

THE FIFTEENTH DAY

CARSON CITY (Monday), February 21, 2005

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

President pro Tempore Amodei presiding.

Roll called.

All present except Senator McGinness, who was excused.

Prayer by the Chaplain, Pastor Brian Bilbrey.

Father God, we thank You for another day we may serve You. Lord, unite our hearts and reveal to us Thy great purpose for this State. We humbly ask that You will provide strength and health to Your servants of this Senate and to their families. Bless them and guide them in every decision.

Lord, we call upon You on behalf of the people of our State that we might live fruitful lives and that unity can be found in our diversity and strength found in our weakness that this State and this Nation shall ever hold the banner of freedom before the people.

We ask these things in Your Name.

AMEN.

Pledge of allegiance to the Flag.

Senator Raggio moved that further reading of the Journal be dispensed with, and the President pro Tempore and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. President pro Tempore:

Your Committee on Human Resources and Education, to which was referred Senate Bill No. 36, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAURICE E. WASHINGTON, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, February 17, 2005

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 17.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 4.

DIANE KEETCH

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

By Senators Coffin, Amodei, Titus, Mathews; Assemblymen McClain and Sherer:

Senate Joint Resolution No. 4—Proposing to amend the Nevada Constitution to limit the allowable causes for the recall of an elected public officer to misdemeanor or malfeasance in office.

Legislative Counsel's Digest:

The Nevada Constitution currently provides a procedure for the people to recall an elected public officer for any reason. (Nev. Const., Art. 2, § 9)

This bill proposes to amend the Nevada Constitution to limit the reasons for which an elected public officer may be recalled to misdemeanor or malfeasance in office, the same grounds for which certain officers are subject to impeachment pursuant to Section 2 of Article 7 of the Nevada Constitution. This bill also requires the petition for recall to include factual support for each allegation of misdemeanor or malfeasance in office.

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That Section 9 of Article 2 of the Nevada Constitution be amended to read as follows:

Sec. 9. Every public officer in the State of Nevada is subject, as herein provided, to recall from office *for misdemeanor or malfeasance in office* by the registered voters of the state, or of the county, district, or municipality which he represents. For this purpose, not less than twenty-five percent (25%) of the number who actually voted in the state or in the county, district, or municipality which he represents, at the election in which he was elected, shall file their petition, in the manner herein provided, demanding his recall by the people. They shall set forth in said petition, in not exceeding two hundred (200) words, the reasons why said recall is demanded ~~[-]~~, *including factual support for each allegation of misdemeanor or malfeasance in office*. If he shall offer his resignation, it shall be accepted and take effect on the day it is offered, and the vacancy thereby caused shall be filled in the manner provided by law. If he shall not resign within five (5) days after the petition is filed, a special election shall be ordered to be held within thirty (30) days after the issuance of the call therefor, in the state, or county, district, or municipality electing said officer, to determine whether the people will recall said officer. On the ballot at said election shall be printed verbatim as set forth in the recall petition, the reasons for demanding the recall of said officer, and in not more than two hundred (200) words, the officer's justification of his course in office. He shall continue to perform the duties of his office until the result of said election shall be finally declared. Other candidates for the office may be nominated to be voted for at said special election. The candidate who shall receive *the* highest number of votes at said special election shall be deemed elected for the remainder of the term, whether it be the person against whom the recall petition was filed, or another. The recall petition shall be filed with the officer with whom the petition for nomination to such office shall be filed, and the same officer shall order the special election when it is required. No such petition shall be circulated or filed against any officer until he has actually held his office six (6) months, save and except that it may be filed against a senator or assemblyman in the legislature at any time after ten (10) days from the beginning of the first session after his election. After one such petition and special election, no further recall petition shall be filed against the same officer during the term for which he was elected, unless such further petitioners shall pay into the public treasury from which the expenses of said special election have been paid, the whole amount paid out of said public treasury as expenses for the preceding special election. Such additional legislation as may aid the operation of this section shall be provided by law.

Senator Coffin moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Government Affairs:

Senate Bill No. 84—AN ACT relating to taxation; prohibiting cities and counties from imposing taxes on the rental of transient lodging by owners who have a right to occupy or use a time-share unit pursuant to a program for the exchange of occupancy rights among owners or with the owners of time shares in other time-share plans, or both; and providing other matters properly relating thereto.

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

Motion carried.

By Senator Carlton:

Senate Bill No. 85—AN ACT relating to dentistry; revising provisions governing the examination of applicants for a permanent license to practice dentistry; revising provisions governing the issuance of a temporary license to practice dentistry; and providing other matters properly relating thereto.

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

Motion carried.

Senator Nolan moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 11:10 a.m.

SENATE IN SESSION

At 11:14 a.m.

President pro Tempore Amodei presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENC

By the Committee on Transportation and Homeland Security:

Senate Bill No. 86—AN ACT relating to offenses; providing that counseling and evaluations required for certain offenses may be conducted in neighboring states under certain circumstances; requiring the Committee on Domestic Violence to include provisions in its regulations allowing a program for the treatment of persons who commit domestic violence that is located in another state to become certified in this State; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Transportation and Homeland Security:

Senate Bill No. 87—AN ACT relating to motor vehicles; eliminating the additional fee charged and collected by the Department of Motor Vehicles for the renewal of a driver's license by mail; and providing other matters properly relating thereto.

Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.

Motion carried.

By the Committee on Finance:

Senate Bill No. 88—AN ACT making a supplemental appropriation to the Department of Cultural Affairs for unanticipated expenses for

Fiscal Year 2004-2005 relating to the storage of records for the Nevada State Library and for unanticipated operating expenses for Fiscal Year 2004-2005 of the Comstock Historic District; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 89—AN ACT making a supplemental appropriation to the Health Division of the Department of Human Resources for an unanticipated shortfall in money for Fiscal Year 2004-2005 resulting from the increased cost of the maintenance of effort requirement for the Substance Abuse Prevention and Treatment Block Grant; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 90—AN ACT making a supplemental appropriation to the Department of Human Resources for unanticipated operating expenses for Fiscal Year 2004-2005 at the emergency hospital annex at the Desert Regional Center and for an unanticipated shortfall in revenue for Fiscal Year 2004-2005 for rural clinics; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 91—AN ACT making a supplemental appropriation to the Department of Corrections for unanticipated operating expenses for Fiscal Year 2004-2005 and for expenses relating to the takeover of the Southern Nevada Women's Correctional Facility for Fiscal Year 2004-2005; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 92—AN ACT making supplemental appropriations to the Department of Public Safety for unanticipated operating expenses of the Nevada Highway Patrol and for dignitary protection; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 93—AN ACT making a supplemental appropriation to the Department of Motor Vehicles for unanticipated operating costs for Fiscal Year 2004-2005 in administrative services; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 94—AN ACT making appropriations to restore the balance in the Contingency Fund; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 95—AN ACT making appropriations to the Fund to Stabilize the Operation of the State Government; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 96—AN ACT making an appropriation to the Office of the Governor for a contractor to update the State's Energy Assurance Plan pursuant to federal guidelines; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 97—AN ACT making an appropriation to the Department of Administration for security enhancements in the Attorney General's Office, the Capitol Building and the Supreme Court Building; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 98—AN ACT making an appropriation to the Department of Administration to provide necessary assistance to the Task Force on Prostate Cancer; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 99—AN ACT making an appropriation to the Department of Administration for litigation costs incurred by the Interstate Commission for Adult Offender Supervision; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 100—AN ACT making an appropriation to the Supreme Court of Nevada for remodeling costs associated with the conversion of two offices for attorneys into meeting and training rooms; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 101—AN ACT making an appropriation to the Legislative Counsel Bureau for the cost of reproducing out-of-print publications, information technology upgrades, building improvements and an emergency generator for the State Printing Office; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 102—AN ACT making an appropriation to the Office of Veterans' Services to pay for construction costs of a shelter to protect state-owned vehicles; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 103—AN ACT making an appropriation to the Department of Cultural Affairs for the development, renovation and expansion of the

Southern Nevada Railroad Museum; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 104—AN ACT making an appropriation to the Department of Corrections for the purchase of replacement vehicles; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 105—AN ACT making an appropriation to the University of Nevada School of Medicine for support of its partnership with the Nevada Cancer Institute to expand research, treatment, education and teaching opportunities in Nevada; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 106—AN ACT making an appropriation to the State Board of Examiners for expenses relating to the construction of a new court facility in White Pine County; and providing other matters properly relating thereto.

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

Motion carried.

By Senator Titus:

Senate Bill No. 107—AN ACT relating to capital improvements; requiring local governments to conduct biennial inventories of capital improvements owned, leased or operated by the local governments; requiring certain entities of the State to conduct biennial inventories of capital improvements owned, leased or operated by the State; requiring local governments and those entities of the State to submit a report of such inventories to the Legislature; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 108—AN ACT making a supplemental appropriation to the Department of Education for unanticipated expenses for Fiscal

Year 2004-2005 relating to the Individuals with Disabilities Education Act; and providing other matters properly relating thereto.

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

Motion carried.

Assembly Bill No. 17.

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

Motion carried

SECOND READING AND AMENDMENT

Senate Bill No. 3.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 1.

Amend the bill as a whole by deleting sec. 2 and the leadlines of repealed sections and adding a new section designated sec. 2, following section 1, to read as follows:

"Sec. 2. Chapter 705 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The provisions of this chapter do not apply to an individual, company or corporation operating a railroad in this State to the extent that such a provision is:*

(a) Preempted, either expressly or by implication, by a federal law or an administrative regulation, rule, decision, opinion or order having the force of a federal law; or

(b) Declared to be preempted by a court of competent jurisdiction interpreting a federal law or an administrative regulation, rule, decision, opinion or order having the force of a federal law.

2. *If a provision of this chapter is preempted, the provision is suspended and must not be enforced against the individual, company or corporation operating the railroad only for the period during which the preemption is valid and effective.*

3. *This section is intended only to codify the rules of construction applicable to the federal doctrine of preemption and must not be interpreted in a manner that is inconsistent with those rules."*

Amend the title of the bill by deleting the second line and inserting: "violations involving certain pipelines; clarifying the application of certain".

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Senate Joint Resolution No. 11 of the 72nd Session, be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Raggio.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 24.

Bill read third time.

Senator Raggio moved that Senate Bill No. 24 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Raggio.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President pro Tempore and Secretary signed Senate Joint Resolution No. 2; Assembly Concurrent Resolution No. 3.

REMARKS FROM THE FLOOR

Senator Raggio requested that his remarks be entered in the Journal.

It is fitting today as we celebrate Presidents' Day for us to pause in reflection to honor our past Presidents. We used to celebrate Washington's birthday on February 22 and Lincoln's birthday on February 12, but we have gotten away from that and now honor all Presidents on this day—each of us has our favorites.

In the recent months, I have had occasion to read many of the presidential biographies. Many are well known, such as Washington, Jefferson, Adams, Reagan and Clinton. The lives of all the Presidents are interesting. I grew up thinking that Franklin D. Roosevelt was supposed to be President forever since he was elected to four terms.

Today, we look back on this day and think of their sacrifices. We think of it as a privilege to serve as President which it is. It is the highest honor to achieve in this Country. I find it a shame that we cannot get over the elections a little quicker, but for whoever is elected, it is a tremendous responsibility to maintain this Nation as a republic. Benjamin Franklin was asked what type of a government he provided at the Constitutional Convention. He stated, "A republic if you can keep it."

For over two centuries, we have maintained that, not always as the most-liked nation in the world but certainly as the most-republican, the most-democratic, the most-free country in the world. We may have some faults, but our success is owed to the leadership we have had for the past two centuries.

Today, we should reflect on the sacrifices, the responsibilities and the accomplishments of each of the Presidents who have served this Nation.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Beers, the privilege of the floor of the Senate Chamber for this day was extended to Kyle Beers and Sarah Beers.

On request of Senator Mathews, the privilege of the floor of the Senate Chamber for this day was extended to Zach Rees.

On request of Senator Nolan, the privilege of the floor of the Senate Chamber for this day was extended to Josh Selleck.

On request of Senator Raggio, the privilege of the floor of the Senate Chamber for this day was extended to Lila Mill and Joy Amodei.

On request of Senator Titus, the privilege of the floor of the Senate Chamber for this day was extended to Bryn Nebeker.

Senator Raggio moved that the Senate adjourn until Tuesday, February 22, 2005, at 11 a.m.

Motion carried.

Senate adjourned at 11:40 a.m.

Approved:

MARK E. AMODEI
President pro Tempore of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate