

NEVADA LEGISLATURE

Eightieth Session, 2019

SENATE DAILY JOURNAL

THE NINTH DAY

CARSON CITY (Tuesday), February 12, 2019

Senate called to order at 11:04 a.m.

President Marshall presiding.

Roll called.

All present.

Prayer by Elder Aletha Tom, Moapa Band of Paiutes.

Nuhme todung'wah mooun.

My Father, our Father, we come before You, and may the warmth of Your spiritual presence be with us and bless all who enter today. We ask a favor to guide us with Your strength and wisdom and make us wise so that we may understand the things You taught our people. You know we are here with many others to ask of You to place their needs before You. Guide them so they may meet their responsibilities. Lead them to a safe, pleasant work environment with an atmosphere of respect and cooperation. Help us to seek pure thoughts and act with the intentions of helping others. Lead us in the right direction, and Lord, we just want to thank You for all that You have done.

Let us honor You in our daily life for You are the Almighty all over Earth.

Oopuk oodoo' awvaw' umpaw'Nunu hud.

Let what I said go through in the 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.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Education:

Senate Bill No. 145—AN ACT relating to education; creating the Battle Born Opportunity Grant Program; providing for the calculation and award of grants under the Program to qualified students enrolled in universities of the Nevada System of Higher Education; requiring the Board of Regents of the University of Nevada to submit to the Legislature a biennial report on the Program; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Education:

Senate Bill No. 146—AN ACT relating to education; revising provisions relating to the Silver State Opportunity Grant Program; changing the credit hour requirement for eligibility in the Program; requiring the Board of Regents of the University of Nevada to adopt certain regulations; requiring the Board of Regents to include additional information in its biennial report on the Program to the Legislature; and providing other matters properly relating thereto.

Senator Denis moved that the bill be referred to the Committee on Education.
Motion carried.

By the Committee on Education:

Senate Bill No. 147—AN ACT relating to education; requiring certain actions to be taken to assist homeless pupils, unaccompanied pupils and pupils in foster care to receive full or partial credit for coursework in certain circumstances; revising provisions relating to the development of an academic plan for such pupils; revising provisions relating to awarding a high school diploma to such pupils; and providing other matters properly relating thereto.

Senator Denis moved that the bill be referred to the Committee on Education.
Motion carried.

By the Committee on Commerce and Labor:

Senate Bill No. 148—AN ACT relating to manufactured homes; revising provisions requiring the landlord of a manufactured home park to pay certain costs associated with moving a tenant's manufactured home if the landlord makes certain changes to the park; and providing other matters properly relating thereto.

Senator Spearman moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Senators Goicoechea, Settlemeyer, Hardy and Assemblyman Ellison:

Senate Bill No. 149—AN ACT making an appropriation to assist with the construction of a new courthouse in White Pine County; and providing other matters properly relating thereto.

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

Motion carried.

By Senators Goicoechea, Settlemeyer, Hardy, Hansen and Assemblyman Ellison:

Senate Bill No. 150—AN ACT relating to land use planning; requiring, with limited exception, the governing body of a county or city to develop and maintain a water resource plan; authorizing grants of money to certain governing bodies for the development and maintenance of water resource plans; and providing other matters properly relating thereto.

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

Motion carried.

By Senators Ratti, Cancela, Spearman, Parks, Brooks, Harris, Ohrenschall and Woodhouse:

Senate Bill No. 151—AN ACT relating to property; revising certain provisions relating to actions for summary eviction; revising provisions governing notices to surrender possession of real property or a mobile home; and providing other matters properly relating thereto.

Senator Ratti moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Madam President moved that the Senate recess until 11:15 a.m.

Senate in recess at 11:10 a.m.

SENATE IN SESSION

At 11:14 a.m.

President Marshall presiding.

Quorum present.

SPECIAL ORDERS OF THE DAY VETO MESSAGES OF THE GOVERNOR

The hour of 11:15 a.m. having arrived, vetoed Senate Bills Nos. 106, 392, 427, 464 of the 79th Session were considered.

Vetoed Senate Bill No. 106 of the 79th Session.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR STATE OF NEVADA EXECUTIVE CHAMBER CARSON CITY, NEVADA

June 8, 2017

THE HONORABLE BARBARA CEGAVSKE, Secretary of State, Capitol Building
Carson City, Nevada 89701

DEAR SECRETARY CEGAVSKE:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill ("SB 106"), which is entitled:

AN ACT relating to employment; requiring certain increases in the minimum wage paid to employees in private employment in the State; revising provisions governing a civil action brought by an employee whose employer violates the requirement to pay the minimum wage; and providing other matters properly related thereto.

Nevada's economy continues to recover from a historic downturn that affected tens of thousands of Nevada businesses, workers, and families. Our State was among the hardest-hit during the Great Recession, and at one point led the nation in unemployment, bankruptcies, and foreclosures. Today, Nevada is among the leading states for economic growth, with an economy that is diversifying and providing 21st century job opportunities for a new generation of workers. More than 600,000 small business jobs have been created since the recession, and average weekly wage levels in Nevada are

at an all-time high. The engine behind our state's robust recovery has been and continues to be, Nevada's private sector business community, which has overcome a turbulent and dramatic downturn through unrelenting persistence, innovation, and optimism.

SB 106, although commendable in its attempt to extend higher wages for Nevada workers, would place a significant burden on the State's small business employers at a time when they are emerging from a down turn that cost hundreds of thousands of jobs and closed the doors of businesses across the State. SB 106 would raise the minimum wage by more than 45% and 51% of current levels over the next several years. The testimony provided by small business representatives stated that this increased cost of labor will unquestionably result in fewer available jobs for those who are entering the workforce or workers who have yet to attain skills for more advanced positions and occupations. Moreover, this wage increase will result in higher costs of goods and services that will be passed on to consumers. Such negative consequences threaten to undermine Nevada's economic recovery by making it harder for employers to fill positions and making it more difficult for entry-level workers to access jobs in which they can acquire skills for advancement.

It bears mentioning that Senate Joint Resolution 6, a proposal to increase the minimum wage through the approval of Nevada's voters of constitutional amendment, was approved during the Legislative Session and will return for further consideration in 2019. Thus, the voters will decide if an increase in the minimum wage is appropriate if approved again by the Legislature of 2019.

Finally, it should be noted that opposition to the provisions of SB 106 was expressed by a number of concerned stakeholder groups. The bill is opposed by, among others, national organizations such as the National Federation of Independent Business and Americans for Prosperity, as well as all of Nevada's chambers of commerce and other local, private small business owners. These concerns are valid and should be considered in evaluating the merits and impacts of raising the minimum wage in Nevada.

For these reasons I veto SB 106 and return it without my signature or approval.

Sincerely,
BRIAN SANDOVOL
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Senator Cannizzaro moved no further consideration of vetoed Senate Bill No. 106 of the 79th Session.

Motion carried.

Vetoed Senate Bill No. 392 of the 79th Session.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA

June 16, 2017

THE HONORABLE BARBARA CEGAVSKE, Secretary of State, Capitol Building
Carson City, Nevada 89701

DEAR SECRETARY CEGAVSKE:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 392 ("SB 392"), which is entitled:

AN ACT relating to energy; revising provisions relating to payment of incentives to certain participants in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program; requiring the Public Utilities Commission of Nevada to adopt regulations establishing standards for the operation of community solar gardens; requiring a subscriber to a community solar garden to receive a credit on

the subscriber's monthly utility bill for the subscriber's share of the electricity generated by the community solar garden; setting forth the contractual requirements for a subscription to a community solar garden; requiring a utility to purchase the unsubscribed electricity of a community solar garden; requiring the Commission to issue portfolio energy credits to a subscriber organization that installs a community solar garden; providing that such portfolio energy credits are the property of the subscriber organization; repealing provisions requiring an electric utility to create a Lower Income Solar Energy Pilot Program; and providing other matters properly relating thereto.

There is much to commend in SB 392. If designed correctly and properly integrated into Nevada's rapidly evolving energy markets, community solar gardens have the potential to allow more Nevadans to take advantage of solar energy. However, it is not the intent of SB 392 or the idea of community solar gardens that causes concern, but the bill's timing and framework. If passed, SB 392 could further disrupt Nevada's energy markets at a time when those markets face uncertainty, and are already in the process of fundamental change. This disruption brings with it unnecessary risks, and likely unintended consequences, that could harm both Nevada's ratepayers and its broader clean energy economy. At this time, the possible benefits of SB 392 do not outweigh the risks. As such, I cannot support the bill.

Although styled as the natural companion to rooftop solar, community solar gardens have more in common with large-scale commercial solar facilities than with the individual solar panels installed atop a home or business. Unlike rooftop solar, where the limited benefits and burdens (lease payments, maintenance, and other costs) are largely borne by the individual users, community solar gardens have a far broader reach. In fact, while a single solar garden on a single parcel of land cannot generate more than 12 megawatts of electricity (still a significant amount), there is nothing to stop the aggregation of multiple gardens on multiple parcels of land, which will generate more electricity than a large-scale commercial solar facility.

Therefore, community solar gardens operate like small utilities—utilities within utilities—but they are not regulated like other utilities. They set their own prices and select their own customers. Moreover, community solar gardens not only escape the regulations governing other utilities, they also largely avoid the costs and fees that other utilities pay. And while employees of the public utilities will likely be called upon to handle technical and maintenance issues at the gardens, there are no assurances that these facilities will meet the same safety and security levels.

Additionally, while the hope is that community solar gardens will expand solar use and spur economic growth in the clean energy economy, there is a risk that these gardens will mostly compete with large-scale commercial solar facilities. As commercial solar has expanded in Nevada, they have brought with them good jobs and cleaner energy and the energy they generate is spread across the grid, benefiting all ratepayers alike.

SB 392 puts Nevada's commercial solar industries in jeopardy, because it gives community solar gardens an unfair competitive advantage. One, because the utilities are required to buy a community solar garden's unsubscribed energy. Two, because the utilities are then required to issue an above-market energy credit to the community solar garden's subscribers. These advantages could create a perverse incentive to create solar gardens at the expense of commercial solar facilities, doing more harm than good.

Community solar gardens are also offered as the means to deliver the benefits of solar energy to low-income and other Nevadans who currently cannot participate in programs like rooftop solar. To that end, SB 392 does contain some statutory mandates that would likely result in the participation of some small businesses, low-income residents, and non-profit organizations. But there is no guarantee that these new participants will be more than a very small subset of the total universe of community garden subscribers. The bill says that at least ten percent of the total generating capacity of solar gardens be made available to low-income residents or those providing services to low-income residents, but there is no requirement that this electricity actually go to low-income residents.

It bears mentioning that SB 392 seeks to add even more change and uncertainty to an energy market already saturated in change and uncertainty. Yesterday, I signed into law Assembly Bill 405 ("AB 405"), which will lead to a dramatic expansion of rooftop solar in Nevada. SB 392 attempts to link itself to AB 405 by requiring the solar energy credits to be the same for both rooftop solar and community solar gardens.

Although I am confident that the system set up by ABN 405 will be beneficial to Nevada and its solar energy economy, it is unclear whether these bills are compatible or conflicting.

There is also the looming second passage of the Energy Choice Initiative in 2018 (the "Initiative") in which Nevada's voters will likely enshrine energy choice into Nevada's Constitution. SB 392 does not properly account for this reality. Currently, there is only one primary energy company that provides electricity to 90 percent of the residents in Nevada. According to SB 392, this provider will have to purchase all unsubscribed electricity generated by a community solar garden. Should the Initiative pass, the incumbent utility will be required to exit, and sell off its generation assets, including renewable generation and purchase power agreements. It is not clear who will then be required to purchase these unsubscribed credits, as there will no longer be one dominant utility.

Because of these and other concerns, SB 392 did receive broad opposition. Both the current utilities and many labor organizations opposed the bill, echoing many of the worries listed above.

Finally, as I mention in my contemporaneous veto of Assembly Bill 206, which would have increased Nevada's renewable portfolio standards, I have supported and will continue to support efforts to bolster Nevada's growing clean energy economy. The timing on both of these bills, however, is just not right, nor have the issues been fully vetted. Therefore, along with the ideas proposed in Assembly Bill 206, I will amend my Executive Order creating the Committee on Energy Choice ("CEC") to also consider community solar gardens.

The purpose of the CEC is to study the very complex issues discussed above, their interrelationships, and potential consequences on energy policy and costs in Nevada in anticipation of the adoption of the Initiative. The CEC will meet regularly for the next 13 months and ultimately make recommendations to me in July 2018, in advance of the 2019 Legislature. It is my position that such an approach is prudent and better answers the questions on how energy choice will affect Nevada's RPS, community solar gardens, net metering, energy storage, exiting companies and the effects on ratepayers, as well informing me, the 2019 Legislature, and regulatory agencies.

For these reasons, I veto Senate Bill 392 and return it without my signature or approval.

Sincerely,
BRIAN SANDOVOL
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Senator Cannizzaro moved no further consideration of vetoed Senate Bill No. 392 of the 79th Session.

Motion carried.

Vetoed Senate Bill No. 427 of the 79th Session.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA

June 8, 2017

THE HONORABLE BARBARA CEGAVSKE, Secretary of State, Capitol Building

Carson City, Nevada 89701

DEAR SECRETARY CEGAVSKE:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 427 ("SB 427"), which is entitled:

AN ACT relating to railroads; requiring certain trains and locomotives which are transporting freight in this State to contain a crew of not less than two persons; providing civil penalties; and providing other matters properly relating thereto.

SB 427 sets a statutory floor on the size of the crew operating any Class I freight railroad, Class I railroad or Class II railroad transporting freight in Nevada. The intent behind the bill is

laudable; ensuring the safety of rail traffic in Nevada is a goal worthy of support. However, SB 427 goes too far, and there is no evidence that the requirements proposed by the bill will actually result in increased safety for rail crews and the general public. On the contrary, by affixing rigid requirements in statute, SB 427 risks impeding technological advancements and full negotiations between labor and management, both of which have spurred significant advances in railroad safety. Therefore, I cannot support SB 427.

First the purpose of SB 427 is questionable. Two-person crews on freight railroads are already the standard in Nevada due to collective bargaining agreements. Railroad management has testified that it has no intention of changing crew sizes in the near future, and that any such change would need to be negotiated during the collective bargaining process. Robust collaboration between management and labor during the collective bargaining process has been essential to improving railroad safety. Mandating crew sizes through state statute, though, would interfere with those negotiations. Such interference is unnecessary, and may be preempted by both the federal Rail Safety Act and the federal Railway Labor Act.

Second, SB 427 does not appear to be necessary. There was ample, undisputed testimony that railroad safety has steadily increased over decades even as crew sizes have decreased. Testimony attributed these safety increases, in part, to technological advancements such as Positive Train Control, which federal law mandates. It is impossible to predict what future technological achievements may advance railroad safety even further. As new technologies emerge (including possibly autonomous railroads), it would be unwise to put Nevada in a place where it could not employ beneficial new technology because of obsolete, statutory requirements.

Finally, SB 427, if passed, would make Nevada an outlier state on this issue. Only California and Wisconsin have similar two-person crew requirements in statute. Since railroad traffic is a topic of national concern, there should be national consensus on the rules and regulations governing railroad safety measures. Nevada would interrupt interstate commerce in the future if nearly all other states allowed for one crew member but Nevada did not. In that situation, Nevada would be a regulatory island, in which trains that had traveled throughout the country without incident with a single crew member had to add another person to the crew upon crossing the Nevada border.

Given the above concerns, representatives from both the Union Pacific Railroad and BNSF Railway opposed SB 427.

For these reasons I veto SB 427 and return it without my signature or approval.

Sincerely,
BRIAN SANDOVOL
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Senator Cannizzaro moved no further consideration of vetoed Senate Bill No. 427 of the 79th Session.

Motion carried.

Vetoed Senate Bill No. 464 of the 79th Session.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA

June 8, 2017

THE HONORABLE BARBARA CEGAVSKE, Secretary of State, Capitol Building
Carson City, Nevada 89701

DEAR SECRETARY CEGAVSKE:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 464 ("SB 464"), which is entitled:

AN ACT relating to public works; authorizing the Las Vegas Convention and Visitors Authority to require bidders, contractors or subcontractors to enter into agreements with labor organizations concerning the employees who perform work on the renovation or expansion of the Las Vegas Convention Center; and providing other matters properly relating thereto.

SB 464 is a project-specific bill that allows the Las Vegas Convention and Visitors Authority to enter into a project labor agreement for the upcoming construction work on the Las Vegas Convention Center ("LVCC"). I do support efforts to ensure that this important infrastructure project proceeds on time and on budget. But, because SB 464 rolls back an important, bipartisan reform from the 2015 Legislative Session, I cannot support the bill.

During the 2015 Legislative Session, Assembly Bill 159 was passed on a bipartisan vote, which limited the use of project labor agreements on public works. These reforms apply to work done on the Las Vegas Convention Center. As such, absent a change to the law, project labor agreements would not be allowed during the upcoming renovation and expansion of the LVCC.

The LVCC project at issue was approved in Senate Bill 1 during the 2016 Special Session of the Legislature. In that comprehensive bill to enact into law the Southern Nevada Tourism Improvements Act, the LVCC was not exempted from the prohibitions on project labor agreements. Such an exemption was considered, but ultimately rejected.

SB 464 would roll back a reasonable reform from the 2015 Legislative Session, and add a provision that was rejected when the LVCC project was approved during the 2016 Special Session. These facts form the basis for SB 464 receiving widespread opposition from many construction workers and groups. For example, the Associated Builders and Contractors of Nevada, Associated Builders and Contractors, Inc., AMGI USA, Helix Electric, Leducor Construction, Inc., and the Henderson Chamber of Commerce.

For these reasons I veto SB 464 and return it without my signature or approval.

Sincerely,
BRIAN SANDOVOL
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Senator Cannizzaro moved no further consideration of vetoed Senate Bill No. 464 of the 79th Session.

Motion carried.

Senator Atkinson announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 11:44 a.m.

SENATE IN SESSION

At 5:31 p.m.

President Marshall presiding.

Quorum present.

REPORTS OF COMMITTEE

Madam President:

Your Committee on Judiciary, to which was referred Senate Bill No. 143, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

NICOLE J. CANNIZZARO, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Cannizzaro moved that Senate Bill No. 143, just reported out of Committee, be placed on the Second Reading File for this legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 143.

Bill read second time and ordered to third reading.

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 Scott Arkills and Matt Kershaw.

On request of Senator Brooks, the privilege of the floor of the Senate Chamber for this day was extended to Kaprice Burns.

On request of Senator Goicoechea, the privilege of the floor of the Senate Chamber for this day was extended to Chairman Ted Howard, John Kelly and Andrew Willis.

On request of Senator Hansen, the privilege of the floor of the Senate Chamber for this day was extended to Jacob Blinn, Camron Dunn and Chairman Anthony Sampson.

On request of Senator Hardy, the privilege of the floor of the Senate Chamber for this day was extended to Cori Johnson,.

On request of Senator Kieckhefer, the privilege of the floor of the Senate Chamber for this day was extended to Gloria McDonald, Meg McDonald and Marcus Yeager.

On request of Senator Ratti, the privilege of the floor of the Senate Chamber for this day was extended to Monica Okopal.

On request of Senator Settlemeyer, the privilege of the floor of the Senate Chamber for this day was extended to Commissioner Lori Pasqua, Shelby Rosebush, Chairman Serrell Smokey and Rebecca Taylor.

Senator Atkinson moved that the Senate adjourn until Wednesday, February 13, 2019, at 11:00 a.m.

Motion carried.

Senate adjourned at 5:33 p.m.

Approved:

KATE MARSHALL
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate