

THE FORTY-FIFTH DAY

CARSON CITY (Wednesday), March 22, 2017

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

President Hutchison presiding.

Roll called.

All present except Senator Hammond, who was excused.

Prayer by the Chaplain, Captain Leslie Cyr.

Heavenly Father, we ask for Your presence here in this place and that Your spirit of grace would fall fresh on everyone present. Lord, we pray for Your spirit to bring peace and unity, and we pray that You would give the Senators wisdom to see clearly the needs of Nevada and how to most effectively govern its people.

We thank You, Lord, for this day and for all the promise it holds, only that You would be our guide.

In the name of Jesus, we pray.

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.

COMMUNICATIONS
CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20510

March 21, 2017

THE HONORABLE AARON FORD, *Senate Majority Leader*, State of Nevada Senate,
401 South Carson Street, Carson City, Nevada 89701-4747

DEAR MAJORITY LEADER FORD:

I respectfully request the opportunity to address the distinguished members of the Nevada Legislature on Tuesday, April 18, 2017. I look forward to sharing with you and your colleagues information regarding the important issues the United States Congress will be addressing during the 115th Session.

I thank you in advance for your consideration of my request, and I look forward to seeing you soon.

Sincerely,
DINA TITUS
Member of Congress

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Revenue and Economic Development:

Senate Bill No. 425—AN ACT relating to taxation; revising the provisions governing the calculation of certain partial abatements of taxes on property; and providing other matters properly relating thereto.

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

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 173.

Bill read third time.

Remarks by Senators Cancela, Kieckhefer, Roberson, Denis, Spearman.

SENATOR CANCELA:

I am proud to bring this, my first bill, to the Senate Floor for vote. Passage and approval of Senate Bill No. 173 would mandate that the Achievement Charter Schools be subject to the same prevailing wage provisions that apply to other public schools that are built or owned by a school district. What it does not do is put charter schools that do not operate within the Achievement Charter School District under prevailing wage provisions. It specifically makes prevailing wage requirements applicable to a contract or other agreement for the construction, improvement, repair or demolition of any building, structure or property that is or will be used by an Achievement Charter School. The bill also ensures such projects comply with the same local engineering, design, safety and other building standards that apply to district school buildings in the same county.

SENATOR KIECKHEFER:

I rise in opposition to S.B. No. 173. During testimony in Committee, it was represented that the omission of the Achievement Charter School District in our prevailing wage laws was an unintended consequence of several bills that were passed last Session. That is not the case. Omission was very much an intended consequence in these bills because we need to attract high quality charter management organizations and charter operators into the State to provide the services needed for the Achievement Charter School District. We are all aware of the challenges placed upon charter schools in terms of capital, costs, cost of construction and things of that nature. The law was written as it was specifically intended.

This bill is an assault on the Achievement Charter School District. It is designed to undermine its ability to go into low functioning schools, schools that have been failing students for sometimes generations and turn them around by bringing in new management and making the necessary changes to correct long-term, systemic problems. This bill will cost those schools more money to buy the same products, and it makes us bad stewards of taxpayer dollars. The long-term implications of this bill are that it affects our ability to confront the problems of our chronically underperforming schools. For this reason, I am opposed to this bill.

SENATOR ROBERSON:

I rise in opposition to S.B. No. 173. The Achievement School District is the signature achievement of Governor Sandoval and his administration. S.B. No. 173 is an affront to that achievement. It is a direct assault to Governor Sandoval's efforts to help children, primarily in the urban core of Clark County who are being failed by our public education system. S.B. No. 173 would make it more difficult for the Achievement School District to recruit top level education providers to help the very children who are in greatest need. My colleague is right, though, it is a simple bill. What is simple and clear about this bill is that S.B. No. 173 disproportionately hurts children in poverty and children in our minority communities. For these reasons, I will be voting no on this bill.

SENATOR DENIS:

I stand in support of this bill. I appreciate my colleagues having a desire to help the schools in my district. We have the same right to have construction in our schools, regardless of whether they are Achievement School Districts, or any other type, with the best quality workers we can have and the best quality products. That is indicative of us trying to do the best for our students. While I appreciate people wanting to help, we need to make sure whatever buildings or other things students have, they are the best available products.

SENATOR CANCELA.:

I would like to address some of the concerns expressed. No opposition to this bill was expressed by the Department of Education or the Achievement School District, nor were concerns about charter schools addressed during hearings. This bill is in no way meant to attack our ability to address the needs of students in our lowest performing schools, many of which are in my district.

The problem with the law as it stands is that an underachieving school is placed into the Achievement School District by a school district. If the Achievement School District does not have the same requirements for safety and construction as the placing school district, when that school performs better and is taken out of the Achievement School District, the burden falls on the school district to bring that school up to code. This bill is meant to standardize construction across the board so the same building is not put into different cost standards depending on its governance.

SENATOR SPEARMAN:

I rise in support of this bill. Research shows us there is a direct correlation between the budgetary starvation that our schools have suffered over the last 40 years and the ability to perform. This bill will standardize policies and tell some of our lowest performing schools that they matter. We want to do things right for students and lift up our lowest performing schools. I urge you to support this bill and every budgetary measure that will put more money into the public school system.

SENATOR ROBERSON:

The issue of prevailing wage has nothing to do with standards of construction. That is an incorrect statement. I would take the statements of some of my colleagues more seriously if they were not sponsoring legislation to kill the Achievement School District. This is about the Achievement School District. They do not want the Achievement School District; they do not want choices for our children who need it the most.

Roll call on Senate Bill No. 173:

YEAS—12.

NAYS—Gansert, Goicoechea, Gustavson, Hardy, Harris, Kieckhefer, Roberson, Settlemeyer—8.

EXCUSED—Hammond.

Senate Bill No. 173 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 202.

Bill read third time.

Remarks by Senators Ratti, Settlemeyer, Gustavson, Kieckhefer, Goicoechea, Hardy, Denis.

SENATOR RATTI:

Senate Bill No. 202 amends the Charter of the City of Sparks to require that newly elected municipal judges be licensed members of the State Bar of Nevada; delete obsolete provisions establishing the terms of office for officials of the City of Sparks elected in 2001, 2003 and 2004; require ward-only voting in a general election for each member of the Council for the City of Sparks; require that regardless of the number of candidates for an office at the primary election, if one candidate receives a majority of the votes at the primary election, he or she must be declared elected to the office, and no general election for the office need be held; and provide that a candidate takes office at the first regular meeting of the City Council following the meeting at which the canvass of the returns of the general election is made.

Currently, the Charter of the City of Sparks allows for ward-only voting for candidates for its City Council in the primary election, but then in a general election, the candidates are voted on by the registered voters of the City at large. This is commonly referred to as a hybrid system.

This is not a bill that says all cities have to do ward-only voting. It is a bill that was a request from the City of Sparks Charter Committee to change their own process. It was brought forth in response to some activity we have seen in the judicial branch. The 9th Circuit Court of Appeals, a three-member committee, determined in a case in Tucson, Arizona, that ward-only voting was unconstitutional. That initiated the City to take a look at our policies and to decide it was time to

be reviewed. Since then, the full court rescinded that decision. We are waiting to hear if the Supreme Court will hear that case, and it is undecided law at this point. Knowing this, the City of Sparks Charter Committee still chose to bring this forward and felt it is the best system for the City of Sparks.

SENATOR SETTELMEYER:

I support all aspects of the bill except for the concept of the voting, and we have had this discussion numerous times. Today, everyone within that city has the opportunity to weigh-in and vote for a member citywide just as they had the opportunity to vote for you, and you were elected numerous times. Citywide, they agreed with that. We would be taking away a person's ability to vote citywide with this bill, and I cannot vote for that. I am in opposition to this bill.

SENATOR GUSTAVSON:

I rise in support of Senate Bill No. 202; we should be voting in wards-only. This is what the City of Sparks Charter Committee determined. I do not, however, agree that municipal court judges should have to be members of the Bar. We have many judges who are laypeople, who are justices of the peace and municipal court judges, and they do a wonderful job. I have a problem with not allowing them to do this job. In Sparks, judges are now attorneys, but in the past, they have not always been so and have done a great job. I will support this bill because the City of Sparks Charter Committee decided to go this direction, but I do disagree with the portion about judges having to be members of the Bar. I think a layperson can do a great job.

SENATOR KIECKHEFER:

I have similar concerns as my colleague from District 17 has regarding ward-only voting. I have voted here in the past against ward-only voting for the City of Reno, based on multiple votes by the people of City of Reno against such an electoral system. There is a bill in the Assembly to implement this again, despite the people voting against this twice, and I will be voting against that bill. I will be voting in favor of this bill in deference to my colleague from District 13, and with the process this bill has gone through. I do not personally like the policy, but I do not represent the people of that city. If the people of that city like this bill, I will defer to them on this.

SENATOR GOICOECHEA:

Is the topic of ward-only voting as presented in this bill currently being litigated?

SENATOR RATTI:

The 9th Circuit Court of Appeals has heard a case on this topic, and the U.S. Supreme Court is considering hearing it. We are waiting to see if the 9th Circuit Court decision will stand or if the Supreme Court will take it up. This is a case in Tucson, Arizona, not Sparks.

SENATOR GOICOECHEA:

Thank you. I supported the bill out of Committee. And I support it as the will of the City of Sparks Charter Committee, and I will support it here today. I was not aware there was litigation on this topic; it might have made a difference.

SENATOR HARDY:

Sparks grew up. My mother was born there. I went to high school there, and it is a different city than it used to be. It is bigger and obviously better. It has people in it who have grown up there and do not recognize it today. I am not in favor of ward-only voting, but it is the choice that the City of Sparks Charter Committee made. We had no testimony that was against or neutral on this issue either in Committee or coming to me privately. I have to respect the process that occurred in the City of Sparks and will be voting in favor of this bill.

I appreciate the concept of municipal judges. We have many attorneys who live in Sparks who may be eligible. It is part of the process where Sparks grew up. There are more complications, and there will be more challenges.

SENATOR RATTI:

I know this has been a hot topic for some time. I recall that the City of Sparks shared during testimony that there was litigation being heard by the 9th Circuit. If that did not occur, I will make

sure it does happen when testimony occurs on the Assembly side so all facts are transparent. I urge you to support this bill.

SENATOR DENIS:

I stand in support of Senate Bill No. 202. Over the last few years, as we have seen cities change to ward-only voting, we have seen that they are better represented by all parts of their community. We have seen that various communities where people who have been historically underrepresented in elected positions now have opportunities. Most recently, we saw one in northern Nevada where an individual lost by a few votes in an area that was at-large. This will allow the City of Sparks to get representation from the community as they move forward. This is part of the process of getting representation as their community grows up.

Roll call on Senate Bill No. 202:

YEAS—18.

NAYS—Roberson, Settelmeyer—2.

EXCUSED—Hammond.

Senate Bill No. 202 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 9.

Bill read third time.

Remarks by Senator Goicoechea.

Assembly Bill No. 9 authorizes the Secretary of State to appoint a Deputy of Securities and provides that the Deputy of Securities shall serve as the Administrator of the Securities Division.

Roll call on Assembly Bill No. 9:

YEAS—20.

NAYS—None.

EXCUSED—Hammond.

Assembly Bill No. 9 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 Hardy.

Assembly Bill No. 13 changes the name “state business registration” to “state business license.” In an effort to clear up confusion in the business community, Assembly Bill No. 13 reverses Senate Bill 59 (Chapter 521, Statutes of Nevada) of the 2015 Session of the Nevada Legislature which changed the name of “state business license” to “state business registration.”

Roll call on Assembly Bill No. 13:

YEAS—20.

NAYS—None.

EXCUSED—Hammond.

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

Bill ordered transmitted to the Assembly.

Senate Joint Resolution No. 2.

The following Assembly Amendment was read:

Amendment No. 50.

SUMMARY—Ratifies the Equal Rights Amendment to the Constitution of the United States. (BDR R-13)

SENATE JOINT RESOLUTION—Ratifying the proposed amendment to the Constitution of the United States providing that equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

Legislative Counsel's Digest:

Under Article V of the United States Constitution, Congress has the power to propose an amendment to the federal Constitution and to determine the mode of ratification. (U.S. Const. Art. V) In 1972, Congress passed the Equal Rights Amendment and sent it to the states for ratification, imposing a 7-year time limit for ratification in the resolving clause of the Amendment, but later extended this time limit to June 30, 1982. The Equal Rights Amendment was ratified by 35 states before the deadline. Under *Coleman v. Miller*, 307 U.S. 433, 450, 456 (1939), the United States Supreme Court held that, as a political question, Congress may determine whether an amendment is valid because ratifications of the amendment are made within a reasonable period of time, even after the deadline. This resolution ratifies the Equal Rights Amendment, which provides for equality of rights under the law regardless of sex.

WHEREAS, Both houses of the 92nd Congress of the United States of America, by a constitutional majority of two-thirds, adopted the following resolution proposing to amend the United States Constitution:

RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED (TWO-THIRDS OF EACH HOUSE CONCURRING THEREIN), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

ARTICLE....

Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3. This amendment shall take effect two years after the date of ratification; and

WHEREAS, The 95th Congress of the United States amended the resolution of the 92nd Congress to extend the time for ratification to June 30, 1982, thereby indicating its continued support of the amendment; and

WHEREAS, The Congress of the United States adopted the 27th Amendment to the Constitution of the United States, which was proposed in 1789 by our First Congress but not ratified by three-fourths of the States until May 7, 1992, and, on May 18, 1992, certified as the 27th Amendment; and

WHEREAS, The restricting time limit for ratification of the Equal Rights Amendment is in the resolving clause and is not part of the amendment which was proposed by Congress and which has already been ratified by 35 states; and

WHEREAS, Having passed a time extension for the Equal Rights Amendment on October 20, 1978, Congress demonstrated that a time limit in a resolving clause may be disregarded if it is not part of the proposed amendment; and

WHEREAS, The United States Supreme Court in *Coleman v. Miller*, 307 U.S. 433 (1939), recognized that Congress is in a unique position to judge the tenor of the nation, to be aware of the political, social and economic factors affecting the nation and to be aware of the importance to the nation of the proposed amendment; and

WHEREAS, If an amendment to the Constitution of the United States has been proposed by two-thirds of both houses of Congress and ratified by three-fourths of the state legislatures, it is for Congress, under the principles of *Coleman v. Miller*, to determine the validity of the state ratifications occurring after a time limit in the resolving clause, but not in the amendment itself; and

WHEREAS, The Legislature of the State of Nevada finds that the proposed amendment is meaningful and needed as part of the Constitution of the United States and that the present political, social and economic conditions demonstrate that constitutional equality for women and men continues to be a timely issue in the United States; now, therefore, be it

Resolved by the Senate and Assembly of the State of Nevada, Jointly, That the proposed amendment to the Constitution of the United States of America is hereby ratified by the Legislature of the State of Nevada; and be it further

Resolved, That the Secretary of the Senate shall prepare and transmit a copy of this resolution to the Secretary of State ~~for her certification and transmittal~~ who shall keep it as a true record of the official acts of the Legislative Department of the State Government pursuant to Section 20 of Article 5 of the Nevada Constitution; and be it further

Resolved, That the Secretary of the Senate shall prepare and transmit a certified copy of this resolution, duly authenticated, to the Archivist of the United States at the National Archives and Records Administration pursuant to 1 U.S.C. §§ 106b and 112 [a], which shall serve as official notice that the proposed amendment to the Constitution of the United States of America is hereby ratified by the Legislature of the State of Nevada; and be it further

Resolved, That the Secretary of the Senate shall prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the United States Senate, the Speaker of the House of

Representatives and each member of the Nevada Congressional Delegation; and be it further.

Resolved, That this resolution becomes effective upon passage.

Senator Cannizzaro moved that the Senate concur in Assembly Amendment No. 50 to Senate Joint Resolution No. 2.

Remarks by Senators Cannizzaro, Hardy, Spearman, Ford.

SENATOR CANNIZZARO:

Amendment No. 50 to Senate Joint Resolution No. 2 does two things; it adds the names of 14 Assembly Members to the list of sponsors of the joint resolution, and makes a technical change regarding the transmittal process of the resolution to the Secretary of State and to the Archivist of the United States. The technical amendment was made because, after looking at transmittal process further, the Secretary of the Senate is the one who typically transmits resolutions to Congress (or, in this case, the Archivist of the U.S.). The Nevada Secretary of State will still receive a copy of Senate Joint Resolution No. 2, and since the Secretary of State is the keeper of official State documents, the amendment states that a copy of Senate Joint Resolution No. 2 shall be kept by the Secretary of State as an official legislative record.

I urge your concurrence with this amendment.

SENATOR HARDY:

This Session has had records of apologizing for things done in the past by others, but it is difficult to go back in time. Since 1972, and 1982, we have made many advances in treating people with respect and dignity. I am in favor of equality of protection by the law, yet recognize the reality of the distinction between the genders. Indeed, I will never be equal to my mother, my wife, my daughters or my granddaughters in so many ways. I cannot pretend to think that by legislation I could become equal to them. My hope is that I can become unified with my wife in our life together as we bring out different talents, traits and abilities so the sum of our parts is, indeed, greater than the whole.

Here is a personal example: I was sitting at the dinner table with my 13-year-old grandson and my wife when we began discussing driveways. I was in the mind to save money, and my wife was in the mind to not save money. We had a driveway that had big stamped concrete that made a lot of noise when we took out the trash. My wife was interested in pavers. I asked the simple question, "Will it make the same noise when I am taking out the trash at night and wake up the neighbors?" Jill looked at my grandson, and she said, "You know, he has never taken out the trash." Being quick-witted, I said, "That means that we have become one." My grandson left. And she stood up, and she said, "You know, sometimes I think you are under the impression that you get credit for everything that I do."

Although I am against Senate Joint Resolution No. 2, I am for my wife, my mother, my daughters and my granddaughters. They are different, and I love them; I hope to be with them forever.

SENATOR SPEARMAN:

I rise in support of the opportunity to concur with what the Assembly did a few days ago. Women's rights are human rights, and human rights are women's rights. I understand there are some who believe this may not change anything, but there were some who also believed that the 13th Amendment that freed the slaves would not change anything. Some people think this is symbolism, but every day, in this Chamber, we use the symbol of our Country and pledge allegiance to the flag that represents this Country. Some people may think that what this does is change the physiology of anatomy between men and women; it does not. Some may think that ratifying the E.R.A. will mean that abortions will run rampant; to that I say that *Roe v. Wade* is settled law. This day—45 years after Congress first passed it—on this day, we recognize it is not about physiology, is not about abortion, it is not about denying the rights of anyone else, quite the opposite. On this day, at this time in history what we are about to do is say we will enshrine in our United States Constitution that women have equal rights. That does not make women men. It

means that women have the same rights as men. Let me be clear once again, this bill is about equality—period.

SENATOR FORD:

I want to commend my colleague for pursuing this. She has done so ever since I have been in Legislative Session, and this year we are going to make it happen. I am delighted by that and happy to support it. I have also heard that this is an issue of symbolism and that we do not engage in symbolism. Many of us sign on to resolutions to send to Congress to do something which is clearly symbolic. Are we no longer going to do that? We can clearly not force Congress to do anything. I bring that up so people can be intellectually honest when they want to argue on one hand about passing a resolution like this which is symbolic, then on the other hand sponsor a bill that they know is symbolic and will go nowhere.

This is long overdue. The fact we are still having this conversation is very perturbing. We should all be clapping about equality, and I am happy to be doing so now.

Motion carried by a constitutional majority.

Resolution ordered enrolled.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Cancela, the privilege of the floor of the Senate Chamber for this day was extended to Adam Almosawy, Samantha Bivins, Janine Comoletti, Kanani Espinoza, Carlos Fernandez, Marclem Hernandez, Andrew Thomas and Beverly Williams.

On request of Senator Manendo, the privilege of the floor of the Senate Chamber for this day was extended to Jerry Helmuth and Mr. B.J. Thomas.

On request of Senator Spearman, the privilege of the floor of the Senate Chamber for this day was extended to Peggy Lear Bowen, Helene de Boissiere-Swanson, Sarah Mahler, Janette Dean, Patt Lynch and Jana Saastad.

Senator Ford moved that the Senate adjourn until Thursday, March 23, 2017, at 11:00 a.m.

Motion carried.

Senate adjourned at 12:15 p.m.

Approved:

MARK A. HUTCHISON
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate