SENATOR HAMMOND:

I would first like to recognize all the women in my life who have meant so much to me and have combined to shape my life. First, I would like to thank my mother, Adele, who brought me into this world as well as my step-mother, Linda, and my adopted mother, Maureen. No one was loved as much as a young man as I was. Many thanks to my mother, my grandmother and her card-playing sisters, from whom I learned all of my Italian—which I cannot use in this Chamber. Thanks also to Darcy Albright and Karen Frost. These two sisters were at my side for the better part of 14 years of teaching and coaching young women to play basketball and win at life. I spoke to Darcy Albright this morning about this vote and my intentions. The one thing she said to me was that no matter what happens or how I vote, no one will ever question my commitment to women and to their equality. She said my actions will always speak louder than any words I could say. I owe a lot to her. I recognize all of the young women I worked with and tried to teach basketball skills. My assistant coaches and I worked hard to impart ideals of self-worth and a strong work ethic in these young women, and I appreciate them. I appreciate my three young daughters, Issa, Sophia and Olivia and my wife, Tanya, who rules my house and my heart. The world is a better place because of the work of so many young, strong women who have come before them.

In regards to the Equal Rights Amendment, I applaud those who have fought for this over the years. I congratulate them for many of the ideals they have pushed for over their lifetimes. Many of these have come to fruition as statutes and state laws or state constitutional changes that reflect the changing times. Attitudes have been altered and opportunities have been opened because of them. To the young women I have taught and my daughters, the world is yours, and I thank those who have come before to have made it so.

SENATOR GANSERT:

As a member of the Senate's Committee on Legislative Operations and Elections, I was privileged to hear the passionate testimony on this bill including the original testimony from 1975 of former Lt. Governor and Legislator Sue Wagner, who once held this position I now have. She supported the Equal Rights Amendment.

I am proud of the work Nevada has done over the years to make sure there is not discrimination in our State. One of the first nondiscrimination statutes passed was by the System of Higher Education in 1887; teachers' salaries were addressed in 1956; employment consideration was addressed in 1967, and the foundation for Nevada's Equal Rights Commission was created in 1961. While this vote for the Equal Rights Amendment may be redundant because of the work done, here, in Nevada and other states, it is still a powerful symbol of the need for equality.

Throughout my life, I have worked in fields that have few women—from engineering to health care to public service. When I was first elected in 2004, all of the women from both Houses and Parties could sit at a relatively small table. This year we celebrate having 40 percent of the legislative seats held by women. We have strong women serving as house leaders and Chairs. Women are stepping up and stepping forward, and I am proud to stand alongside them. I will be voting for Senate Joint Resolution No. 2.

SENATOR WOODHOUSE:

This is truly a momentous day. I am honored to be here to cast my "yes" vote for S.J.R. No. 2, the Equal Rights Amendment, finally. About 40 years ago, I served in this building as an advocate for public education and teachers. One day during that time, a Legislator said to me, "You need to be home teaching your first graders and having babies." If he could only see, now, how far many

of us have come in serving our families, our communities, our State and our Nation. I truly believe, to my very soul, in equal rights for all.

SENATOR RATTI:

I cannot say anything more powerful than my colleagues have already said today. I stand in support of S.J.R. No. 2, because I have been utterly touched by the number of women of all ages who have reached out to me and said this bill means something to them. There has been testimony that, perhaps this is moot, I can tell you, for the hundreds of women who have reached out, it is not; this is something that means something to them.

I also rise because there has been the suggestion that we have solved many of these issues. I have been privileged in my life to work on youth services issues. What I have seen over and over again, still today, is that young women continue to step back from leadership; step back from science, math and technology, because society is still sending them the message that if they are smart or if they seize their personal power, somehow, that will interfere with other parts of their life. We need to figure out how to send a message to our young women that they are equal and that the world is available to them. I believe S.J.R. No. 2 sends them this message, and I am honored to vote in favor of it today.

SENATOR CANCELA:

I am the youngest woman in this Body and one of the youngest to ever serve in this Body. I stand in support of S.J.R. No. 2, not only because I recognize I stand on the shoulders of countless women who have both made their voices heard and sat in this Body in support of this Body before but also for young women and little girls everywhere who can see on paper that equality is real.

SENATOR FORD:

I think it is entirely fitting, and it is by design, that on March 1st, the first day of Women's History Month, we are voting on the Equal Rights Amendment. As Black History Month ends and Women's History Month begins and in view of what I would consider to be ludicrous attacks on the Equal Rights Amendment including some of those related to the military, I thought I would highlight the fact that four women are buried at Normandy. They were killed in an accident that occurred about a month after D-Day. Three were members of the Women's Army Corps and were African-Americans from the Central Postal Directory Battalion, the only unit of Black women sent overseas at the time.

I mention this because there is an interesting intersection here with the ending of Black History Month and the beginning of Women's History Month, and with us talking about equality from a gender perspective. I do not have daughters, I have three sons and a nephew that we are raising. Today, I speak on their behalf, but I ask a different question: why are we still having this conversation?

My mother was born in 1952, 20 years before Congress sent the ERA to the states for ratification. I was born the year Congress sent the bill to the states for ratification. I have nieces who were born 35 and 40 years after the people decided to send it to the states, and I have a wife who, beyond being equal, is greater than I am in all respects. I stand here as a man who believes in equality and is willing to press a button—whether you consider it to be futile, too late or a symbol—I am willing to press the button and show I believe in equality for everyone.

Again, I ask, why are we still having this conversation? This should have been put to bed a long time ago, and frankly, it should have been put to bed last Session. Today, this Chamber, the Senate, will pass the ERA. I hope my colleagues join me in making it happen.

SENATOR SEGERBLOM:

I rise in support of S.J.R. No. 2 and would like to comment about the symbolism of this. I think in some ways it is symbolic, but if this is the case, it is still important. In 1913, over 100 years ago, my great-grandfather voted against giving women the right to vote. By voting, today, in favor of this bill, I am atoning for my great-grandfather and saying we can change. There is the prospect that this is a new Nevada. We are not the miners of the old days. This is a progressive, forward-looking State, and we are going to ensure everyone is equal. I am proud to vote in favor of S.J.R. No. 2 as a symbolic gesture.

SENATOR HARRIS:

The role of women is at the forefront of all of our minds. Today, I stand to celebrate women. Women's rights are critical. Women should share equally in every political, economic and educational opportunity that society offers. I have been blessed with opportunities I would like others to have.

I was raised in a middle-class home with four brothers. My father treated me equally with his sons. He never doubted in my abilities and worked to ensure that I had every opportunity he could find or provide. One very ordinary day, my father had a profound impact on my life that I doubt he would even remember. I was young, maybe 10 or 11 years old. He asked me what I wanted to do professionally. I had not really thought about it. I threw out a couple of very traditional options for the time. I will never forget the way he turned to look at me. He told me that I could be anything I wanted to be, perhaps a doctor or a lawyer. I do not think he realized that, that day, he put my life on a trajectory that has ultimately led me here. He did not limit me because of my gender.

As you know, on March 22, 1972, a Congressional resolution proposed the ERA before us today. Many have referred to the ERA we are considering, today, as symbolic. Perhaps, that is because the guarantee of equality is already contained in the U.S. Constitution. It is known as the 14th Amendment and states: "no State shall . . . deny to any person within its jurisdiction the equal protection of the laws." Courts have affirmed that the 14th Amendment's equal-protection clause prohibits gender-based discrimination. Congress also has within its power the authority to enact any legislation it chooses to end discrimination. Existing laws now prohibit discrimination in virtually every area of our lives. While these laws are not perfect, the ERA in and of itself is powerless to automatically guarantee equal rights. Simply put, the ERA will not be an effective barrier against prejudice, bias and hate. Despite all of the laws we pass to ensure equality, these terrible and ugly behaviors, prejudice, bias and hate, continue to endure.

As individuals have brought the ERA up for passage to fulfill a symbolic gesture, 24 states have decided to enact real reform. They have adopted their own constitutional amendments to ensure equal rights, and the citizens in their states already enjoy the protection of equality. Some states have provided these protections for over 100 years, such as California that passed its ERA in 1879 and Oregon recently passed its ERA in 2014. And, where is Nevada in this conversation? Without its own ERA. If we want to protect the rights of all of Nevada's citizens, we should not be weighed down in symbolism. We should be engaged in securing equality for all of our citizens by working toward and adopting an ERA of our own.

But, we are not considering a Nevada-specific ERA today. Many have spoken to the symbolic gesture we are engaged in, today, as we consider the language of the federal ERA and determine whether or not to adopt it. Because there are efforts on the part of some to attempt to effect passage, it was important to me to contemplate what passage of the ERA, at the federal level, would mean to Nevadans. I am particularly concerned about Section 2 of the ERA. This Section specifically grants to Congress the power to enforce the Amendment. I am troubled that this provision would do two things: first, it would shift much of the law-making ability of the Nevada Legislature from locally elected Legislators to the federal government, and second, it would delay justice for Nevada citizens by requiring them to access the federal court system for redress. Justice delayed can result in justice denied. I prefer to see specific injustices resolved with specific laws.

As the conversations around the ERA developed throughout the 1970s and into the 1980s, many determined that the ERA would impose upon women the same draft requirements as men. As you know, countless women serve our Country valiantly, and I am most grateful for their efforts. They live in, train in and endure difficult and treacherous conditions so that you and I can enjoy our freedoms. I had the opportunity to see, firsthand, the sacrifices the brave women and men in our Country make, as my husband served as a Captain in the Army. I will never forget the time he brought his BDUs home in a Hefty garbage bag because they were literally swimming in mud. Nevada is home to Nellis and Creech Air Force bases, and we are privileged to have such valiant soldiers as members of our community. There are many men and women who sacrifice everything, including their families, in the service of our Country. Today, there is no exemption for households who have two active duty military members serving in our Armed Forces. That means during a conflict, if both partners in a marriage are active duty and they have children, there is no one home to care for them. In speaking to military families, it was heartbreaking to hear how children had to be uprooted, often moved across the Country so that family members could care for them. And,

in the cases where there were no family members, the children were left with friends and neighbors. It is untenable that the families of our Armed Forces are left unprotected while our service men and women are defending ours.

Though contemplated during the Congressional hearings, Congress ultimately decided to adopt a federal ERA without exceptions to military service. In the case of families with minor children, I do not think that it is unreasonable to have an exemption, in the event a draft is implemented, that allows for one of the partners to care for their children; particularly if there are no extended family resources. Were we to be in a conflict that would tax our military resources to such an extent that a draft is necessary, I am afraid that we would potentially have a generation that would be parentless. Think of the additional burdens that mandatory military service could place on a single-parent family and on low-income households. As recently as June 14, 2016, the *New York Times* reported that the Senate approved an expansive military policy bill that would, for the first time, require young women to register for the draft. For the past 15 years or so, Congress has continued to dance around this issue, unable to require young women to register for the draft. I do not want to do, through this Amendment, what Congress is itself unwilling to do.

While the symbolism of the ERA is not lost on me, I believe that women deserve to reach a place beyond empty promises and hollow platitudes. For these reasons, I am in opposition to S.J.R. No. 2 today.

SENATOR ROBERSON:

I support women's equality. As a kid in the 1970s, I tagged along with my mother as she campaigned for the ERA in Kansas. Much has changed since the 1970s. Women have achieved equality and are equal to men in the eyes of the law. This is a great victory, and the battle has been won. That does not mean there is not still discrimination, but that discrimination has legal consequences. I would like to quote from a 2006 article in the *California Law Review*, Volume 94:1323, by Reva B. Siegel from Yale Law School, entitled *Constitutional Culture, Social Movement Conflict and Constitutional Change: The Case of the de facto ERA*. This quote from that article illustrates how far we have come as a society:

> In the last several years, the Equal Rights Amendment has undergone a remarkable and little remarked upon transformation: scholars now commonly describe a failed constitutional amendment as a successful one. In the late 1980s, academics chronicled the ERA's demise in full length books with titles like *Why ERA Failed* and *Why We Lost the ERA*. During the 1990s, the Twenty-Seventh Amendment's belated ratification some two centuries after it was first proposed, prompted debate about whether the ERA, too, might still be ratified. But in the last several years, talk about the ERA has taken a decidedly different cast. No longer do professors write lengthy books analyzing why the ERA failed. Instead, in the legal academy, at least, the talk is about why the ERA prevailed.
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> In 2001, in an article entitled *"The Irrelevance of Constitutional Amendments,"* David Strauss claimed that the ERA is the "leading recent example of [the]…rejected, yet ultimately triumphant" constitutional amendment:
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> > Today, it is difficult to identify any respect in which constitutional law is different from what it would have been if the ERA had been adopted. For the last quarter-century, the Supreme Court has acted as if the Constitution contains a provision forbidding discrimination on the basis of gender. The Court requires an 'exceedingly persuasive' justification for gender classifications, and it invalidates gender classifications that rest on what it considers '"archaic and overbroad generalization[s],'" such as the view that women are less likely than men to work outside the home. The Court does treat gender-based classifications differently from race-based classifications—the latter being the paradigmatic form of discrimination forbidden by the Fourteenth Amendment—but it has justified the difference not on the ground that the ERA was rejected, but rather on the ground that the two forms of classification sometimes operate differently.

As Michael Dorf puts it: "The social changes that did not quite produce the Equal Rights Amendment produced a de facto ERA in the Court's equal protection jurisprudence." "As a result of dramatic post-1970s changes in judicial interpretation of the equal protection clause," Cass Sunstein observes "the American constitution now has something very much like a constitutional ban on sex discrimination-not because of the original understanding of its text but because of new judicial interpretations."

At least one of the justices concurs. Shortly after the Virginia Military Institute decision, Justice Ruth Bader Ginsburg observed: "There is no practical difference between what has evolved and the ERA." Justice Ginsburg was generous in sharing credit with the Court for this result: '"Haply a woman's voice may do some good.'" Bill Eskridge is more direct: "The power of the women's movement was such that the Court felt impelled in the 1970s to rule unconstitutional most invidious sex discriminations. Because the women's movement did shift public norms to a relatively anti-discrimination baseline, it was able to do through the Equal Protection Clause virtually everything the ERA would have accomplished had it been ratified and added to the Constitution."

In short, there seems to be an emergent understanding, in the legal academy at least, that the substance of the ERA has become constitutional law through Article III rather than Article V by judges interpreting the text of the Constitution rather than by state legislatures amending the text of the Constitution. For many, the courts are engaged in business as usual, interpreting the Constitution on the model of the common law, in light of changes in societal values. It is through "American culture" that Cass Sunstein explains how courts can interpret a constitution lacking a general sex equality guarantee as if it had one: "In fact America is more committed to equality on the basis of sex than are many countries that guarantee it in their constitutions."

That is where we are, today, in 2017. On procedural grounds, this issue is no longer ripe, and we know this. The U.S. Supreme Court ruled in 1982 and declared arguments related to ratification and rescission of ratification of the ERA by individual states to be moot due to the fact the time period for ratification has expired.

I acknowledge and appreciate the symbolism of passing the ERA. My primary concern, today, relates to the issue of abortion. This is not simply a theory based on unfounded fears. ***Roe v. Wade***, which provided certain limitations on abortion, was decided on personal autonomy grounds, not equal protection. Legal scholarship and court decisions have made it clear that enacting the ERA will result in the legalization of partial-birth abortion and would mandate taxpayer-funded abortion. I do not believe most of my constituents support those things. According to *Life News*, the ERA will repeal all anti-abortion laws and deprive Congress and state legislatures of their right to enact future anti-abortion laws or laws regulating abortion, including parental-notification legislation. This will result in taxpayer funding of abortions. I quote: "Should the ERA be adopted, it would invalidate the federal Hyde Amendment and all state restrictions on tax-funded abortions. Likewise, it would nullify any federal or state restrictions even on partial-birth abortions or third-trimester abortions since these are sought only by women."

You do not have to take only their word for this. In 1998, a ruling by the New Mexico Supreme Court provides the clearest and most recent demonstration of the real power of this legal argument. New Mexico adopted an ERA to its state Constitution that is similar to the 1972 federal proposal. The New Mexico ERA states: "equality of rights under the law shall not be denied on account of the sex of any person." The 1972 federal proposal reads: "equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex." Every Justice of the New Mexico Supreme Court agreed that this classic ERA language mandates

taxpayer-funded abortions. The unanimous Court held that a state ban on taxpayer-funded abortions undoubtedly singles out for less favorable treatment a gender-linked condition that is unique to women.

We do not talk about the issue of abortion much in this Legislature. I understand that it makes people feel uncomfortable because views on abortion are all over the map, and we all feel differently about it. *Roe v. Wade* is the law of the land, and it has been the law of the land since the early 1970s. What I am talking about, today, is taxpayer-funded abortions, the undercutting of the Hyde Amendment, the practice of partial-birth abortion and whether states can have parental-notification or parental-consent laws. This is a moral issue for me. I think there should be fewer abortions not more. Ultimately, based on legal scholarship, court cases in other states and the words of Justice Ginsburg—who has talked about this extensively and who holds the same view that this would be the result of the passage of the ERA—I will be voting "no" on S.J.R. No. 2.

Roll call on Senate Joint Resolution No. 2:

YEAS—13.

NAYS—Goicoechea, Gustavson, Hammond, Hardy, Harris, Kieckhefer, Roberson, Settelmeyer 8.

Senate Joint Resolution No. 2 having received a constitutional majority, Mr. President declared it passed.

Resolution ordered transmitted to the Assembly.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Atkinson, the privilege of the floor of the Senate Chamber for this day was extended to David Diel and Stephanie Pauli.

On request of Senator Cancela, the privilege of the floor of the Senate Chamber for this day was extended to Mike Malone.

On request of Senator Denis, the privilege of the floor of the Senate Chamber for this day was extended to Brett Barley.

On request of Senator Ford, the privilege of the floor of the Senate Chamber for this day was extended to Dr. Reno Laux.

On request of Senator Gansert, the privilege of the floor of the Senate Chamber for this day was extended to Dr. Troy Savant.

On request of Senator Goicoechea, the privilege of the floor of the Senate Chamber for this day was extended to Daphne DeLeon and Austin Ramirez.

On request of Senator Gustavson, the privilege of the floor of the Senate Chamber for this day was extended to Tad Williams.

On request of Senator Hammond, the privilege of the floor of the Senate Chamber for this day was extended to Alice Gonzalez.

On request of Senator Hardy, the privilege of the floor of the Senate Chamber for this day was extended to Payden Anderson and Dan Sadler.

On request of Senator Harris, the privilege of the floor of the Senate Chamber for this day was extended to Dr. Jade Miller.

On request of Senator Kieckhefer, the privilege of the floor of the Senate Chamber for this day was extended to Lee Conley, Sarai Jauregui Rivas and Lily Roman.

On request of Senator Ratti, the privilege of the floor of the Senate Chamber for this day was extended to Annie Evans, Laynette Evans and Barbara Stone.

On request of Senator Roberson, the privilege of the floor of the Senate Chamber for this day was extended to Dr. Joe Wineman.

On request of Senator Settelmeyer, the privilege of the floor of the Senate Chamber for this day was extended to Lydia Bergman, Dr. Jared Buck, Dr. Richard Dragon, Gerik Wassmuth and Robbie Wickware.

On request of Senator Spearman, the privilege of the floor of the Senate Chamber for this day was extended to Mollie Diaz, Sophie Diaz, Lucy Dupertuis, Caitlin Gunn and Sabrina Spurlock.

On request of Senator Woodhouse, the privilege of the floor of the Senate Chamber for this day was extended to Sena Loyd.

Senator Ford moved that the Senate adjourn until Thursday, March 2, 2017, at 11:00 a.m.

Motion carried.

Senate adjourned at 1:04 p.m.

Approved: MARK A. HUTCHISON
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate