THE THIRD DAY

CARSON CITY (Wednesday), February 6, 2019

Assembly called to order at 11:39 a.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Richard Snyder.

O God, Creator of the universe, we celebrate the arrival of this new day. Help us to be the very best that we can and to do the very best that we can. May all that is done this day be for Your greater honor and glory.

AMEN.

Pledge of allegiance to the Flag.

Assemblywoman Benitez-Thompson moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

February 5, 2019

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of Senate Bills Nos. 64, 65, 84, 102 and 110.

MARK KRMPOTIC
Fiscal Analysis Division

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Swank, Cohen, Duran, Fumo, Nguyen, Peters, Sprinkle and Watts:

Assembly Bill No. 118—AN ACT relating to financial services; prohibiting certain persons who provide money to a consumer who is a party to a pending legal action in this State from charging an annual percentage rate greater than 36 percent; prohibiting a person who is licensed to operate certain loan services from making short-term loans with an annual percentage rate greater than 36 percent; and providing other matters properly relating thereto.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

VETOED BILLS AND SPECIAL ORDERS OF THE DAY

Vetoed Assembly Bill No. 175 of the 79th Session.

Governor’s message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

June 9, 2017

THE HONORABLE BARBARA CEGAVSKE, NEVADA SECRETARY OF STATE, 101 North Carson Street, Carson City, NV 89701

RE: Assembly Bill 175 of the 79th Legislative Session

DEAR SECRETARY OF STATE CEGAVSKE:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 175 ("AB 175"), which is entitled:

> AN ACT relating to employment; prescribing certain requirements for health benefits for the purpose of determining the minimum wage paid to employees in private employment in this State; and providing other matters properly relating thereto.

AB 175 purports to add statutory clarity to constitutional language. The bill defines "health benefits," as used in Article 15, Section 16(A) of the Nevada Constitution, as a health insurance plan that meets certain statutorily minimum requirements, including requiring the insurance plan to cover at least sixty percent of costs. None of these statutory requirements are in the Nevada Constitution. On the contrary, these requirements go far beyond what is constitutionally mandated (and possibly even constitutionally allowed), exceeding what Nevada voters likely intended when they amended the Nevada Constitution in 2006 to include Article 15, Section 16(A). As such, AB 175 is constitutionally suspect. It will also potentially harm both Nevada's small businesses and its low-wage workers. Therefore, I cannot support the bill.

Article 15, Section 16(A) of the Nevada Constitution establishes the provisions governing payment of a minimum wage to employees. Currently, Nevada's employers must pay their employees not less than $8.25 per hour worked if the employer does not provide health benefits, and not less than $7.25 per hour worked if the employer does provide health benefits. Essentially, AB 175 imports the standards for a "bronze level" insurance plan under the Affordable Care Act into the Nevada Constitution's language regarding "health benefits." However, the Nevada Constitution, as recently interpreted by the Nevada Supreme Court, already defines these "health benefits."

Only three months ago, the Nevada Supreme Court clarified the issue presented in AB 175. According to the Court, "'health benefits' is defined in the text of [Article 15, Section 16) as 'making health insurance available to the employee for the employee and the employee's dependents at a total cost to the employee for premiums of not more than 10 percent of the employee's gross taxable income from the employer.'" *Western Cab Co. v. Eighth Judicial District Ct.,* 390 P.3d 662 (March 16, 2017); *see also Tyus v. Wendy's of Las Vegas, Inc.,* 2017 WL 1650009 (D. Nev., May 1, 2017) (Noting that the Nevada Supreme Court issued controlling authority in *Western Cab* on the question as to "[w)hat constitutes 'heath [sic] benefits' offered by an employer for the purposes of paying below the upper-tier minimum hourly wage rate under Nev. Cont. art XV, sec 16(A)?" *Id.)*

Imposing a rigid, statutory definition on constitutionally required "health benefits" not only conflicts with the flexible approach called for in the Nevada Constitution, but it also risks upsetting the careful, incentive-based balance that Nevada's voters approved in 2006. That balance seeks to encourage employers to offer health insurance by allowing them to pay a lower minimum wage. If AB 175 becomes law, the costs of the new insurance plans may exceed the costs of paying an additional $1.00 in hourly wages creating a perverse incentive that might force employers to discontinue offering insurance all together. Employees may gain slightly higher wages–assuming such wage increases do not lead to fewer hours and greater job losses–at the cost of losing their health insurance. Such a result, though not intended, would leave some Nevadans without health coverage.

Furthermore, the proponents of AB 175 provided no evidence of how many employers, if any, are currently offering insurance plans that would be prohibited under the new requirements of the bill. When asked such questions during the Senate hearing on AB 175, no answers were given. Such information is critical to understanding the effect that AB 175 would have on both the job

market and the insurance market. It would be unwise to wade into the delicate territory of minimum wages and minimal insurance without a stronger factual record on the consequences–intended or otherwise–of the proposed legislation.

As mentioned in the recent veto on Senate Bill 106, which sought to increase the minimum wage in Nevada, extending higher wages is commendable. But these higher wages would also place a significant burden on the State's small businesses at a time when they are emerging from a downturn that cost hundreds of thousands of jobs and closed the doors of businesses across the State. Moreover, the negative consequences–less hours, fewer lobs, less health insurance–of AB 175 would likely be shouldered by Nevada's most vulnerable workers.

Nevada is currently a national leader for economic growth. With a growing and diversifying economy, 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. AB 175 could jeopardize the substantial economic progress Nevada has made, at a time when small businesses have finally turned the corner from the Great Recession.

All of the above concerns led the Las Vegas Metro Chamber of Commerce, the Reno Sparks Chamber of Commerce, the Henderson Chamber of Commerce, the Latin Chamber of Commerce, the Nevada Resort Association, the Retail Association of Nevada, and the National Federation of Independent Business to oppose the bill.

For these reasons, I veto Assembly Bill 175 and return it without my signature or approval.

Sincere regards,
BRIAN SANDOVAL
Governor

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 175 of the 79th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 206 of the 79th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

June 16, 2017

THE HONORABLE BARBARA CEGAVSKE, NEVADA SECRETARY OF STATE, 101 North Carson Street, Carson City, NV 89701

RE: Assembly Bill 206 of the 79th Legislative Session

DEAR SECRETARY OF STATE CEGAVSKE:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 206 ("AB 206"), which is entitled:

> AN ACT relating to renewable energy; authorizing the establishment of certain programs for the purchase of electricity produced by certain renewable energy facilities; declaring the policy of this State concerning renewable energy; revising the portfolio standard for providers of electric service in this State; revising the manner in which providers of electric service may comply with the portfolio standard; expanding the definition of "provider of electric service" for the purposes of the portfolio standard; requiring the Public Utilities Commission of Nevada to revise any existing portfolio standard applicable to a provider of new electric resources to comply with the portfolio standard established by this act; revising provisions relating to the approval of a plan filed by an electric utility to increase the supply of electricity or reduce demand; and providing other matters properly relating thereto.

Introduction

I compliment the sponsors of AB 206. We share the goal of making Nevada the clean energy capital of the world. This bill would further this aspiration by increasing Nevada's already strong Renewable Portfolio Standard ("RPS") from twenty-five percent by 2025 to forty percent by 2030.[1]

I am fully aware that increasing the RPS as proposed in this bill is very popular, and under different circumstances I would support this bill.[2] However, I have a responsibility to consider the approval of this bill with Nevada's current and future energy costs, policy and ratepayers in mind.

Thus, although the increase in the RPS proposed at this time in AB 206 is one that I would otherwise support, the consequences of approving this bill must be considered through the lens of recent changes to Nevada energy policy and those likely to be adopted in the near future. These changes can only be characterized as massive shifts in energy policy that have already dramatically altered the energy landscape in Nevada. They are occurring in real time, with energy policy evolving in real time.[3]

Net Metering

Since the approval of the current "twenty-five by twenty-five" RPS in 2009, solar rooftop net metering has grown in Nevada. Approximately 30,000 Nevadans have applied to install rooftop solar on their homes and sell excess energy back to the grid at retail rates. I am proud to support net metering legislation and policies that will make Nevada a leader in rooftop solar. Yesterday, I signed AB 405, which will encourage thousands more Nevadans to install rooftop solar on their homes and deliver excess power back to the grid at retail rates, on a sliding scale. This bill will promote more clean energy and jobs in Nevada.

Exiting Companies

Nevada also adopted legislation in 2001 that allowed large entities to exit the Nevada power grid and purchase power from third parties. Since 2015, several large companies have taken advantage of this law to save money and purchase power from third party energy providers. As a condition of leaving the existing system, they were required to pay multi-million dollar "exit fees" for their fair share of the cost of utility assets already built and to protect remaining ratepayers from paying for an inordinate share of the costs associated with these stranded assets. AB 206 would dramatically change the terms associated with their decision to exit, and require a new RPS standard on their power purchases. Such a result was not contemplated or anticipated by these exiting companies, and imposes additional costs on top of the millions of dollars they have already paid to exit the Nevada power grid.

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[1] The Solar Energy Industries Association ranks Nevada 1st in solar capacity per capita. http://www.seia.org/research-resources/top-10-solar-states: A new report also ranks Nevada 4th nationally in solar capacity. Las Vegas Review Journal, June 8, 2017, https://www.reviewjournal.com/business/newreport-ranks-nevada-4th-nationally-in-solar-capacity/.

[2] It is also my understanding that there is a sense of urgency to approve this bill in order for new projects to take advantage of the full federal investment tax credits before they decrease.

[3] See SB 123 (Emissions Reduction Capacity Replacement Plan) of the 2013 Legislative Session, Assembly Bills 5 (PACE), 223 (Energy Efficiency), 405 (Restore Rooftop Solar), and Senate Bills 65 (Resource Planning), 145 (Electric Vehicle Infrastructure), 146 (Distributed Resource Planning), 150 (Energy Efficiency), 204 (Storage Incentives) and 407 (Green Fund) of the 2017 Legislative Session.

Energy Choice

It is also critical to note that a monumental change in energy policy in Nevada is likely to be approved by voters next year. In 2016, 72 percent of Nevadans voted "yes" for the Energy Choice Initiative (the "Initiative") that will allow Nevadans to choose their energy provider and enshrine energy choice in Nevada's Constitution. If passed a second time in the 2018 general election, Nevada's energy market will change permanently and substantially.

Currently, there is only one primary energy company that provides electricity to ninety percent of the residents in Nevada. This provider is subject to the current RPS and is responsible for transmission, generation and maintenance of the electric system.

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 ("PPA"). Any stranded costs associated with this exit could be the responsibility of the ratepayers, resulting in higher power bills for most Nevadans.

If energy choice is approved, Nevada would enter a new environment where there are multiple energy providers competing for individual business, similar to cable TV, internet and telephone service. For the first time, most Nevadans will no longer purchase their power from a monopoly utility, and have the choice to purchase their energy from a third party provider. These new energy providers would be subject to the enhanced RPS mandated by AB 206 and would likely seek to recover the stranded costs associated with stranded assets from the exiting incumbent utility through energy charges passed onto ratepayers.

Indeed, AB 206 recognizes and compounds the concerns associated with energy choice by specifically directing the Public Utilities Commission of Nevada ("PUCN") to disregard any "uncertainty" created by the Initiative in this decision making process. *See* Section 2.59, Subsection (3). In fact, this section provides, in pertinent part: "If such a ballot question [energy choice] is approved ... the costs and benefits of any such renewable energy contract or renewable energy facility ... must be transferred to a provider of electricity or the retail customers provider of electricity." (Emphasis added).

Sound policy should be able to withstand and respond positively to robust regulatory scrutiny, and not ignore the critical and historical role if [sic] the PUCN in developing energy policy. AB 206 usurps the role of the PUCN and specifically prohibits it from considering the "uncertainty" of energy choice.

Energy Choice

Another consideration is my recent approval of SB 204, which for the first time adopts energy storage as part of Nevada's clean energy future. Although it is certain that the enactment of this legislation will put Nevada even further ahead of other states with regard to our energy policies, the questions surrounding the interaction between an enhanced RPS, energy choice and energy storage are ones that can only be answered after further examination and input from energy experts.

The Ratepayer

With all of the discussion on historical, new and emerging energy policy, a primary consideration often gets lost in the laudable goals of more clean energy and energy choice: the ratepayers. If these aggressive new energy policies are enacted, it is the ratepayer who bears the risk of increased rates. Indeed, as mentioned above, AB 206 specifically provides that it is the ratepayer who has the risk of increased rates associated with the likely construction of new installations of renewable energy projects and contracts to meet the requirements of AB 206.

The questions associated with the acknowledged costs, risks and rate issues connected to an enhanced RPS are ones that were not fully answered during the debate on AB 206. The responses to these questions are critical in terms of impacts on ratepayers and energy policy in Nevada.

Energy Choice Committee

With the likely adoption of energy choice and all of these energy proposals, goals, policies, questions and costs in mind, I formed the Committee on Energy Choice ("CEC") through Executive Order on February 9, 2017. Members of the CEC include representatives from utilities, large companies, regulators, ratepayer representatives, subject matter experts, clean energy advocates, and legislators[4], and is chaired by the Lieutenant Governor of Nevada.

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 of 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, net metering, energy storage, exiting companies and the effects on ratepayers, as well as informing the 2019 Legislature and regulatory agencies.

In addition to the CEC, I also signed into law this Session Assembly Bill 452, which directs the Legislative Committee on Energy to further review and study the impacts of the Initiative on the future of energy policy and regulation in Nevada. Both the Executive and the Legislative Branches of government recognize the unanswered questions associated with energy choice and will be reviewing energy policies in advance of the 2019 Legislative Session. Adopting AB 206 is thus premature and would conflict with the goals and the roles of these committees.

Enhanced Renewable Portfolio Standard

There is no doubt that on the surface, an increase in the RPS to forty percent in Nevada by 2030 is an important step, particularly because clean energy is a major part of our nation's energy future. Nevada is, and will be, a leader in this clean energy future as we have limitless solar potential and large geothermal, wind and lithium resources.

Indeed, Nevada has already met its existing RPS, and is the beneficiary of cheap (sometimes free), excess and unused renewable energy imported from California, which cannot use all of its clean energy generated as a result of its fifty percent RPS. Unless and until energy storage matures, an enhanced Nevada RPS policy will also produce excess renewable energy at the wrong times, which may not be able to be used by Nevada ratepayers, forcing Nevadans, like Californians, to pay for clean energy generated in Nevada that we do not need, and cannot use.

Such a result, of course, is unintended, but would cause increased rates for consumers without a return benefit. Moreover, if the incumbent utility is required to build large scale solar or enter into PPAs to meet the requirements of the new RPS proposed in AB 206, and thereafter be required to exit and cease generation because of energy choice, it is the ratepayers who will bear the risk for the stranded costs associated with new solar construction and PPAs resulting from this legislation.

Such an outcome is one that is better considered by the CEC, Legislative Committee on Energy, and the 2019 Legislature.

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[4] The Legislative members include the sponsor of this bill and the Chairman of the Senate Energy Committee in the Legislature.

Support for AB 206

It is conceded that AB 206 has received widespread local and national support. It is the subject of positive television, print and social media advertising and reporting. However, it is unclear if this support contemplates the ramifications on Nevadans of AB 206, its increased RPS and its implications on energy choice, net metering, energy storage and increased rates. Indeed, I am aware of only four states (Connecticut, Maine, Massachusetts, and New Jersey) that increased RPS before or in tandem with the adoption of a restructured energy market. These are issues that I must consider prior to signing a bill that on its surface is immensely popular.[5]

Moreover, I have reviewed numerous letters, emails and press articles, and spoken with supporters of this bill. None of them know, or could adequately answer, the questions associated with the risks of approving this bill prior to the adoption of energy choice.

Conclusion

In conclusion, I reiterate my commitment to more clean, renewable energy in what I call the "New Nevada". Nevada will be the nation's leader in clean and renewable energy generation development. On the path to this goal, however, decisions must be responsibly informed with research, study and debate, particularly with the likelihood of the approval of energy choice in Nevada next year. For these reasons, although the promise of AB 206 is commendable, its adoption is premature in the face of evolving energy policy in Nevada.

Future Action

To achieve the goals set forth in AB 206, and to respond to the concerns raised in this veto message, I will amend my Executive Order regarding the Committee on Energy Choice to direct it to study, review and discuss an increased RPS in the face of energy choice and make recommendations to me and the 2019 Legislature.

For these reasons, I veto Assembly Bill 206 and return it without my signature or approval.

Sincere regards,
BRIAN SANDOVAL
Governor

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[5] AB 206 did receive widespread opposition including the Nevada Resort Association, the Las Vegas Metro Chamber of Commerce, the Reno-Sparks Chamber of Commerce, the Henderson Chamber of Commerce, and NV Energy.

State of Nevada

Executive Department

Executive Order 2017-10

ORDER AMENDING EXECUTIVE ORDER 2017-03

WHEREAS, I, as Governor of the State of Nevada, established the Governor's Committee On Energy Choice ("CEC") by issuing Executive Order 2017-03 on February 9th, 2017;

WHEREAS, the issues the CEC was tasked with addressing included, but was not limited to:

A. The need to amend laws governing the generation, transmission, purchase, and delivery of electricity to all Nevadans;

B. Ensuring that all Nevadans have reasonable access to the open energy markets;

C. Protecting consumers from energy-rate increases caused by the opening of energy markets;

D. Preventing ratepayers and investors from possible economic losses associated with stranded investments;

E. Promoting innovation and development in Nevada's renewable energy industries;

F. Developing and expanding Nevada's energy industries such that Nevada become a net exporter of energy; and

G. Providing Nevadans with energy choice as soon is reasonably practical or possible;

WHEREAS, the 79th Legislative Session recently concluded with the passage of, among other legislation, two bills concerning renewable energy: (1) Assembly Bill 206, which would have raised Nevada's renewable portfolio standards; and (2) Senate Bill 392, which would have allowed community solar gardens to begin operating in Nevada;

WHEREAS, both bills were vetoed on Friday, June 16th, 2017, because, among other things, there was significant uncertainty as to how the policies in the bills would be affected by the proposed amendment to the Nevada Constitution contained in the upcoming 2018 ballot question: The Energy Choice Initiative (the "Initiative");

WHEREAS, the members of the CEC are uniquely qualified to examine whether or how to implement the ideas in Assembly Bill 206 and Senate Bill 392 should Nevada's voters pass the Initiative for the second time;

WHEREAS, it is necessary and prudent that the CEC study, review, and discuss Nevada's renewable portfolio standards and community solar gardens, and make recommendations to the Office of Governor and the Legislature prior to the 2019 Legislative Session; and

WHEREAS, Article 5, Section 1 of the Nevada Constitution provides: "The supreme executive power of this State, shall be vested in a Chief Magistrate who shall be Governor of the State of Nevada."

NOW, THEREFORE, by the authority vested in me as the Governor by the Constitution and laws of the State of Nevada, it is hereby ordered as follows:

1. Executive Order 2017-03 shall be amended to add the following topics to those the Governor's Committee On Energy Choice shall address:

a. Increasing Nevada's renewable portfolio standards;

b. Allowing community solar gardens to begin operating in Nevada.

2. Executive Order 2017-03 shall remain in force and effect in all other respects.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol in Carson City, this 16th day of June, in the year two thousand seventeen.

Governor of the State of Nevada

By the Governor:

Secretary of State

Deputy Secretary of State

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 206 of the 79th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 259 of the 79th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

June 12, 2017

THE HONORABLE BARBARA CEGAVSKE, NEVADA SECRETARY OF STATE, 101 North Carson Street, Carson City, NV 89701

RE: Assembly Bill 259 of the 79th Legislative Session

DEAR SECRETARY OF STATE CEGAVSKE:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 259 ("AB 259"), which is entitled:

> AN ACT relating to criminal procedure; providing for the vacating of certain judgments of conviction and sealing of certain records relating to marijuana; authorizing a court to depart from prescribed minimum terms of imprisonment for the possession of controlled substances in certain circumstances and providing other matters properly relating thereto.

There is much to commend in AB 259. Individuals with prior convictions for possession of marijuana in amounts now legal in Nevada should be able to get their criminal records cleared expeditiously. However, AB 259 does more than create a new process for certain, limited marijuana offenses. It also adds other marijuana crimes to its reach, makes even more changes to Nevada's record-sealing law (law already changed substantially with at least two other bills this Legislative Session), and gives judges discretion to depart from statutory minimum prison sentences in almost all other drug-possession cases. As such, I cannot support AB 259.

First, AB 259 requires judges to seal records and vacate judgments for convictions involving possession of up to one ounce of marijuana. Until the 2016 passage of Ballot Question Two: Initiative to Regulate and Tax Marijuana, the first three convictions for possessing less than one ounce of marijuana for non-medical use resulted in a misdemeanor. The fourth conviction was a gross misdemeanor, and the fifth and subsequent convictions were category E felonies. Now, if purchased and used according to law, a person may legally possess up to one ounce of marijuana for recreational use. AB 259 would allow a person with convictions under prior law to have his or her criminal record vacated and sealed.

To the extent that there are individuals suffering under criminal records for conduct now legal in Nevada, those cases are best handled on a case-by-case basis. Senate Bill 125 and Assembly Bill 327, both of which I recently signed into law, substantially reformed the record-sealing process, and there is no reason why persons with prior marijuana convictions cannot take advantage of those new procedures. When records are sealed, the offense is legally deemed never to have occurred. *(See* NRS 179.285.) Given the new reforms to the record-sealing process, there is no need for a separate procedure for marijuana-related crimes.

Second, AB 259 would also allow a court to vacate and seal records related to any other offense involving marijuana if based on acts that became lawful as of January 1, 2017. The bill itself is unclear on what these "other offenses" may be. Presumably this provision would permit vacated judgments and record sealing for all marijuana conduct that is now lawful, potentially including marijuana trafficking and possession of large quantities of marijuana, since such activity is now allowed in Nevada, although limited and subject to significant regulation and licensing requirements.

Finally, AB 259 also gives judges discretion to depart from mandatory minimum prison sentences in other drug possession cases, except those involving date rape drugs. Although there is little doubt that Nevada's judges will soundly exercise their discretion in these cases, it would be better to tackle what problems may exist with statutory minimums in drug possession cases in a broad, uniform manner. Simply giving judges the statutory discretion to depart from otherwise mandatory statutory sentencing requirements is an incomplete solution, and one that opens the door for potential inequities depending on the preferences and practices of each individual judge.

For these reasons, I veto Assembly Bill 259 and return it without my signature or approval.

Sincere regards,
BRIAN SANDOVAL
Governor

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 259 of the 79th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 303 of the 79th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

June 8, 2017

THE HONORABLE BARBARA CEGAVSKE, NEVADA SECRETARY OF STATE, 101 South Carson Street, Carson City, NV 89701

RE: Assembly Bill 303 of the 79th Legislative Session

DEAR SECRETARY CEGAVSKE:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 303 ("AB 303"), which is entitled:

> AN ACT relating to corrections; requiring core correctional services to be provided only by the State or a local government with certain exceptions; and providing other matters properly relating thereto.

AB 303 bans the use of private prisons in Nevada. It also appears to ban the State from contracting with out-of-state private prisons to take inmates when needed, beginning in 2022. To the extent that the intent of AB 303 is to ensure that Nevada maintains complete control over its prisons and prison population, there is some merit to the bill. But because the bill improperly encroaches on the authority and discretion of the executive branch of State government, including the State Board of Prison Commissioners, I cannot support it.

The Nevada Constitution tasks the executive branch with operating the State's prison system. These responsibilities include budgeting for the Department of Corrections, appointing a Director of the Department of Corrections, and overseeing all matters connected to the prison system through the State Board of Prison Commissioners. Admittedly, the Legislature must also approve the budget, and it may pass laws regulating the prison system.

Where AB 303 goes too far, however, is by limiting the discretion of the Director of the Department of Corrections by prohibiting the use of private prisons, starting in 2022. Between now and 2022, much can happen, and there is no way to predict whether private prisons may need to play a critical part in Nevada's future prison needs. For example, Nevada is currently suffering from overcrowding in its prisons due to actual custody sentencings exceeding projections. Short of spending tens of millions of dollars building new prisons, which would do nothing to fix the immediate problem, the best solution to mitigate overcrowding was to contract with out-of-state private prisons to take some of Nevada's inmates. It would be ill-advised to foreclose all available options now, should there be similar, or other unexpected, problems in the future. Moreover, often there are inmates with unique backgrounds, needs, or segregation issues for which the Director

must have options to send to other custodial environments for health and safety purposes. Such options are critical for the management of our state prison system.

Finally, the Legislature will be meeting in 2019 and 2021, which gives it sufficient opportunity to review policy and issues related to corrections if and when they arise.

For these reasons I veto AB 303 and return it without my signature or approval.

Sincere regards,
BRIAN SANDOVAL
Governor

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 303 of the 79th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 348 of the 79th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

June 8, 2017

THE HONORABLE BARBARA CEGAVSKE, NEVADA SECRETARY OF STATE, 101 North Carson Street, Carson City, NV 89701

RE: Assembly Bill 348 of the 79th Legislative Session

DEAR SECRETARY CEGAVSKE:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 348 ("AB 348"), which is entitled:

> AN ACT relating to education; revising provisions governing the establishment of a course or unit of a course of instruction concerning acquired immune deficiency syndrome, the human reproductive system, related communicable diseases and sexual responsibility; requiring each board of trustees to submit an annual report concerning such a course or unit of such a course of instruction in certain topics to the Legislature; [sic]

AB 348 is well-intentioned in certain respects. Relevant and appropriate sex education supports important public health policies by helping students to make informed decisions and lead healthy lives. While local school boards and educators play an important role in providing appropriate sex education courses, the role of parents in this system is the most important. AB 348 would upset the school-parent balance potentially depriving parents with a meaningful opportunity to provide informed consent for their children to receive sex education.

Under current law, parental consent is strictly required before a student is allowed to participate in a sex education course. NRS 386.036(4) clearly stipulates that if parental consent for a student to attend a sex education course is not provided, the student may not participate in the course. Such a process is known as "opt-in", whereby a child cannot attend a sex education course unless and until a parent deliberately consents in writing. Thus, current law establishes that the notice provided to parents informing them that a course in sex education will be taught must include a form allowing the parent to consent to their child attending the course.

AB348, while preserving some of the current "opt in" system, makes a substantial change to the process. Rather than require parents to consent every time a course of sex education is going to be taught, AB 348 would allow a parent's one-time consent to operate as consent for all future school years. Admittedly, a parent could elect to consent for a single year, and consent could be revoked in the future. However, AB 348 makes it much more likely that a busy parent may be consenting to much more than he or she expected. Such an outcome is untenable in a subject matter that that [sic] requires maximum levels of parental engagement and awareness.

Given the possibility of universal, one-time consent, AB 348 thus makes it likely that the content of the coursework taught in a sex education class will change after parental consent is given, especially as such education is required to be "age appropriate." Consent to fifth grade sex education is not the same as consent to high school sex education, even if the instruction never changes. Such a policy undermines the quality of parent consent and may expand the parameters of a sex education course beyond what a parent contemplated.

Finally, without a doubt, the policy changes introduced in AB 348 involving sex education are ones that should be determined by parents, educators, and education policy makers at local school boards. These environments invite and include optimum discussion, debate, and decisions for the children who attend the schools in those neighborhoods. Frustrated by a lack of traction at the local level for changes to policies and instruction related to sex education, proponents of AB 348 now seek to accomplish their goals with a statewide policy. But a uniform, once-size-fits-all approach to sex education would be ill-advised, and these policy changes, if made, should be made at the local level.

For these reasons, I veto AB348 and return it without my signature or approval.

Sincere regards,
BRIAN SANDOVAL
Governor

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 348 of the 79th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 374 of the 79th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

June 16, 2017

THE HONORABLE BARBARA CEGAVSKE, NEVADA SECRETARY OF STATE, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill 374 of the 79th Legislative Session

DEAR SECRETARY OF STATE CEGAVSKE:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 374 ("AB 374"), which is entitled:

> AN ACT relating to health care; requiring the Department of Health and Human Services, if authorized by federal law, to establish a health care plan within Medicaid which is available for purchase by certain persons; requiring the Director of the Department to seek any necessary waivers from the Federal Government to establish such a plan and to provide certain incentives to persons who purchase coverage through such a plan; including the Nevada Care Plan within the qualified health plans that are available through the Silver State Health Insurance Exchange; making an appropriation; and providing other matters properly relating thereto.

AB 374 attempts to expand health insurance coverage through the novel idea of letting individuals, otherwise ineligible for Medicaid, purchase Medicaid-like plans at their own full cost through the Silver State Health Insurance Exchange, with no federal or state subsidies. I applaud the sponsor for his creativity, and I believe that the concepts in this bill may play a critical role in future healthcare policy. However, AB 374 raises more questions than it answers, while adding more uncertainty to an industry that needs less. Both the problems AB 374 attempts to fix, and the solutions it proposes, need further study and analysis. Moving too soon, without factual foundation or adequate understanding of the possible consequences, could introduce more uncertainty to an

already fragile healthcare market, and ultimately affect patient healthcare. Therefore, I cannot support AB 374.

I share the concerns about those Nevadans who may still find quality, affordable insurance coverage out of their reach. It was because of those very concerns that led me to opt-in to the Affordable Care Act ("ACA"), expanding Medicaid and the Child Health Insurance Programs, and implementing Nevada's own health insurance exchange. But that decision was made only after much research and thoughtful consideration of how those changes would affect the entirety of Nevada's healthcare system. Given the short timeframe and heavy workload of the recent Legislative Session, AB 374 was not subject to the same deliberative process that informed the decision to opt-in to the ACA.

For the most part, AB 374 offers an undeveloped remedy to an undefined problem. The bill assumes the existence of an insurance-coverage gap. Supposedly, there are a number of individuals who do not qualify for Medicaid, do not have employer-provided insurance, and cannot otherwise afford private insurance. AB 374 also presupposes that these individuals would want and could afford a Medicaid-like plan, and that these plans would ultimately be accepted by enough healthcare providers to make them worth the cost. All of these assumptions may be sound, but there is an insufficient factual record to adopt such a dramatic shift in healthcare policy.

Furthermore, absent a more firm evidentiary footing, there is just as much reason to assume negative unintended consequences as positive ones. For instance, those insured by this new Medicaid-like plan may not come from the pool of uninsured, but from those who already have insurance coverage. Market forces or personal choice may end up promoting coverage substitution rather than filling a coverage gap. For those losing a plan they like in favor of a plan they do not, the downside is apparent. But this potential shift in coverage has other, less obvious effects as well.

Access to health insurance and access to health care, while related, are not the same. Providing more insurance does not automatically (or even necessarily) result in more healthcare. Most healthcare providers have to maintain a mix of patients on Medicaid, Medicare, and commercial insurance. It is how they stay in business, since Medicaid and Medicare reimbursement rates are often significantly lower than those paid by commercial insurance. If more people shift (voluntarily or not) from commercial insurance to Medicaid-like insurance, that provider mix may prove unstable, resulting in fewer doctors seeing Medicaid patients, or fewer doctors all together. The net result could mean greater wait times and less provider availability for all Nevadans, whether they are currently on Medicaid, Medicare, or commercial insurance.

These and other worries generated significant opposition to AB 374 from the broader healthcare community. Groups such as the Nevada Hospital Association, HCA Health Care, the Nevada Rural Hospital Association, the Nevada State Medical Association, Anthem BlueCross BlueShield, and various other Managed Care Organizations ("MCO") all expressed concerns with the bill.

Fortunately, my veto of AB 374 does not end the conversation about potential coverage gaps or possible solutions, including Medicaid-like solutions. In fact, given the possibility that changes in federal law may put Nevada's expanded Medicaid population at risk of losing their coverage, the ability for individuals to purchase Medicaid-like plans is something that <u>should</u> be considered in depth. If done correctly, the proposals in AB 374 could provide a necessary safety net for those who may no longer have access to traditional Medicaid. There are at least three possible avenues to give the ideas in AB 374 the examination they deserve.

First, I recently signed Senate Bill 394, which, among other things, requires the Legislative Committee on Health Care to study how Nevada might establish a program similar to Medicaid Managed Care available for purchase. The legislative study will bring together legislators, state agencies, and other subject-matter experts to review how the State might implement a Medicaid MCO plan, for purchase.

Second, in my veto message on Assembly Bill 382 I mentioned the possibility of signing an Executive Order that forms a committee of stakeholders to study the issue of "surprise" billing for emergency healthcare. This committee would bring more informed recommendations to the 2019 Legislative Session and beyond. Should I end up issuing such an Executive Order, it would be prudent to also add for consideration and study both the problems and solutions raised by AB 374.

Finally, it bears mentioning that NRS 686B.180 may already provide a path for the State's Insurance Commissioner to work with commercial insurance companies to fill coverage gaps if and where they might exist.

For these reasons, I veto Assembly Bill 374 and return it without my signature or approval.

Sincere regards,
BRIAN SANDOVAL
Governor

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 374 of the 78th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 376 of the 79th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

June 9, 2017

THE HONORABLE BARBARA CEGAVSKE, NEVADA SECRETARY OF STATE, 101 North Carson Street, Carson City, NV 89701

RE: Assembly Bill 376 of the 79th Legislative Session

DEAR SECRETARY OF STATE CEGAVSKE:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 376 ("AB 376"), which is entitled:

> AN ACT relating to criminal procedure; revising provisions governing the filing of a complaint after an arrest without a warrant; and providing other matters properly relating thereto.

AB 376 is a straightforward bill with good intentions. Defendants arrested without a warrant deserve an expeditious process, including a timely filing of a criminal complaint. Such defendants should not have to wait in jail any longer than is absolutely necessary for the State to determine and file criminal charges. However, SB 376 departs from the current system that gives judges the discretion to determine appropriate procedure, and sets up a rigid timeline that could prove unworkable and unwise in certain cases. Therefore, I cannot support AB 376.

Current law requires criminal complaints on warrantless arrests to be filed "forthwith." Such language gives a judge the power to intervene if prosecutors are dilatory. AB 376 would replace "forthwith" with a 72-hour deadline to file the complaint, excluding weekends and legal holidays. For good cause, a prosecutor could obtain an additional 72-hour extension, but this extension would include weekends. Stated differently, an extension granted on Friday would expire on Monday.

Courts are closed on weekends, and Nevada's rural courts and other Municipal and Justice Courts do not allow for electronic filing. Thus, there would be no way to file a complaint on any weekend included in a 72-hour extension.

Prosecutors across Nevada have expressed their objections to AB 376. They recognize that the vast majority of cases could meet–and in fact do meet–the new deadlines. But there are exceptions when evidence is still being gathered and processed, and a forced release of a defendant due to these new time restrictions could endanger public safety.

To the extent that some prosecutors may be abusing the current system, it is better to deal with those instances through a judge on case-by-case bases [sic], rather than with an inflexible, statutory deadline.

For these reasons, I veto Assembly Bill 376 and return it without my signature or approval.

Sincere regards,
BRIAN SANDOVAL
Governor

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 376 of the 79th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 382 of the 79th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

June 8, 2017

THE HONORABLE BARBARA CEGAVSKE, NEVADA SECRETARY OF STATE, 101 North Carson Street, Carson City, NV 89701

RE: Assembly Bill 382 of the 79th Legislative Session

DEAR SECRETARY OF STATE CEGAVSKE:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 382 ("AB 382"), which is entitled:

> AN ACT relating to health care; requiring certain hospitals, independent centers for emergency medical care and physicians to accept certain rates as payment in full for the provision of emergency services and care to certain patients; providing an exception under certain circumstances; requiring the submission of certain reports relating to policies of health insurance and similar contractual agreements by certain third parties who issue those policies and agreements; requiring certain hospitals and independent centers for emergency medical care to submit reports to the Governor's Consumer Health Advocate concerning patient debt and rate increases; requiring the Advocate to adopt certain regulations; and providing other matters properly relating thereto.

AB 382 attempts to fix a long-standing problem in Nevada, whereby patients receive "surprise" billing for emergency care they received out of their insurance network. There is little doubt that such a problem needs a solution, and AB 382 is not the first attempt at a solution. It is, in many respects, similar to Senate Bill 115 from the 2011 Legislative Session. That bill was vetoed because, among other things, it was "overreaching and interferes with contracting between third party payers, hospitals and health care providers." Because AB 382 suffers from similar and other shortcomings, I cannot support it.

Surprise billing occurs when patients receive emergency treatment from hospitals and physicians that are not covered by the patient's insurance. In the heat of an emergency, the patient has little choice in the treatment, and neither do the hospitals or physicians. The care is delivered as if the patient were "in network." The patient's insurance then refuses to fully pay for the out-of-network treatment, placing the patient and the healthcare provider in a billing dispute.

AB 382 tries to end these disputes by removing the patient from the process. Instead, the patient's insurance must make a reasonable offer of payment, and if the healthcare provider refuses, the dispute goes to binding mediation. There is no limit–high or low–on the amount in dispute; all disputes are eligible for mediation, and sometimes the costs of mediation will exceed the amount in dispute.

Out-of-network emergency care is common. There can be thousands of such incidents at a given hospital in a given year. Should AB 382 become law, hospitals and physicians, who have already provided services, could be forced to choose between accepting reduced, likely below market

payments or mediate thousands of cases a year. Nevada's healthcare providers testified that they should be spending their precious time helping patients, not mediating disputes.

If hospitals or physicians are forced to accept below-market rates for out-of-network care, there would be no incentive to enter into network contracts, in which healthcare providers and insurance companies negotiate a contract for in-network care. Such contracts provide value. The insurance companies know that their customers will be using healthcare services the companies trust, and the healthcare providers know they will be paid for services rendered.

AB 382 would disrupt this balance and the healthcare market, and force hospitals and physicians to accept below market payment for their services. This result will likely lead to doctors leaving Nevada, making the State's critical doctor shortage even worse. Even some of the legislators who supported AB 382 expressed worries about the unintended consequences of AB 382 and concerns about the legislation being the right solution to the problem. They testified that they needed more time to study the specific proposals in the bill to make sure that they did not create negative consequences.

Additionally, the risks posed to the Nevada healthcare system, hospitals, and physicians are why groups like the Nevada State Medical Association, Sunrise Hospital, North Valley Hospital, the Nevada Rural Hospital Partners, Dignity Health, the Nevada Board of Orthopedists, the Nevada Association of Osteopathic Physicians, the Nevada Medical Group Management Association, Renown Health, the Northern Nevada Emergency Physicians, and the Women's Health Associates of Southern Nevada opposed the bill. They also joined many individual physicians who raised serious concerns about AB 382.

AB 382 brings into focus a difficult and timely issue that needs clarity, discussion, and maximum input from patients, insurers, and healthcare providers. I am considering issuing an Executive Order that forms a committee of stakeholders to study this issue to bring more informed recommendations to the 2019 Legislative Session and beyond. Moreover, the Legislature recently passed for the first time Assembly Joint Resolution No. 14 to amend the Nevada Constitution to "ensure access to affordable emergency medical care at reasonable rates to all persons in this State." Given the prospect of a constitutional imperative to fix the problem of surprise billing, this committee of stakeholders will provide invaluable input to the discussion.

For these reasons, I veto Assembly Bill 382 and return it without my signature or approval.

Sincere regards,
BRIAN SANDOVAL
Governor

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 382 of the 79th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 403 of the 79th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

June 8, 2017

THE HONORABLE BARBARA CEGAVSKE, NEVADA SECRETARY OF STATE, 101 South Carson Street, Carson City, NV 89701

RE: Assembly Bill 403 of the 79th Legislative Session

DEAR SECRETARY OF STATE CEGAVSKE:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 403 ("AB 403"), which is entitled:

AN ACT relating to governmental administration; authorizing the Legislative Commission to suspend or nullify certain administrative regulations; revising provisions relating to administrative regulations; and providing other matters properly relating thereto.

AB 403 is a legislative overreach that attempts to upset the established balance between Nevada's three branches of government when it comes to approval, enforcement, and review of regulations adopted by executive branch agencies. The bill empowers the Legislative Commission with total, unchecked control over all executive rules, standards, directives, statements, and regulations. Moreover, AB 403 extinguishes the check and balance of the juridical [sic] branch oversight over disputed decisions by foreclosing judicial review.

Thus, if AB 403 became law, the Legislature, through the Legislative Commission, would be transformed into a standing body with unchecked powers and jurisdiction that exceed constitutional limits. Said another way, the Legislature would encroach upon constitutional space reserved for the executive and the judicial branches of state government.

Although it is true that Article 3, Section 2 of the Nevada Constitution does contemplate and permit some legislative oversight of regulations, it is unlikely that the voters who approved Article 3, Section 2 intended a framework as far reaching as AB 403. Allowing one Legislative Commission to unilaterally suspend or nullify regulations approved by a prior Legislative Commission, and relied upon by stakeholders and executive regulators, is a troubling idea by itself. Combining that suspect process with a lack of judicial review goes too far.

AB 403 is not only constitutionally doubtful, but it is also unnecessary. Under the current system the Legislature has authority to approve or reject regulations through the Nevada Administrative Procedure Act, and has the ability to propose changes to the law whenever the Legislature is in session. Furthermore, parties that are aggrieved by regulations or decisions of an executive agency may seek judicial review.

In short, AB 403 simply concentrates too much power in the legislative branch of government.

For these reasons, I veto Assembly Bill 403 and return it without my signature or approval.

Sincere regards,
BRIAN SANDOVAL
Governor

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 403 of the 79th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 407 of the 79th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

June 12, 2017

THE HONORABLE BARBARA CEGAVSKE, NEVADA SECRETARY OF STATE, 101 North Carson Street, Carson City, NV 89701

RE: Assembly Bill 407 of the 79th Legislative Session

DEAR SECRETARY OF STATE CEGAVSKE:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 407 ("AB 407"), which is entitled:

AN ACT relating to the Nevada System of Higher Education; designating certain institutions within the Nevada System of Higher Education as the state land grant institutions; requiring the Legislative Auditor to conduct a performance and compliance audit of the cooperative extension program of the System; and providing other matters properly relating thereto.

AB 407 seeks to add the University of Nevada, Las Vegas ("UNLV") and the Desert Research Institute ("DRI") to the list of institutions of higher learning that are designated "land grant institutions" pursuant to state and federal law. Currently (and for over 100 years), the University of Nevada, Reno ("UNR") has been the only "land grant" university in the State. It is a system that has worked exceptionally well, and such a dramatic disruption to that system, as proposed by AB 407, is not justified, especially in light of the significant risks the bill presents to successful, longstanding university programs and critical federal funding. Because AB 407's risks substantially outweigh its potential benefits, I cannot support the bill.

The Nevada Constitution calls for the creation of a State University "which shall embrace departments for Agriculture, Mechanic Arts, and Mining," and provides that "all proceeds of the public lands donated by Act of Congress . . . for a college for the benefit of Agriculture, the Mechanic Arts . . . shall be invested by the Board of Regents in a separate fund to be appropriated exclusively for the benefit of the first named departments to the University as set forth in the Nevada Constitution." *Nev. Const.,* Art. XI, Sec.'s 4 and 8.

There is no question that UNR is the land grant institution contemplated by the Nevada Constitution. Funds received from the original federal Morrill Act for land grant universities were used as the Act intended to establish UNR and the College of Agriculture (now College of Agriculture, Biotechnology, and Natural Resources [CABNR]), required for land grant eligibility. The USDA National Institute of Food and Agriculture, which currently administers the capacity grants at land grant institutions, recognizes UNR as Nevada's only land grant institution. UNR CABNR, together with the University of Nevada Cooperative Extension Services (UNCE) and the Nevada Agricultural Experiment Station (NAES) at UNR, have been fulfilling the mission and mandate of federal law for more than 100 years.

AB 407 would put the future of these vital programs in jeopardy. In particular, designating UNLV and DRI as land grant institutions could lead to a three-way split in federal appropriations, without bringing any additional funding. This would leave UNR with only 25-30% of the normal annual appropriations it currently receives from the federal government based on Nevada's rural and farm population size. The three-way split in funding would not be enough to continue to support existing education and research programs at UNR or to recreate these programs at UNLV or DRI.

CABNR and the NAES are intrinsically linked through their history and their faculty, researchers, and infrastructure. NAES has been an integral part of CABNR at UNR since its establishment as a land grant institution in 1888. Through its land grant designation, CABNR has built its undergraduate and graduate degree programs using these capacity grants to support faculty, staff, students, field labs and operating costs associated with the NAES and agricultural programs.

The cut in funding to NAES would decimate the faculty needed to teach the majors in CABNR (Wildlife Ecology and Conservation, Veterinary Science, Rangeland Ecology and Management, Nutritional Science, Forest Management and Ecology, Environmental Science, Ecohydrology, Biotechnology, Biochemistry and Molecular Biology, and Agricultural Science). CABNR faculty support teaching with their non-research appointment. Virtually all NAES scientists have a split appointment with teaching and research which allows researchers/professors to study a greater diversity of issues and teach a greater diversity of classes.

It is unclear what AB 407 would achieve other than a division of scarce federal funding. There is even some dispute as to whether individual states, rather than Congress, can make any determinations with respect to land grant designation. As such, if AB 407 were approved, Nevada could risk harming a system that has been working for over a century without any guarantee that such a seismic change would improve programs and not dilute them.

Given the above concerns, AB 407 received widespread opposition from groups such as the Nevada Association of Counties, Eureka County, Elko County, Humboldt County, White Pine County, the Nevada Farm Bureau Federation, Nevada Bighorns Unlimited, and the Fire Prevention Association of Nevada.

For these reasons, I veto Assembly Bill 407 and return it without my signature or approval.

Sincere regards,
BRIAN SANDOVAL
Governor

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 407 of the 79th Session be placed on the Chief Clerk's desk.

Motion carried.

Vetoed Assembly Bill No. 408 of the 79th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

June 9, 2017

THE HONORABLE BARBARA CEGAVSKE, NEVADA SECRETARY OF STATE, 101 North Carson Street, Carson City, NV 89701

RE: Assembly Bill 408 of the 79th Legislative Session

DEAR SECRETARY OF STATE CEGAVSKE:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 408 ("AB 408"), which is entitled:

> AN ACT relating to health care; requiring the State Plan for Medicaid to cover certain preventive health care services and maternity and newborn care; revising provisions relating to the dispensing of contraceptives; requiring insurers to offer health insurance coverage regardless of the health status of a person; requiring insurers to allow the covered adult child of an insured to remain covered by the health insurance of the insured until 26 years of age; requiring insurers to provide coverage for certain family planning services and supplies and preventive health care services for women, adults and children at no cost; requiring insurers to provide coverage for maternity and newborn care; prohibiting providers of health care and insurers from discriminating against a person on certain grounds; and providing other matters properly relating thereto.

AB 408 has merit. It seeks to align Nevada's health care laws with those included in the Federal Patient Protection and Affordable Care Act (ACA). Among other things, AB 408 would extend coverage to children until age 26, prohibits insurance denials based on health status, ensures that preventive health care services are available, provides for family planning (contraception), and bans discrimination based on race, color, national origin, sex, age or disability.

I share these goals. Ensuring greater access to affordable health care was one of the reasons I expanded the Medicaid and Child Health Insurance Programs to thousands of Nevadans. We also implemented a State-based health insurance exchange to offer affordable health plans to families and individuals not eligible for Medicaid or CHIP.

I remain committed to defending those portions of the ACA that have improved the lives of Nevadans. AB 408, however, goes too far. It locks into state law requirements that may be unnecessary, imprudent, or simply unaffordable in the years to come, tying the hands of future lawmakers, and hindering future endeavors to craft healthcare policy in real time, subject to immediate circumstances, needs, and available resources.

If AB 408 is approved, health care plans, including Medicaid and the Public Employee Benefits Programs (partially funded with State dollars), will have less flexibility to create and design insurance plans, possibly (and dramatically) raising costs for both consumers and the State. For instance, it outlines when health insurance policies must offer things like aspirin and vitamins, frustrating the type of consumer-first plan design that could lower costs and provide greater customer satisfaction and choice.

Furthermore, the country is currently involved in a national conversation about the future of health care at the federal level. The American Health Care Act (AHCA) recently passed by the House of Representatives contains substantial changes to the ACA. Federal subsidies for low income insurance customers, cost sharing, and the federal matching programs for State Medicaid plans are other topics likely subject to revision should federal law change.

Nevada and the federal government maintain a "contract" between them for the operation of Medicaid and CHIP. This "contract" is the State Plan, and it is regularly amended as circumstances demand. Enshrining certain provisions of health coverage into state law will hinder this amendment process, and diminish the State's ability to remain flexible should federal laws change in a way that is detrimental to the State. The ACA's coverage requirements were just one part of a large, complex system of interrelated benefits and burdens spread out across the nation's entire healthcare system. Locking in benefits now, as AB 408 purports to do, without knowing how those benefits will or even can be offered in a post-ACA world, would be unwise.

Finally, it bears mentioning that some of the ACA's benefits have already been established under state law. Senate Bill 233 and Assembly Bill 249 of the 2017 Legislative Session, which I supported, lock in protections for certain preventive health services for women, including access to contraception. AB 408, though, extends far beyond the targeted reach of those bills, and exposes the State to significant financial liability for actions beyond the control of state law and state lawmakers.

For these reasons, I veto Assembly Bill 408 and return it without my signature or approval.

Sincere regards,
BRIAN SANDOVAL
Governor

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 408 of the 79th Session be placed on the Chief Clerk's desk.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 3 be withdrawn from the Committee on Judiciary.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 3 be rereferred to the Committee on Taxation.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Kramer, the privilege of the floor of the Assembly Chamber for this day was extended to the following students, teachers, and chaperones from St. Teresa of Avila Catholic School: Sawyer Broman, Adrianna Castillo, Tristan Dries, Chase Gonzales, Crus Gonzales, Dalia Gonzales, Kendal Haag, Austin Hertel, Soraya Jones, Ava Lawson, Elizabeth Mellow, Maya Morrison, Gizelle Orozco, Liam Peirce, Oliver Pomerleau, Arlith Ramirez, Bruce Royce, Logan Schemelzer, Scott Schroder, Ashton Simola, Nastasia Sulprizio, Jayden Villanueva, Sophia Allara, Cameron Bourne, Henry Cartier, Chloe Clark, Cale Coombs, Katelyn Coons, Moriah Fiel, Jillian Foster, Shaun Kelly, Grady Kershaw, Aubrey McAllister, Joseph Montez, Clare Mulvihill, Angie O'Rourke, Jack Phillips, Rene

Ramirez, Charlotte Roberts, Larkin Russell, Cailyn Schroder, Tyler Silsby, Hunter Steele, Kole Steele, and Jessie Young.

On request of Assemblyman McCurdy, the privilege of the floor of the Assembly Chamber for this day was extended to DeAndre Caruthers, Sr.

On request of Assemblywoman Neal, the privilege of the floor of the Assembly Chamber for this day was extended to Jordan Bridges.

On request of Assemblyman Thompson, the privilege of the floor of the Assembly Chamber for this day was extended to Dereck Hibbler.

Assemblywoman Benitez-Thompson moved that the Assembly adjourn until Thursday, February 7, 2019, at 11:30 a.m.

Motion carried.

Assembly adjourned at 12:52 p.m.

Approved: JASON FRIERSON
Speaker of the Assembly

Attest: SUSAN FURLONG
Chief Clerk of the Assembly