THE ONE HUNDRED AND SEVENTEENTH DAY

CARSON CITY (Friday), May 29, 2009

Assembly called to order at 9:20 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Bruce Henderson.

Lord, Gideon used clay jars and trumpets to rout an army. Joshua used marching, horns, and a shout to level Jericho. Samson used the jawbone of an ass to defeat his enemies. David used a smooth stone to conquer Goliath. You used a talking donkey to get Balaam's attention. Jesus used a little boy's sack lunch to feed thousands.

You have always used what was available to do Your work. In order to get our work done, we put ourselves into Your hands this day. Please help us.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin 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.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 28, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 64.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 148, Amendment No. 959; Assembly Bill No. 229, Amendment No. 960; Assembly Bill No. 430, Amendment No. 958; Assembly Bill No. 461, Amendment No. 945; Assembly Bill No. 523, Amendment No. 957, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 52, Senate Amendment No. 615, and requests a conference, and appointed Senators Wiener, Breeden and Cegavske as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 60, Senate Amendment No. 787, and requests a conference, and appointed Senators Lee, Townsend and McGinness as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 84, Senate Amendment No. 773, and requests a conference, and appointed Senators Copening, Schneider and Amodei as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 130, Senate Amendments Nos. 792, 923, and requests a conference, and appointed Senators Lee, Horsford and McGinness as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day receded from its action on Assembly Bill No. 218, Senate Amendments Nos. 918, 933, 931.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 3, 143.

Also, I have the honor to inform your honorable body that the Senate on this day failed to sustain the Governor's veto of Senate Bills Nos. 429, 431, 433.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 19.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendments Nos. 778, 953 to Senate Bill No. 152.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 733 to Senate Bill No. 82; Assembly Amendment No. 735 to Senate Bill No. 92; Assembly Amendments Nos. 590, 747 to Senate Bill No. 194; Assembly Amendment No. 920 to Senate Bill No. 239; Assembly Amendment No. 656 to Senate Bill No. 267.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendments Nos. 626, 877 to Senate Bill No. 68; Assembly Amendment No. 751 to Senate Bill No. 183; Assembly Amendments Nos. 684, 870, 891 to Senate Bill No. 263.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 955 to Senate Bill No. 403.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Care, Amodei and Copening as a Conference Committee concerning Senate Bill No. 55.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Carlton, Copening and Hardy as a Conference Committee concerning Senate Bill No. 119.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Townsend, Schneider and Breeden as a Conference Committee concerning Senate Bill No. 246.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Copening, Carlton and Rhoads as a Conference Committee concerning Senate Bill No. 269.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Carlton, Horsford and Hardy as a Conference Committee concerning Senate Bill No. 295.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 17.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 101.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 218.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 389.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 19.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 3.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Bill No. 143.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 229.

The following Senate amendment was read:

Amendment No. 960.

AN ACT relating to cigarettes; setting forth the testing requirements and performance standard for fire safety for cigarettes sold or offered for sale in this State; requiring a manufacturer of cigarettes to submit a written certification to the State Fire Marshal concerning the cigarettes that the manufacturer intends to sell in this State; imposing a fee for each cigarette listed in a certification; requiring packages of cigarettes to be marked to indicate compliance of the cigarettes with the testing requirements and performance standard; imposing civil penalties for various violations; creating the Cigarette Fire Safety Standard and Firefighter Protection Fund in the State Treasury; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill, which is modeled on requirements first adopted in New York in 2004, sets forth the testing requirements and performance standard for fire safety for cigarettes sold or offered for sale in Nevada. **Section 10** of this bill prohibits the sale of any cigarettes in Nevada which do not meet the testing requirements or performance standard for cigarettes set forth in that section and which have not been certified in accordance with **section 11** of this bill or properly marked in accordance with **section 12** of this bill. **Section 10** also sets forth the testing requirements for cigarettes and the performance standard they must meet, using the ASTM International Standard ASTM E2187-04, while allowing for alternate testing methods and performance standards approved by the State Fire Marshal, and sets forth other requirements manufacturers must meet, such as keeping reports of testing.

Section 11 of this bill requires a manufacturer of cigarettes to submit to the State Fire Marshal a written certification concerning each cigarette the manufacturer intends to sell in Nevada, certifying that the cigarette meets the testing requirements and performance standard set forth in **section 10** of this bill, and to pay a fee of $250 to the State Fire Marshal for each cigarette

listed in a certification. **Section 11.5** of this bill requires the Executive Director of the Department of Taxation to establish a procedure to ensure that agents, wholesale dealers and retail dealers receive notice of the cigarettes that have been certified by manufacturers. **Section 12** of this bill requires that cigarettes which have been certified be marked with the letters "FSC," signifying "Fire Standard Compliant."

Section 13 of this bill provides for the imposition of a civil penalty against a manufacturer, wholesale dealer, retail dealer, agent or other person who violates any provision of this bill. **Section 14** of this bill authorizes the State Fire Marshal to adopt regulations to carry out the provisions of this bill. **Section 15** of this bill authorizes the Department of Taxation to inspect any packages of cigarettes to determine if they have been properly marked as required by **section 12** of this bill. **Section 16** of this bill authorizes the Attorney General, the Executive Director of the Department and the State Fire Marshal, and their authorized representatives, and any law enforcement officer to examine the books, papers, invoices and other records of persons in possession, control or occupancy of any premises where cigarettes are placed, stored, sold or offered for sale in Nevada. **Section 17** of this bill creates the Cigarette Fire Safety Standard and Firefighter Protection Fund as a special revenue fund in the State Treasury.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 477 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 19, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Agent" means a person authorized by the Department of Taxation to purchase and affix Nevada cigarette revenue stamps to packages of cigarettes.***

Sec. 4. ***"Cigarette" means any roll of tobacco:***

1. Wrapped in paper or any other substance not containing tobacco; or

2. Wrapped in any substance containing tobacco which, because of its appearance, its packaging and labeling or the type of tobacco used in the filler, is likely to be offered to or purchased by a person as a cigarette described in subsection 1.

Sec. 5. ***"Manufacturer" means:***

1. A person who manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced in any location and who intends the cigarettes to be sold in this State, including, without limitation, cigarettes intended to be sold in the United States through an importer; or

2. The successor in interest of any person described in subsection 1.

Sec. 6. ***"Retail dealer" means any person, other than a manufacturer or wholesale dealer, engaged in selling cigarettes or other tobacco products.***

Sec. 7. ***"Sale" means any transfer of title or possession, conditional or otherwise, in any manner or by any means or agreement. The term includes, without limitation, cash and credit sales, the giving of cigarettes as samples, prizes or gifts and the exchanging of cigarettes for consideration other than money.***

Sec. 8. ***"Sell" means to make a sale or to offer or agree to make a sale.***

Sec. 9. ***"Wholesale dealer" means:***

1. Any person other than a manufacturer who sells cigarettes or other tobacco products to retail dealers or other persons for purposes of resale; and

2. Any person who owns, operates or maintains one or more vending machines which dispense cigarettes or other tobacco products and which are located on premises owned or occupied by another person.

Sec. 10. ***1. Except as otherwise provided in this section, a person shall not sell or offer to sell any cigarettes in this State unless:***

(a) The cigarettes have been tested in accordance with this section and meet the performance standard required by this section;

(b) The manufacturer has submitted to the State Fire Marshal, pursuant to section 11 of this act, a written certification in which the cigarettes are listed; and

(c) The packages that contain the cigarettes have been marked pursuant to section 12 of this act.

2. Except as otherwise provided in this section, all cigarettes that are sold or offered for sale in this State must comply with the following method of testing and performance standard:

(a) The cigarettes must be tested in accordance with the ASTM International Standard ASTM E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes."

(b) The testing must be conducted on 10 layers of filter paper.

(c) The testing must be conducted by a laboratory which has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization or which meets any other comparable accreditation standard required by the State Fire Marshal.

(d) The laboratory conducting the testing must have a program for quality control that includes a procedure for determining the repeatability of the test results. The repeatability value must not exceed 0.19.

(e) Not more than 25 percent of the cigarettes tested in a test trial may exhibit full-length burns in the test trial. Compliance with the performance standard required by this paragraph must be determined based on a complete test trial consisting of 40 replicate tests for each cigarette tested.

3. This section does not require additional testing if the cigarettes have been tested for any other purpose in a manner that is consistent with this section.

4. Any testing performed or caused to be performed by the State Fire Marshal to determine the compliance of a cigarette with the performance standard required by this section must be conducted in accordance with this section.

5. Any cigarette listed in a certification submitted to the State Fire Marshal pursuant to section 11 of this act which uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard required by this section must have not less than two nominally identical bands on the paper surrounding the tobacco column, at least one of which must be located not less than 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there must be at least two bands, one of which is located not less than ~~[12]~~ 15 millimeters from the lighting end of the cigarette and one of which is located not less than 10 millimeters from:

(a) The filter end of the tobacco column if the cigarette is filtered; or

(b) The labeled end of the tobacco column if the cigarette is nonfiltered.

6. If the State Fire Marshal:

(a) Determines that a cigarette cannot be tested in accordance with the requirements of subsection 2, the manufacturer of the cigarette shall propose an alternative method of testing and performance standard to the State Fire Marshal for approval and, if the State Fire Marshal approves the alternative method of testing and determines that the alternative performance standard proposed by the manufacturer is substantially equivalent to the performance standard set forth in paragraph (e) of subsection 2, the alternative method of testing and performance standard may be used to certify the cigarette pursuant to section 11 of this act; or

(b) Determines that:

(1) Another state has enacted requirements which are substantially similar to those set forth in this section for the fire safety of cigarettes and which include a method of testing and a performance standard that are substantially similar to those set forth in subsection 2; and

(2) The officials responsible for carrying out those requirements in the other state have approved the alternative method of testing and performance standard for a particular cigarette that the manufacturer has proposed as meeting the fire safety standards of the law of that state under a provision similar to this subsection,

➥ the State Fire Marshal shall authorize the manufacturer to use the alternative method of testing and performance standard to certify that cigarette for sale in this State, unless the State Fire Marshal has a reasonable basis for denying the authorization.

7. Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes sold or offered for sale in this State for a period

of 3 years after the completion of the testing and shall make copies of the reports available to the State Fire Marshal and the Attorney General upon written request. Any manufacturer that fails to make such copies available to the State Fire Marshal or Attorney General within 60 days after receiving a written request therefor is subject to a civil penalty not to exceed $10,000 for each day after the 60th day that the manufacturer fails to make the copies available.

8. The State Fire Marshal may, by regulation, adopt by reference a subsequent ASTM International Standard Test Method for Measuring the Ignition Strength of Cigarettes if he determines that the subsequent method of testing does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with the ASTM International Standard ASTM E2187-04 and the performance standard set forth in paragraph (e) of subsection 2. If the State Fire Marshal adopts the subsequent method of testing, it may be used as an alternative method for the certification of cigarettes.

9. This section does not prohibit:

(a) A wholesale dealer or retail dealer from selling his existing inventory of cigarettes on or after the effective date of this section if the wholesale dealer or retail dealer can establish that Nevada cigarette revenue stamps were affixed to the packages of cigarettes before the effective date of this section and the cigarettes were purchased by the wholesale dealer or retail dealer before the effective date of this section in a quantity comparable to the inventory purchased by the wholesale dealer or retail dealer during the same period of the immediately preceding year.

(b) The sale of cigarettes solely for the purpose of consumer testing. As used in this paragraph, "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer, or under the control and direction of a manufacturer, to evaluate consumer acceptance of the cigarettes, using only the number of cigarettes that is reasonably necessary for that assessment.

10. As used in this section, unless the context otherwise requires:

(a) "Program for quality control" means a program pursuant to which laboratory procedures are established to ensure that:

(1) The test results are not affected by operator bias, systematic and nonsystematic methodological errors or equipment-related problems; and

(2) The repeatability of the test results remains within the required repeatability value set forth in paragraph (d) of subsection 2 for all test trials used to certify cigarettes.

(b) "Repeatability value" means the range of values within which the repeat results of cigarette test trials conducted by a single laboratory will fall 95 percent of the time.

Sec. 11. ***1. Each manufacturer shall submit to the State Fire Marshal a written certification of the cigarettes that the manufacturer***

intends to sell in this State attesting that each cigarette listed in the certification has been tested in accordance with and meets the applicable performance standard set forth in section 10 of this act.

2. The description of each cigarette listed in the certification must include, without limitation:

(a) The brand or trade name on the package;

(b) The style, such as light or ultra light;

(c) The length in millimeters;

(d) The circumference in millimeters;

(e) The flavor, such as menthol or chocolate, if applicable;

(f) Whether the cigarette is filtered or nonfiltered;

(g) The package description, such as soft pack or box;

(h) The marking pursuant to section 12 of this act;

(i) The name, address and telephone number of the laboratory that conducted the testing of the cigarette; and

(j) The date that the testing occurred.

3. The State Fire Marshal shall make the certifications that are submitted to him pursuant to this section available to the Attorney General for purposes consistent with sections 2 to 19, inclusive, of this act and to the Executive Director of the Department of Taxation for the purpose of ensuring compliance with this section and section 11.5 of this act.

4. Each cigarette certified under this section must be recertified every 3 years.

5. A manufacturer shall pay to the State Fire Marshal a fee of $1,000 for each brand family of cigarettes listed in the certification. The fee paid applies to all cigarettes within the brand family certified and must include any new cigarettes certified within the brand family during the 3-year certification period. All fees collected pursuant to this section must be deposited in the Cigarette Fire Safety Standard and Firefighter Protection Fund created by section 17 of this act. As used in this subsection, "brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, without limitation, "menthol," "lights," "kings" and "100s," and includes any brand name, whether or not occurring alone or in conjunction with any other word, any trademark, logo, symbol, motto, selling message or recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

6. If a manufacturer has certified a cigarette pursuant to this section and subsequently makes any change to the cigarette that is likely to alter its compliance with the performance standard required by section 10 of this act, the cigarette must not be sold or offered for sale in this State unless the manufacturer retests the cigarette pursuant to section 10 of this act and maintains the reports of the retesting in accordance with that section. Any altered cigarette that does not meet the applicable performance standard

set forth in section 10 of this act must not be sold or offered for sale in this State.

Sec. 11.5. ***The Executive Director of the Department of Taxation shall establish a procedure to ensure that agents, wholesale dealers and retail dealers receive notice of the cigarettes that have been certified by manufacturers pursuant to section 11 of this act. The procedure may include, without limitation, listing the brands and styles of cigarettes which have been certified on an Internet website maintained by the Department.***

Sec. 12. ***1. Packages that contain cigarettes which have been certified by a manufacturer in accordance with section 11 of this act must be marked to indicate compliance with section 10 of this act. The marking must be set forth in not less than 8-point type and consist of the letters "FSC," signifying "Fire Standard Compliant," and be permanently printed, stamped, engraved or embossed on the package at or near the UPC label.***

2. A manufacturer shall use only one marking and shall apply the marking uniformly for all packages, including, without limitation, packs, cartons, cases and brands marketed by that manufacturer.

3. A manufacturer that certifies a cigarette in accordance with section 11 of this act shall provide a copy of the certification to each wholesale dealer and agent to whom the manufacturer sells cigarettes. A wholesale dealer, retail dealer or agent shall allow the State Fire Marshal, the Executive Director of the Department of Taxation and the Attorney General, and their respective employees, to inspect the markings of cigarette packaging marked in accordance with this section.

Sec. 13. ***1. Any manufacturer, wholesale dealer, agent or other person that knowingly sells cigarettes in this State, other than through retail sale, in violation of section 10 of this act is subject to a civil penalty not to exceed $100 for each pack of such cigarettes sold, except that the penalty against the person must not exceed $100,000 during any 30-day period.***

2. A retail dealer that knowingly sells cigarettes in this State in violation of section 10 of this act is subject to a civil penalty not to exceed $100 for each pack of such cigarettes sold, except that the penalty against the retail dealer must not exceed $25,000 during any 30-day period.

3. In addition to any other penalty prescribed by law, any manufacturer of cigarettes that knowingly makes a false certification pursuant to section 11 of this act is subject to a civil penalty of not less than $75,000 or more than $250,000 for each false certification.

4. A person who violates any other provision of sections 2 to 19, inclusive, of this act is subject to a civil penalty of not more than $1,000 for the first offense and not more than $5,000 for each subsequent offense.

5. A law enforcement officer, authorized representative of the Department of Taxation or authorized representative of the State Fire Marshal who discovers any cigarettes for sale in this State for which no

certification has been submitted pursuant to section 11 of this act or which are not marked pursuant to section 12 of this act may seize the cigarettes. Cigarettes seized pursuant to this section must be destroyed after the true holder of the trademark rights in the cigarette brand is allowed to inspect the cigarettes.

6. Each violation of any provision of sections 2 to 19, inclusive, of this act or any regulation adopted pursuant thereto constitutes a separate civil violation for which the State Fire Marshal or the Attorney General may obtain relief. In addition to any other remedy provided by law, the Attorney General may file an action in a court of competent jurisdiction concerning a violation of any provision of sections 2 to 19, inclusive, of this act or any regulation adopted pursuant thereto, including, without limitation, petitioning for:

(a) Preliminary or permanent injunctive relief against any manufacturer, importer, wholesale dealer, retail dealer, agent or other person to enjoin the person from selling or affixing Nevada cigarette revenue stamps to any package of cigarettes that contains cigarettes which do not comply with the requirements of sections 2 to 19, inclusive, of this act. Upon obtaining judgment for injunctive relief, the State Fire Marshal or Attorney General shall provide a copy of the judgment to all wholesale dealers and agents to whom the cigarette has been sold.

(b) The recovery of any civil penalty authorized by the provisions of sections 2 to 19, inclusive, of this act.

(c) The recovery of any costs or damages incurred by this State because of a violation of sections 2 to 19, inclusive, of this act, including, without limitation, enforcement costs relating to a specific violation and attorney's fees.

7. All money collected pursuant to this section must be deposited in the Cigarette Fire Safety Standard and Firefighter Protection Fund created by section 17 of this act.

Sec. 14. ***The State Fire Marshal may adopt such regulations as he determines necessary to carry out the provisions of sections 2 to 19, inclusive, of this act.***

Sec. 15. ***The Department of Taxation, in the regular course of conducting inspections of wholesale dealers, retail dealers and agents pursuant to NRS 370.001 to 370.530, inclusive, may inspect any packages of cigarettes to determine if they have been marked in accordance with section 12 of this act. If the packages of cigarettes are not marked as required, the Executive Director of the Department of Taxation shall notify the State Fire Marshal and may seize the packages of cigarettes pursuant to subsection 5 of section 13 of this act.***

Sec. 16. ***The Attorney General, the Executive Director of the Department of Taxation and the State Fire Marshal, and their authorized representatives, and any law enforcement officer may examine the books, papers, invoices and other records of any person in possession, control or***

occupancy of any premises where cigarettes are placed, stored, sold or offered for sale in this State, including, without limitation, any stock of cigarettes on the premises. Each person in possession, control or occupancy of any premises where cigarettes are placed, stored, sold or offered for sale in this State shall cooperate in any such examination.

Sec. 17. ***1. The Cigarette Fire Safety Standard and Firefighter Protection Fund is hereby created in the State Treasury as a special revenue fund. All money received for the use of the Fund pursuant to sections 2 to 19, inclusive, of this act or from any other source must be deposited in the Fund.***

2. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

3. The State Fire Marshal shall administer the Fund and may expend any money in the Fund to support fire safety and fire prevention programs.

Sec. 18. ***On or before January 30 of each odd-numbered year, the State Fire Marshal shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning the effectiveness of the provisions of sections 2 to 19, inclusive, of this act and any recommendations for legislation to improve the effectiveness of sections 2 to 19, inclusive, of this act.***

Sec. 19. ***1. The provisions of sections 2 to 19, inclusive, of this act must, to the extent practicable, be interpreted and construed to effectuate the general purpose of those provisions to make uniform the laws of those states that have enacted similar legislation.***

2. The provisions of sections 2 to 19, inclusive, of this act must not be construed to prohibit any person from manufacturing or selling cigarettes that do not meet the requirements of section 10 of this act if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person has taken reasonable steps to ensure that the cigarettes will not be sold or offered for sale in this State.

Sec. 20. 1. Any ordinance or regulation adopted by a local government which conflicts with any provision of sections 2 to 19, inclusive, of this act or any regulation adopted pursuant thereto is void and must not be given effect to the extent of the conflict.

2. Notwithstanding any specific statute to the contrary, no local government may adopt any ordinance or regulation which conflicts with any provision of sections 2 to 19, inclusive, of this act or any regulation adopted pursuant thereto.

3. As used in this section, "local government" means any political subdivision of this State, including, without limitation, a county, city or town.

Sec. 21. 1. This section and sections 1, 14 and 20 of this act become effective upon passage and approval.

2. Sections 2 to 13, inclusive, and 15 to 19, inclusive, of this act become effective 1 year after passage and approval.

3. This section and sections 2 to 16, inclusive, 18, 19 and 20 of this act expire by limitation on the date upon which a federal law establishing standards for fire-safe cigarettes becomes effective.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 229.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 430.

The following Senate amendment was read:

Amendment No. 958.

AN ACT relating to children's products; prohibiting the advertisement, sale, lease, sublet or distribution of children's products under certain circumstances; prohibiting certain commercial activity regarding unsafe cribs; providing that a violation of provisions relating to unsafe cribs or to children's products is a deceptive trade practice; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 7 of this bill provides that a retailer of a new or used product intended for children under 12 years of age may not advertise, sell or offer for sale, lease, sublet or otherwise distribute the product if the product is subject to a recall notice, is subject to a warning indicating that the use of the product constitutes a health or safety hazard or has been banned or designated as a health or safety hazard by the United States Consumer Product Safety Commission or the manufacturer of the product. **Section 7** also requires a retailer to subscribe to or arrange to receive recall notices and warnings issued by the United States Consumer Product Safety Commission and manufacturers from whom the retailer receives children's products. **Section 7** further requires a retailer to comply with all instructions issued for the disposal, return, repair, retrofitting, labeling or remediation of children's products which are the subject of a recall notice or other warning. **Section 18** of this bill makes it a deceptive trade practice for a person to knowingly and willfully violate any provision relating to unsafe cribs or to children's products that are subject to a recall notice or a warning, which therefore puts such violations within the purview of the provisions in chapter 598 of NRS that impose civil and criminal penalties. (NRS 598.092)

Sections 9-17 of this bill establish the Infant Crib Safety Act. **Section 14** prohibits persons from remanufacturing, retrofitting, selling, contracting to sell or resell, subletting or otherwise placing in the stream of commerce a crib that is unsafe for use by an infant. **Section 14** also describes the types of cribs that are presumed unsafe. **Section 15** establishes civil penalties for persons who violate any provision relating to unsafe cribs. **Section 16**

exempts antique or vintage cribs from the provisions relating to unsafe cribs if such a crib is accompanied with a written notice provided by a commercial user stating that it is not intended for use by an infant. **Section 16** further releases from liability any commercial user who complies with the notice requirement. **Section 17** authorizes any person to maintain an action against a commercial user who violates any provision relating to unsafe cribs.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Children's product" means a consumer product that is designed or intended:***

1. For the care of or use by a child under 12 years of age; or

2. To come into physical contact with a child under 12 years of age at the time the product is used.

➥ For the purposes of this subsection, "children's product" does not include soap or any medication, drug, food or other product that is intended to be ingested [.] or that is regulated by the Food and Drug Administration of the United States Department of Health and Human Services.

Sec. 4. (Deleted by amendment.)

Sec. 5. ***"Retailer" means a person who, in the ordinary course of his business, advertises, sells or offers for sale, leases, sublets or otherwise distributes a new or used children's product to consumers in this State, including, without limitation, thrift stores, second-hand stores and consignment stores.***

Sec. 6. ***"Warning" means a communication which is about a health or safety hazard that a children's product poses to consumers and which is:***

1. Directed to a retailer; and

2. Intended to inform the retailer about the health or safety hazard, instruct the retailer to remove the children's product from the retailer's inventory or provide the retailer with a method to eliminate the health or safety hazard from the children's product.

➥ For the purposes of this section, "warning" does not include a communication which is directed to consumers and affixed to the children's product or any packaging material for the children's product or provided by the retailer to the consumer as part of a transaction relating to the children's product.

Sec. 7. ***1. A retailer shall not advertise, sell or offer for sale, lease, sublet or otherwise distribute a children's product to consumers in this State if the children's product is:***

(a) Subject to a recall notice issued by or in cooperation with the United States Consumer Product Safety Commission or its successor agency; or

(b) The subject of a warning issued by the manufacturer of the children's product or the United States Consumer Product Safety Commission or its successor agency indicating that the intended use of the children's product constitutes a health or safety hazard, unless the retailer has eliminated the hazard in strict compliance with any standards and instructions that are provided in or related to the warning.

2. A retailer shall:

(a) Subscribe to or arrange to receive recall notices and warnings issued by the United States Consumer Product Safety Commission or its successor agency and manufacturers from whom the retailer receives children's products;

(b) Dispose of any children's product identified in a recall notice or a warning issued by or in cooperation with the United States Consumer Product Safety Commission or its successor agency or the manufacturer of the children's product in strict compliance with disposal instructions included with or related to the recall notice or the warning; and

(c) Comply strictly with instructions issued with or related to a recall notice or a warning issued by the United States Consumer Product Safety Commission or its successor agency or the manufacturer of the children's product for the return, repair, retrofitting, labeling or remediation of any children's product.

Sec. 8. (Deleted by amendment.)

Sec. 9. ***Sections 9 to 17, inclusive, of this act may be referred to as the Infant Crib Safety Act.***

Sec. 10. ***As used in sections 9 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 11, 12 and 13 of this act have the meanings ascribed to them in those sections.***

Sec. 11. ***"Commercial user" means any person, firm, corporation, association or nonprofit corporation, or any agent or employee thereof, including, without limitation, a child care facility licensed and in good standing pursuant to chapter 432A of NRS, who:***

1. Deals in cribs of the kind governed by sections 9 to 17, inclusive, of this act;

2. By virtue of the person's occupation, purports to have knowledge or skill peculiar to cribs of the kind governed by sections 9 to 17, inclusive, of this act; or

3. Is in the business of remanufacturing, retrofitting, selling, leasing, subletting or otherwise placing cribs in the stream of commerce.

Sec. 12. ***"Crib" means:***

1. Any full-size baby crib as described in 16 C.F.R. § 1508.3; or

2. Any non-full-size baby crib as that term is defined in 16 C.F.R. § 1509.2(b).

Sec. 13. ***"Infant" means a child who is under 3 years of age.***

Sec. 14. ***1. A person, including, without limitation, a commercial user, shall not remanufacture, retrofit, sell, contract to sell or resell, lease, sublet or otherwise place in the stream of commerce a crib that is unsafe for use by an infant.***

2. A crib is presumed to be unsafe if it does not conform to the standards set forth in:

(a) 16 C.F.R. Part 1303;

(b) 16 C.F.R. Part 1508;

(c) 16 C.F.R. Part 1509; and

(d) The American Society for Testing and Materials voluntary standards F966-90, F1169.88 and F406.

3. Cribs that are presumed to be unsafe pursuant to subsection 2 also include, without limitation, cribs with one or more of the following features or characteristics:

(a) Corner posts that extend more than 1/16 of an inch;

(b) Spaces between side slats more than 2 3/8 inches;

(c) Mattress supports that can be easily dislodged from any point of the crib;

(d) Cutout designs on the end panels;

(e) Rail height dimensions that do not conform to the following:

(1) The height of the rail and end panel as measured from the top of the rail or panel in its lowest position to the top of the mattress support in its highest position is at least 9 inches; or

(2) The height of the rail and end panel as measured from the top of the rail or panel in its highest position to the top of the mattress support in its lowest position is at least 26 inches;

(f) Any screw, bolt or hardware that is loose or not secured;

(g) Sharp edges, points, rough surfaces or any wood surfaces that are not smooth and free from splinters, splits or cracks; or

(h) Tears in mesh or fabric sides.

4. For the purposes of paragraph (c) of subsection 3, a mattress support is deemed to be easily dislodged if it cannot withstand a 25-pound upward force from beneath the crib.

Sec. 15. ***1. A commercial user who willfully and knowingly sells, leases or otherwise places in the stream of commerce an unsafe crib as described in section 14 of this act commits an offense punishable by a fine not to exceed $1,000.***

2. A person other than a commercial user who willfully and knowingly sells, leases or otherwise places in the stream of commerce an unsafe crib as described in section 14 of this act commits an offense punishable by a fine not to exceed $200.

Sec. 16. ***1. The provisions of sections 9 to 15, inclusive, of this act do not apply to any antique or vintage crib if the antique or vintage crib is:***

(a) Not intended for use by an infant; and

(b) At the time of remanufacturing, retrofitting, selling, leasing, subletting or otherwise placing in the stream of commerce, is accompanied with a written notice provided by the commercial user stating that the crib is not intended for use by an infant and that the crib is dangerous for use by an infant.

2. A commercial user who complies with the notice requirement in subsection 1 shall not be held liable for any death or injury as a result of the use of an antique or vintage crib in a manner inconsistent with the warning provided in the written notice.

3. As used in this section, "antique or vintage crib" means a crib that is:

(a) Fifty years or older, as measured from the current year;

(b) Maintained as a collector's item; and

(c) Not intended for use by an infant.

Sec. 17. ***In addition to any other remedy provided by law, any person may maintain an action against a commercial user who violates the provisions of section 14 of this act, seek to enjoin the remanufacture, retrofitting, sale, contract to sell or resell, lease or subletting of a crib that is unsafe for an infant and seek reasonable attorney's fees and costs.***

Sec. 18. NRS 598.092 is hereby amended to read as follows:

598.092 A person engages in a "deceptive trade practice" when in the course of his business or occupation he:

1. Knowingly fails to identify goods for sale or lease as being damaged by water.

2. Solicits by telephone or door to door as a lessor or seller, unless the lessor or seller identifies himself, whom he represents and the purpose of his call within 30 seconds after beginning the conversation.

3. Knowingly states that services, replacement parts or repairs are needed when no such services, replacement parts or repairs are actually needed.

4. Fails to make delivery of goods or services for sale or lease within a reasonable time or to make a refund for the goods or services, if he allows refunds.

5. Advertises or offers an opportunity for investment and:

(a) Represents that the investment is guaranteed, secured or protected in a manner which he knows or has reason to know is false or misleading;

(b) Represents that the investment will earn a rate of return which he knows or has reason to know is false or misleading;

(c) Makes any untrue statement of a material fact or omits to state a material fact which is necessary to make another statement, considering the circumstances under which it is made, not misleading;

(d) Fails to maintain adequate records so that an investor may determine how his money is invested;

(e) Fails to provide information to an investor after a reasonable request for information concerning his investment;

(f) Fails to comply with any law or regulation for the marketing of securities or other investments; or

(g) Represents that he is licensed by an agency of the State to sell or offer for sale investments or services for investments if he is not so licensed.

6. Charges a fee for advice with respect to investment of money and fails to disclose:

(a) That he is selling or offering to lease goods or services and, if he is, their identity; or

(b) That he is licensed by an agency of any state or of the United States to sell or to offer for sale investments or services for investments ~~[,]~~ or holds any other license related to the service he is providing.

7. Notifies any person, by any means, as a part of an advertising plan or scheme, that he has won a prize and that as a condition of receiving the prize he must purchase or lease goods or services.

8. Knowingly misrepresents the legal rights, obligations or remedies of a party to a transaction.

9. Fails, in a consumer transaction that is rescinded, cancelled or otherwise terminated in accordance with the terms of an agreement, advertisement, representation or provision of law, to promptly restore to a person entitled to it a deposit, down payment or other payment or, in the case of property traded in but not available, the agreed value of the property ~~[,]~~ or fails to cancel within a specified time or an otherwise reasonable time an acquired security interest. This subsection does not apply to a person who is holding a deposit, down payment or other payment on behalf of another if all parties to the transaction have not agreed to the release of the deposit, down payment or other payment.

10. Fails to inform customers, if he does not allow refunds or exchanges, that he does not allow refunds or exchanges by:

(a) Printing a statement on the face of the lease or sales receipt;

(b) Printing a statement on the face of the price tag; or

(c) Posting in an open and conspicuous place a sign at least 8 by 10 inches in size with boldface letters,

➥ specifying that no refunds or exchanges are allowed.

11. Knowingly and willfully violates section 7 or 14 of this act.

Sec. 19. (Deleted by amendment.)

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 430.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Vetoed Assembly Bill No. 146 of the 75th Session.

Governor’s message stating his objections read.

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 146 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 146, which is entitled:

> AN ACT relating to business; providing for the establishment of a state business portal by the Secretary of State; revising the provisions relating to the issuance of state business licenses and transferring certain responsibilities concerning state business licenses from the Department of Taxation to the Secretary of State; making an appropriation; and providing other matters properly relating thereto.

Assembly Bill 146 would authorize the Nevada Secretary of State to create a business portal to facilitate transactions between the government and private businesses. The bill also transfers certain responsibilities for issuing business licenses from the Department of Taxation to the Secretary of State's office.

If this were where the bill ended, in the authorization for the Secretary of State to create this portal, I would gladly sign the legislation and be pleased the state was improving the ease of conducting business in Nevada. Unfortunately, the bill contains other provisions I do not believe improve the business climate in Nevada and, in fact, outweigh any benefits from the creation of the business portal.

Assembly Bill 146 would double the annual licensing fee the State of Nevada charges businesses. The legislation would also create a new business license fee for each additional physical location of a business in our state. It is because of these fee increases, greatly expanding the amount of money being collected from Nevada businesses, that I cannot support this otherwise sound legislation.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 146.

Sincerely,
JIM GIBBONS
Governor

Bill read.

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

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 146:

YEAS—35.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—7.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 543 of the 75th Session.

Governor’s message stating his objections read.

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 543 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 543, which is entitled:

> AN ACT relating to taxation; temporarily redirecting a portion of the taxes ad valorem levied in Clark and Washoe Counties to the State General Fund; revising the provisions governing the imposition and use of a supplemental governmental services tax in certain counties; temporarily redirecting a portion of certain taxes imposed in Clark County to the county general fund; and providing other matters properly relating thereto.

Assembly Bill 543 pertains to reallocations of county revenues and also authorizes an increase in the governmental services tax. Because this bill is funded in part by tax increases that I disagree with, as articulated in my veto message of Senate Bill 429, and also because this bill reallocates county revenues in an amount greater than I recommended in the Executive Budget, I cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 543.

Sincerely,
JIM GIBBONS
Governor

Bill read.

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

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 543:

YEAS—33.

NAYS—Carpenter, Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Woodbury—9.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 552 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 552 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 552, which is entitled:

> AN ACT relating to taxation; increasing the fee charged by the State for collecting certain local sales and use taxes; establishing the required time for payment to the State of certain proceeds from

taxes on revenue from the rental of transient lodging; making permanent a temporary reduction in various allowances for the collection of sales and use taxes and taxes on intoxicating liquor, cigarettes and other tobacco products; and providing other matters properly relating thereto.

Assembly Bill 552 pertains to state collection allowances for various taxes. I agreed to increases in these types of allowances in the 25th Legislative Special Session with the understanding that the increases would expire on June 30, 2009. A continuation of those increases was not included in the Executive Budget and I therefore cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 552.

Sincerely,
JIM GIBBONS
Governor

Bill read.

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

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 552:

YEAS—34.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Woodbury—8.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 562 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 562 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 562, which is entitled:

AN ACT relating to state financial administration; making appropriations from the State General Fund and the State Highway Fund for the support of the civil government of the State of Nevada for the fiscal years beginning July 1, 2009, and ending June 30, 2010, and beginning July 1, 2010, and ending June 30, 2011; providing for the use of the money so appropriated; revising the provisions governing the line of credit from the Local Government Pooled Investment Fund; making various other changes relating to the financial administration of the State; and providing other matters properly relating thereto.

Assembly Bill 562 is the general appropriations bill. Because this bill is funded in part by tax increases that I disagree with, as articulated in my veto message of Senate Bill 429, I cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 562.

Sincerely,
JIM GIBBONS
Governor

Bill read.

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

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 562:

YEAS—35.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—7.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 563 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 563 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 563, which is entitled:

> AN ACT relating to education; ensuring sufficient funding for K-12 public education for the 2009-2011 biennium; apportioning the State Distributive School Account in the State General Fund for the 2009-2011 biennium; authorizing certain expenditures; making appropriations for purposes relating to basic support, class-size reduction and other educational purposes; authorizing temporarily the board of trustees of a school district to use money raised through its general obligations for the purchase of equipment for the transportation of pupils; revising provisions governing local funds available for certain school districts for the 2009-2011 biennium; and providing other matters properly relating thereto.

I take no joy in rejecting this bill as it provides an appropriation for the distributive school account. However, this bill is part and parcel of the overall budget. Because that budget is funded by tax increases that I disagree with, as articulated in my veto message of Senate Bill 429, I cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 563.

Sincerely,
JIM GIBBONS
Governor

Bill read.

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

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 563:

YEAS—40.

NAYS—Goedhart, Hambrick—2.

Bill ordered transmitted to the Senate.

Vetoed Senate Bill No. 429 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE STEVEN HORSFORD, *Senate Majority Leader*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Senate Bill No. 429 of the 75th Legislative Session

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 429, which is entitled:

> AN ACT relating to state financial administration; temporarily increasing the state business license fee; temporarily revising the rate of the payroll tax imposed on certain businesses other than financial institutions; revising the provisions governing the calculation of governmental services taxes due annually for used vehicles and allocating a portion of the proceeds of the basic governmental services tax for 4 years to the State General Fund and thereafter to the State Highway Fund; temporarily increasing the rate of the Local School Support Tax; and providing other matters properly relating thereto.

This bill would enact historic and unprecedented tax increases in the midst of one of the most severe economic recessions ever experienced in Nevada. Our state has been one of the most severely impacted states in the Union during this economic downturn. Our unemployment rate has increased from 4.3% in 2006 to 10.6% today. Nevada's construction and tourism industries have seen dramatic slowdowns. Business big and small have laid off employees, reduced employees hours, and curtailed employee benefits in an effort to keep their doors open. Home values have spiraled downward, leaving many Nevadans facing foreclosures at worst and realizing negative home equities at best. Our state revenues correspondingly have been negatively impacted by percentages never before seen. We face a multi-billon dollar budget deficit. Under these circumstances our government finds itself at a crossroads and must choose whether it will live within its means or raise taxes to support continued government spending. 1 am disappointed that our Legislature chose the latter course of action.

I have repeatedly stated that just as Nevadans must live within their means, so must their government. I proposed a balanced budget that limited tax increases on hardworking Nevadans and avoided mass layoff's of state employees. I promised to call a special session to restore responsible government spending when the economy recovers. I am convinced that the action taken by the Legislature in Senate Bill 429 will prolong the economic recession in Nevada and will dissuade employers from retaining current employees today and hiring new employees tomorrow. Senate Bill 429 is not in the best interests of Nevadans and sets an extremely dangerous precedent about how our state government responds to economic recessions.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 429.

Sincerely,
JIM GIBBONS
Governor

Bill read.

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

Remarks by Assemblymen McArthur, Leslie, and Carpenter.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Speaker. I still feel at this time—with 10 percent unemployment in the state, with Lyon County having 15 percent unemployment—it is the wrong time to almost double the payroll tax. In my opinion, this will still cause more people to become unemployed. Thank you.

ASSEMBLYMAN MCARTHUR:

Thank you, Madam Speaker. I rise in opposition to Senate Bill 429. The problem I have with this bill has little to do with politics; it has almost everything to do with the economic reality that we face today and what is going to happen over the next couple of years. Right now, we have a downward spiraling economy, we have declining tax revenues, we have businesses that are closing, we have people being laid off, we have big projects in Las Vegas that have been halted, and we have dealerships that are closing their doors as we speak today. This is just the wrong time to raise taxes. Raising taxes right now is just going to exacerbate the problem and is going to lead to more layoffs and more businesses closing. I think we need to realize that without the business community, without the private sector, there would be no government sector—no one to pay for it. I think we need to remember that when you hurt business, you are going to hurt our ability to pay for government.

The big concern I really have right now is that if we raise taxes now and this economy does not recover soon, which I do not believe it will, we are going to be facing one of the biggest budget crises we have, coming up in the next session. I know that a lot of people would like to be able to tax our way out of it, but we won't. It is going to be a matter of what are we going to be able to fund properly and we won't. It will be a matter of what are we going to cut and what are we going to have to actually get rid of. I think that this will be partly because we are going to be raising taxes now and putting off what we should have done. This will probably be the easy way out to balance this budget. Thank you.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. I rise in support of the override. I am supporting the override because I do not believe we can or should turn our backs on our citizens today. Government does have a responsibility to help those who cannot help themselves. Government also has a responsibility to provide for the essential services our constitution requires—education, public safety, and at least a minimum health and human services safety net. The budget is lean and the revenue plan is also lean. We have worked hard and long for four months in a bipartisan, bicameral manner to get to this point. We know that this budget, partly funded by this bill, won't get us out of last place in nearly every indicator there is, but at least we will not fall further behind. This bill has something in it that every one of us would change if we had the opportunity. That is the mark of a good compromise. It is a difficult vote for some today and I respect that. I respect every Legislator's duty to represent their constituents as they feel best, but as we get ready to vote this morning, this historic vote, let us reflect just for a moment on our system of government, with its checks and balances that allows us to represent our constituents as we see fit today.

We don't live under a dictatorship. I have, as a foreign exchange student, lived under a dictatorship. I am very glad that is not the system of government we have here today. We also do not live under a monarchy—one person does not get to decide our state's destiny. He doesn't, we do. So the override vote for me also represents a textbook example of what representative democracy is all about. We know how hard it is to reach a two-thirds majority in this house, where there are 42 opinions on just about every subject imaginable. So whether you

agree with the Governor—that it is better to manage our fiscal crises by cutting children and pregnant women off their health insurance, by closing a university, by decimating our rural mental health system—or you don't agree with the Governor today, I hope you will be proud of what we are about to do and respect it. Our system allows us to say no to the highest elected official in our state and demonstrate our belief that we have a better plan to manage our state's fiscal crises. I urge your support.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. I rise in support of Senate Bill 429. I know this is a difficult vote, but I have been talking to the Lord and the Lord says it is still okay for me to vote for it. So that is what I am going to do.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Senate Bill No. 429:

YEAS—29.

NAYS—Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—13.

Bill ordered transmitted to the Senate.

Vetoed Senate Bill No. 431 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE STEVEN HORSFORD, *Senate Majority Leader*,, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Senate Bill No. 431 of the 75th Legislative Session

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 431, which is entitled:

> AN ACT relating to state financial administration; authorizing expenditures by various officers, departments, boards, agencies, commissions and institutions of the State Government for the fiscal years commencing on July 1, 2009, and ending on June 30, 2010, and beginning on July 1, 2010, and ending on June 30, 2011; authorizing the collection of certain amounts from the counties for the use of the services of the State Public Defender; and providing other matters properly relating thereto.

Senate Bill 431 is the spending authorization bill. Because this bill is funded in part by tax increases that I disagree with, as articulated in my veto message of Senate Bill 429, I cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 431.

Sincerely,
JIM GIBBONS
Governor

Bill read.

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

Remarks by Assemblyman Goicoechea.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Speaker. I really believe that most of us recognized early last fall that we were in for a very difficult economic time. As we came here in December for the special session, I think it became more and more apparent that we were really in trouble. As I met with my constituents throughout my district, they all recognized that we did not have the ability to make enough reductions or cuts to survive this. We shifted some money in the special session, again just to meet and fill those needs. Although I never totally reached accord as far as the type of revenue we needed, I did support and work with my colleagues, on both sides of the aisle, to develop a budget that would maintain the rural school districts and my community colleges in the district I represent. I can only say to the rest of the body that I thank you for the opportunity to work with you in a bipartisan effort to develop a budget that will at least sustain the essential services of this state. Thank you.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Senate Bill No. 431:

YEAS—37.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick—5.

Bill ordered transmitted to the Senate.

Vetoed Senate Bill No. 433 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE STEVEN HORSFORD, *Senate Majority Leader*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Senate Bill No. 433 of the 75th Legislative Session

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 433, which is entitled:

> AN ACT relating to public employees; establishing the maximum allowed salaries for certain employees in the classified and unclassified service of the State; requiring employees of the State to take a certain number of days of unpaid furlough leave during the 2009-2011 biennium; providing exceptions to the furlough requirement; making appropriations from the State General Fund and State Highway Fund for the salaries of certain employees of the State; making certain appropriations contingent on specified projections of unappropriated balances in the State General Fund; and providing other matters properly relating thereto.

Senate Bill 433 is the state employee pay bill. Because this bill is funded in part by tax increases that I disagree with, as articulated in my veto message of Senate Bill 429, I cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 433.

Sincerely,
JIM GIBBONS
Governor

Bill read.

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

Remarks by Assemblymen Gansert, Hardy, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. I rise in support of Senate Bill 433. I want to take this opportunity to thank the state workers. I know they are having to do more. We were looking for a solution because payroll is such a great portion of our expenses. I believe that this bill with the furlough represents a good solution for the upcoming biennium. Again, I want to thank them for their work because it has been very difficult, I know, during the budget cuts that we put into effect last year and then moving forward. So, again, I thank you for your work.

ASSEMBLYMAN HARDY:

Thank you, Madam Speaker. I rise in support. When I was talking with my constituents, I was talking about the reality of having a fiscal budgetary hole. I used the words of a $1.5 billion hole. I suggested that we would have to make cuts and we would have to make a revenue source and meet somewhere in the middle. I used the words "sales tax" on that, and universally people would say, yes, that makes sense. This is a critical part of that piece—recognizing that our employment costs can be cut in such a way as not to risk job loss as much as it would otherwise. So I will be supporting this and appreciate the work people have done to allay the concerns about those furloughs and the issues and the creative ways we have looked at that. I thank this body for having worked together on that.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

It is pretty easy just to cut something. Establishing a furlough is much more humane. People don't lose their retirement eligibility—at least you get a day off. We established flexibility and when it could be taken so it can be broken up between the pay periods. I would like to thank the chairman of Ways and Means, the vice chair of Ways and Means and the Assemblywoman representing Carson City for their work on this bill, as well as our staff. With a little bit of work, we found a way to make this concept a reality and had no trouble answering 19 questions, because that is what we do every day.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Senate Bill No. 433:

YEAS—38.

NAYS—Cobb, Goedhart, Gustavson, McArthur—4.

Bill ordered transmitted to the Senate.

REMARKS FROM THE FLOOR

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I would like to thank you all for your extraordinary work on this budget over the last four months. I appreciate both parties working so hard on every budget item. I feel like we did the best we could under the circumstances. A 44 percent decline in revenue is a reality few states face and an experience I think none of us ever imagined just two years ago. Two years ago, we

thought gaming was recession-proof. We thought the housing bubble would continue. We didn't think we would be here today. Cutting our budget in accordance with the Governor's wishes meant a 36 percent cut to our community colleges; a 50 percent cut to UNLV and UNR, basically closing one of those institutions; $690 million to K-12; a suggested 6 percent salary cut; a $93 million cut in health insurance; an elimination of all merit increases; and an elimination of the one-fifth retirement credit. The list goes on. The Gaming Control Board had a loss of their staff needed to regulate our state's most important industry to the point where the chairman of the Gaming Control Board indicated that he would not be able to do his work, on the behalf of us, if we did not restore his budget. There were cuts to the Agriculture budget and the Organic Board, who said the state would lose jobs if the board was not able to certify crops as organic in the state. We heard from every part of the state. We worked together. We put party aside. It made me, yet again, proud to be a Nevadan. If you look at the Washington, D.C.-style of politics, you have Democrats on one side and Republicans on the other. They do not work on budgets together. But we did. I am proud of all of you, and I am proud that we worked together for the betterment of this state.

On revenue, most of us agreed that we needed new revenue. We couldn't cut our way out of the crisis, and we couldn't tax our way out of the crisis. We had to use what we, as Nevadans, value—our common sense. We had to decide to govern for the good of our constituents and not by platitude. I am proud of the work we have done this session, and I am proud to be a Nevadan. Thank you all very much for your hard work, that made today possible. Thank you.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 10:11 a.m.

ASSEMBLY IN SESSION

At 10:14 a.m.
Madam Speaker presiding.
Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 564—AN ACT relating to projects of capital improvement; authorizing certain expenditures by the State Public Works Board; levying a property tax to support the Consolidated Bond Interest and Redemption Fund; making appropriations; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 10:15 a.m.

ASSEMBLY IN SESSION

At 10:58 a.m.
Madam Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 564, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 9, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Pierce, Mastroluca, and Hardy as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 52.

Madam Speaker appointed Assemblymen Conklin, Kirkpatrick, and Gansert as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 84.

Madam Speaker appointed Assemblymen Bobzien, Pierce, and Christensen as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 130.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 461.

The following Senate amendment was read:

Amendment No. 945.

AN ACT relating to older persons; revising the provisions pertaining to the reporting of abuse, neglect, exploitation or isolation of an older person; providing for the establishment of a multidisciplinary team; making various other changes relating to older persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain governmental entities to forward to the Aging Services Division of the Department of Health and Human Services and to the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General a copy of the final report of the investigation of a report of abuse, neglect, exploitation or isolation of an older person. (NRS 200.5093) **Section 1** of this bill: (1) adds the Repository for Information Concerning Crimes Against Older Persons to the list of entities that must be forwarded a copy of such a report; and (2) changes the period within which the report must be forwarded from 90 days after the completion of the report to 30 days after the completion of the report.

[~~Existing law allows a prospective witness who may be unable to attend or may be prevented from attending a trial or hearing to have his deposition taken, if his testimony is material, in order to prevent a failure of justice.~~

~~(NRS 174.175) At a trial or hearing, a part or all of a deposition may be used if it appears that: (1) the witness is dead; (2) the witness is out of the State of Nevada; (3) the witness is sick; (4) the witness has become of unsound mind; or (5) the party offering the deposition could not procure the attendance of the witness by subpoena. (NRS 174.215) Section 4 of this bill expands the list of prospective witnesses who may have their deposition taken to include persons who are 70 years of age or older. (NRS 174.175)~~**]**

Section 5 of this bill allows the Repository for Information Concerning Crimes Against Older Persons to include records of every incident of elder abuse reported to any entity and certain additional information related to each incident. (NRS 179A.450)

Section 6 of this bill allows the Unit for the Investigation and Prosecution of Crimes Against Older Persons to establish a multidisciplinary team to review any allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person as the result of abuse, neglect or isolation and prescribes its membership. (NRS 228.270) The establishment of such a team does not grant the Unit supervisory authority over any state or local agency that investigates or prosecutes allegations of abuse, neglect, exploitation
or isolation of an older person or the death of an older person as the result of abuse, neglect or isolation.

Section 7 of this bill requires the Peace Officers' Standards and Training Commission to adopt regulations that require all peace officers to receive training in the handling of cases involving abuse, neglect, exploitation and isolation of older persons. (NRS 289.510)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded ***within 30 days after the completion of the report*** to the ***:***

(a) Aging Services Division ~~[within 90 days after the completion of the report, and a copy of any final report of an investigation must be forwarded to the]~~ ***;***

(b) Repository for Information Concerning Crimes Against Older Persons created by NRS 179A.450; and

(c) Unit for the Investigation and Prosecution of Crimes ***.*** ~~[within 90 days after completion of the report.]~~

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. ~~[NRS 174.175 is hereby amended to read as follows:~~

~~174.175 1. If it appears that a prospective witness~~ ***is an older person or*** ~~may be unable to attend or prevented from attending a trial or hearing, that his testimony is material and that it is necessary to take his deposition in order to prevent a failure of justice, the court at any time after the filing of an indictment, information or complaint may upon motion of a defendant or of the State and notice to the parties order that his testimony be taken by~~

~~deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place. If the deposition is taken upon motion of the State, the court shall order that it be taken under such conditions as will afford to each defendant the opportunity to confront the witnesses against him.~~

~~2. If a witness is committed for failure to give bail to appear to testify at a trial or hearing, the court on written motion of the witness and upon notice to the parties may direct that his deposition be taken. After the deposition has been subscribed the court may discharge the witness.~~

~~3. This section does not apply to the prosecutor, or to an accomplice in the commission of the offense charged.~~

~~*4. As used in this section, "older person" means a person who is 70 years of age or older.]*~~ **(Deleted by amendment.)**

Sec. 5. NRS 179A.450 is hereby amended to read as follows:

179A.450 1. The Repository for Information Concerning Crimes Against Older Persons is hereby created within the Central Repository.

2. The Repository for Information Concerning Crimes Against Older Persons must contain a complete and systematic record of all reports of crimes against older persons committed in this State **.** ~~[that]~~ ***The record*** must be prepared in a manner approved by the Director of the Department ~~[.]~~ ***and may include, without limitation, the following information:***

(a) All incidents that are reported to any entity.

(b) All cases that are currently under investigation and the type of such cases.

(c) All cases that are referred for prosecution and the type of such cases.

(d) All cases in which prosecution is declined or dismissed and any reason for such action.

(e) All cases that are prosecuted and the final disposition of such cases.

(f) All cases that are resolved by agencies which provide protective services and the type of such cases.

3. The Director of the Department shall compile and analyze the data collected pursuant to this section to assess the incidence of crimes against older persons.

4. On or before July 1 of each year, the Director of the Department shall prepare and submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature that sets forth statistical data on crimes against older persons.

5. The data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of an individual victim of a crime.

6. As used in this section, "older person" means a person who is 60 years of age or older.

Sec. 6. NRS 228.270 is hereby amended to read as follows:

228.270 ***1.*** The Unit may investigate and prosecute any alleged abuse, neglect, exploitation or isolation of an older person in violation of NRS 200.5099 or 200.50995 and any failure to report such a violation pursuant to NRS 200.5093:

~~[1.]~~ ***(a)*** At the request of the district attorney of the county in which the violation occurred;

~~[2.]~~ ***(b)*** If the district attorney of the county in which the violation occurred fails, neglects or refuses to prosecute the violation; or

~~[3.]~~ ***(c)*** Jointly with the district attorney of the county in which the violation occurred.

2. The Unit may organize or sponsor one or more multidisciplinary teams to review any allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person that is alleged to be from abuse, neglect or isolation. A multidisciplinary team may include, without limitation, the following members:

(a) A representative of the Unit;

(b) Any law enforcement agency that is involved with the case under review;

(c) The district attorney's office in the county where the case is under review;

(d) The Aging Services Division of the Department of Health and Human Services or the county's office of protective services, if one exists in the county where the case is under review;

(e) A representative of the coroner's office; and

(f) Any other medical professional or financial professional that the Attorney General deems appropriate for the review.

3. Each organization represented on a multidisciplinary team may share with other members of the team information in its possession concerning the older person who is the subject of the review or any person who was in contact with the older person and any other information deemed by the organization to be pertinent to the review. Any information shared by an organization with other members of a team is confidential.

4. The organizing or sponsoring of a multidisciplinary team pursuant to subsection 2 does not grant the Unit supervisory authority over, or restrict or impair the statutory authority of, any state or local agency responsible for the investigation or prosecution of allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person that is alleged to be the result of abuse, neglect or isolation.

Sec. 7. NRS 289.510 is hereby amended to read as follows:

289.510 1. The Commission:

(a) Shall meet at the call of the Chairman, who must be elected by a majority vote of the members of the Commission.

(b) Shall provide for and encourage the training and education of persons whose primary duty is law enforcement to ensure the safety of the residents of and visitors to this State.

(c) Shall adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. The regulations must establish:

(1) Requirements for basic training for category I, category II and category III peace officers and reserve peace officers;

(2) Standards for programs for the continuing education of peace officers, including minimum courses of study and requirements concerning attendance;

(3) Qualifications for instructors of peace officers; and

(4) Requirements for the certification of a course of training.

(d) Shall, when necessary, present courses of training and continuing education courses for category I, category II and category III peace officers and reserve peace officers.

(e) May make necessary inquiries to determine whether the agencies of this State and of the local governments are complying with standards set forth in its regulations.

(f) Shall carry out the duties required of the Commission pursuant to NRS 432B.610 and 432B.620.

(g) May perform any other acts that may be necessary and appropriate to the functions of the Commission as set forth in NRS 289.450 to 289.600, inclusive.

(h) May enter into an interlocal agreement with an Indian tribe to provide training to and certification of persons employed as police officers by that Indian tribe.

2. Regulations adopted by the Commission:

(a) Apply to all agencies of this State and of local governments in this State that employ persons as peace officers;

(b) Must require that all peace officers receive training in the handling of cases involving abuse or neglect of children or missing children; ~~[and]~~

(c) ***Must require that all peace officers receive training in the handling of cases involving abuse, neglect, exploitation and isolation of older persons; and***

(d) May require that training be carried on at institutions which it approves in those regulations.

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 461.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its action on Senate Bill No. 68, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Dondero Loop, Kihuen, and McArthur as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 68.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its action on Senate Bill No. 183, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Segerblom, Kihuen, and Hambrick as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 183.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Kirkpatrick moved that the Assembly recede from its action on Senate Bill No. 43.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bills Nos. 9 and 564 considered engrossed, declared an emergency measure under the *Constitution*, and placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 9.

Bill read third time.

Remarks by Assemblywoman McClain.

Roll call on Assembly Bill No. 9:

YEAS—39.

NAYS—Christensen, Cobb, Gustavson—3.

Assembly Bill No. 9 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 564.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 564:

YEAS—36.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur—6.

Assembly Bill No. 564 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Conklin, Spiegel, and McClain as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 24.

Assemblyman Oceguera moved that the Assembly recess until 2 p.m.

Motion carried.

Assembly in recess at 11:24 a.m.

ASSEMBLY IN SESSION

At 4:31 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 29, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 18, 540.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 264, 286.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 36.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 950 to Senate Bill No. 7.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Breeden, Schneider and Nolan as a Conference Committee concerning Senate Bill No. 332.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 36.

Assemblyman Grady moved the adoption of the resolution.

Remarks by Assemblyman Grady.

Assemblyman Grady requested that his remarks be entered in the Journal.

Thank you, Madam Speaker. I believe that the resolution speaks very strongly of the commander. He was a husband, a father, a military man, and a community leader. As the Majority Leader said on Tuesday as we adjourned in honor of the commander, he was a good person from Fallon. It was a tragic accident. He and his three daughters were killed about a mile from the airport in Fallon in a private plane last Friday night. Tomorrow they are having a memorial for him at NAS, Fallon. I thank the Speaker for allowing this resolution to come forward. We felt this was something we really wanted to do, not only for NAS Fallon and the family, but also to show our support of the military here in the Legislature. Thank you, Madam Speaker.

Resolution adopted.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 264.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Bill No. 286.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 88.

The following Senate amendment was read:

Amendment No. 690.

SUMMARY— ~~[Establishes a civil remedy for a person who was a victim of a sexual offense which was used to promote]~~ **Makes various changes relating to** child pornography. (BDR 15-267)

AN ACT relating to sexual offenses; **prohibiting a person from using the Internet to access child pornography;** establishing a civil remedy **under certain circumstances** for a person who ~~[was a victim of a sexual offense which was used to promote]~~ **appeared in** child pornography; **providing a penalty;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill **prohibits a person from using the Internet to access child pornography.**

Section 4 of this bill establishes a civil cause of action for a person who, ~~[as a minor, was a victim of a sexual offense where any depiction of sexual~~

~~conduct of the offense was used to promote~~] **while under the age of 16 years, appeared in** child pornography **[.]** **and suffered personal or psychological injury as the result.** A ~~[victim]~~ **person** who prevails in such an action may recover his actual damages, which are deemed to be at least $150,000, plus attorney's fees and costs. **Section 3** of this bill establishes the statute of limitations for such an action.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 200 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[*1. Any person who, while a minor, was a victim of a sexual offense of which any depiction of sexual conduct of such offense was used to promote child pornography and who suffered personal or psychological injury as a result may bring an action against any person who promoted or possessed the child pornography, regardless of whether the victim is now an adult.*~~

~~*2. A victim who prevails in an action brought pursuant to this section may recover his actual damages, which shall be deemed to be at least $150,000, plus attorney's fees and costs.*~~

~~*3. A victim may request to use a pseudonym instead of his name in all court proceedings and records related to an action brought pursuant to this section. Upon notification that a victim has requested to use a pseudonym, the court shall ensure that the pseudonym is used in all court proceedings and records.*~~

~~*4. It is not a defense to a cause of action under this section that a defendant did not know the victim or did not personally engage in the sexual conduct which involved the victim and which is depicted in the child pornography.*~~

~~*5. An action may be brought pursuant to this section regardless of whether any person has been prosecuted or convicted of a sexual offense involving the victim.*~~

~~*6. As used in this section:*~~

~~*(a) "Child pornography" means a violation of NRS 200.710 to 200.730, inclusive.*~~

~~*(b) "Sexual offense" means a violation of NRS 200.366 or 201.230.*~~]

1. Any person who, knowingly, willfully and with the specific intent to view any film, photograph or other visual presentation depicting a person under the age of 16 years engaging in or simulating sexual conduct, uses the Internet to access such a film, photograph or other visual presentation is guilty of:

(a) For the first offense, a category C felony and shall be punished as provided in NRS 193.130.

(b) For any subsequent offense, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not

less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000.

2. As used in this section, "sexual conduct" means sexual intercourse, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

Sec. 2. NRS 200.700 is hereby amended to read as follows:

200.700 As used in NRS 200.700 to 200.760, inclusive, ***and section 1 of this act,*** unless the context otherwise ~~[provides:]~~ ***requires:***

1. "Performance" means any play, film, photograph, computer-generated image, electronic representation, dance or other visual presentation.

2. "Promote" means to produce, direct, procure, manufacture, sell, give, lend, publish, distribute, exhibit, advertise or possess for the purpose of distribution.

3. "Sexual conduct" means sexual intercourse, lewd exhibition of the genitals, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any part of a person's body or of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

4. "Sexual portrayal" means the depiction of a person in a manner which appeals to the prurient interest in sex and which does not have serious literary, artistic, political or scientific value.

Sec. 3. NRS 11.215 is hereby amended to read as follows:

11.215 1. Except as otherwise provided in ***subsection 2 and*** NRS 217.007, an action to recover damages for an injury to a person arising from the sexual abuse of the plaintiff which occurred when the plaintiff was less than 18 years of age must be commenced within 10 years after the plaintiff:

(a) Reaches 18 years of age; or

(b) Discovers or reasonably should have discovered that his injury was caused by the sexual abuse,

➥ whichever occurs later.

2. ***An action to recover damages pursuant to section*** ~~*[1]*~~ ***4 of this act must be commenced within 3 years after the occurrence of the following, whichever is later:***

(a) The court enters a verdict in a related criminal case; or

(b) The victim reaches the age of 18 years.

3. As used in this section, "sexual abuse" has the meaning ascribed to it in NRS 432B.100.

Sec. 4. **Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Any person who, while under the age of 16 years, appeared in any film, photograph or other visual presentation engaging in sexual conduct and who suffered personal or psychological injury as a result may bring an

action against any person who, while over the age of 18 years, knowingly and willfully:

(a) Promoted the film, photograph or other visual presentation;

(b) Possessed the film, photograph or other visual presentation; or

(c) Used the Internet to access the film, photograph or other visual presentation, with the specific intent to view the film, photograph or other visual presentation.

2. A plaintiff who prevails in an action brought pursuant to this section may recover his actual damages, which shall be deemed to be at least $150,000, plus attorney's fees and costs.

3. A plaintiff may request to use a pseudonym instead of his name in all court proceedings and records related to an action brought pursuant to this section. Upon notification that a plaintiff has requested to use a pseudonym, the court shall ensure that the pseudonym is used in all court proceedings and records.

4. It is not a defense to a cause of action under this section that a defendant did not know the plaintiff or did not engage in the sexual conduct with the plaintiff.

5. As used in this section:

(a) "Promote" has the meaning ascribed to it in NRS 200.700.

(b) "Sexual conduct" means sexual intercourse, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

Assemblyman Anderson moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 88.

Remarks by Assemblymen Anderson and Cobb.

Motion carried on a division of the House.

Bill ordered transmitted to the Senate.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its action on Assembly Bill No. 35, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Anderson, Horne, and Carpenter as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 35.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Horne moved that the Assembly recede from its action on Senate Bill No. 84.

Remarks by Assemblyman Horne.

Motion carried.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Senate Bill No. 45, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 587 of the Assembly be concurred in.

RUBEN KIHUEN	TERRY CARE
TICK SEGERBLOM	ALLISON COPENING
DON GUSTAVSON	VALERIE WIENER
Assembly Conference Committee	*Senate Conference Committee*

Assemblyman Kihuen moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 45.

Remarks by Assemblyman Kihuen.

Motion carried by a constitutional majority.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Claborn moved that the Assembly do not recede from its action on Senate Bill No. 411, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Claborn, Segerblom, and Goicoechea as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 411.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 46, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Senate Amendment No. 621 be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 6, which is attached to and hereby made a part of this report.

JAMES OHRENSCHALL	VALERIE WIENER
JOHN HAMBRICK	MIKE MCGINNESS
BONNIE PARNELL	ALLISON COPENING
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA6.

AN ACT relating to firearms; requiring a court to transmit certain records of adjudication concerning a person’s mental health to the Central Repository

for Nevada Records of Criminal History for certain purposes relating to the purchase or possession of a firearm; establishing procedures for those persons to petition a court to regain certain rights relating to the purchase or possession of a firearm; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Federal law requires states to transmit to the National Instant Criminal Background Check System records of adjudication of mental illness or incompetence, involuntary admission to mental health facilities and other records which indicate a person is prohibited from purchasing a firearm. Federal law also requires states to implement a program by which a person who was previously adjudicated mentally ill or involuntarily committed can apply to have his right to possess a firearm restored and ties this requirement to certain federal funding for states under the NICS Improvement Amendments Act of 2007. (Public Law 110-180) Nevada law prohibits a person from owning or possessing a firearm if he has been adjudicated as mentally ill or has been committed to any mental health facility. (NRS 202.360)

Sections 1-4 and 13 of this bill require a court to transmit to the Central Repository for Nevada Records of Criminal History a record of any court order, judgment, plea or verdict concerning the involuntary admission of a person to a mental health facility, the appointment of a guardian for a person who has a mental defect, a finding that a person is incompetent to stand trial, a verdict acquitting a person by reason of insanity or a plea of guilty but mentally ill, along with a statement that the record is being transmitted for inclusion in all appropriate databases of the National Instant Criminal Background Check System. (NRS 159.055, 174.035, 175.533, 175.539, 178.425, 433A.310)

Section 7 of this bill requires the Central Repository to take reasonable steps to ensure that the records transmitted to it by the court are included in each appropriate database of the National Instant Criminal Background Check System. In accordance with federal law, this section also provides a procedure for a person who is the subject of such a record to petition a court to have the record removed from the National Instant Criminal Background Check System and to have his right to possess or purchase a firearm restored.

Section 8 of this bill provides that the records transmitted by the court to the Central Repository are confidential, may not be used for any purpose other than for inclusion in each appropriate database of the National Instant Criminal Background Check System, and no cause of action for damages may be brought for transmission, failure to transmit, delay in transmitting or inaccuracies within such records.

Section 8.5 of this bill authorizes a person who is or believes he is the subject of a record of mental health held by the Central Repository to inspect and correct such records. This section, which is modeled after NRS 179A.150, also requires the Central Repository and the Director of the

Department of Public Safety to adopt certain regulations relating to the inspection and correction of such records.

Section 11.5 of this bill requires a court, when appointing a general guardian, to determine whether a proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to federal law.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 174.035 is hereby amended to read as follows:

174.035 1. A defendant may plead not guilty, guilty, guilty but mentally ill or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty or guilty but mentally ill.

2. If a plea of guilty or guilty but mentally ill is made in a written plea agreement, the agreement must be in substantially the form prescribed in NRS 174.063. If a plea of guilty or guilty but mentally ill is made orally, the court shall not accept such a plea or a plea of nolo contendere without first addressing the defendant personally and determining that the plea is made voluntarily with understanding of the nature of the charge and consequences of the plea.

3. With the consent of the court and the district attorney, a defendant may enter a conditional plea of guilty, guilty but mentally ill or nolo contendere, reserving in writing the right, on appeal from the judgment, to a review of the adverse determination of any specified pretrial motion. A defendant who prevails on appeal must be allowed to withdraw the plea.

4. A plea of guilty but mentally ill must be entered not less than 21 days before the date set for trial. A defendant who has entered a plea of guilty but mentally ill has the burden of establishing his mental illness by a preponderance of the evidence. Except as otherwise provided by specific statute, a defendant who enters such a plea is subject to the same criminal, civil and administrative penalties and procedures as a defendant who pleads guilty.

5. The defendant may, in the alternative or in addition to any one of the pleas permitted by subsection 1, plead not guilty by reason of insanity. A plea of not guilty by reason of insanity must be entered not less than 21 days before the date set for trial. A defendant who has not so pleaded may offer the defense of insanity during trial upon good cause shown. Under such a plea or defense, the burden of proof is upon the defendant to establish by a preponderance of the evidence that:

(a) Due to a disease or defect of the mind, he was in a delusional state at the time of the alleged offense; and

(b) Due to the delusional state, he either did not:

(1) Know or understand the nature and capacity of his act; or

(2) Appreciate that his conduct was wrong, meaning not authorized by law.

6. If a defendant refuses to plead or if the court refuses to accept a plea of guilty or guilty but mentally ill or if a defendant corporation fails to appear, the court shall enter a plea of not guilty.

7. A defendant may not enter a plea of guilty or guilty but mentally ill pursuant to a plea bargain for an offense punishable as a felony for which:

(a) Probation is not allowed; or

(b) The maximum prison sentence is more than 10 years,

➥ unless the plea bargain is set forth in writing and signed by the defendant, the defendant's attorney, if he is represented by counsel, and the prosecuting attorney.

8. ***If the court accepts a plea of guilty but mentally ill pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record of that plea to be transmitted to the Central Repository for Nevada Records of Criminal History along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.***

9. As used in this section ~~[, a "disease]~~ ***:***

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 2. NRS 175.533 is hereby amended to read as follows:

175.533 1. During a trial, upon a plea of not guilty by reason of insanity, the trier of fact may find the defendant guilty but mentally ill if the trier of fact finds all of the following:

(a) The defendant is guilty beyond a reasonable doubt of an offense;

(b) The defendant has established by a preponderance of the evidence that due to a disease or defect of the mind, he was mentally ill at the time of the commission of the offense; and

(c) The defendant has not established by a preponderance of the evidence that he is not guilty by reason of insanity pursuant to subsection 5 of NRS 174.035.

2. Except as otherwise provided by specific statute, a defendant who is found guilty but mentally ill is subject to the same criminal, civil and administrative penalties and procedures as a defendant who is found guilty.

3. ***If the trier of fact finds a defendant guilty but mentally ill pursuant to subsection 1, the court shall cause, on a form prescribed by the Department of Public Safety, a record of the finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.***

4. As used in this section ~~[, a "disease]~~ ***:***

(a) "Disease or dfect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 3. NRS 175.539 is hereby amended to read as follows:

175.539 1. Where on a trial a defense of insanity is interposed by the defendant and he is acquitted by reason of that defense, the finding of the jury pending the judicial determination pursuant to subsection 2 has the same effect as if he were regularly adjudged insane, and the judge must:

(a) Order a peace officer to take the person into protective custody and transport him to a forensic facility for detention pending a hearing to determine his mental health;

(b) Order the examination of the person by two psychiatrists, two psychologists, or one psychiatrist and one psychologist who are employed by a division facility; and

(c) At a hearing in open court, receive the report of the examining advisers and allow counsel for the State and for the person to examine the advisers, introduce other evidence and cross-examine witnesses.

2. If the court finds, after the hearing:

(a) That there is not clear and convincing evidence that the person is a person with mental illness, the court must order his discharge; or

(b) That there is clear and convincing evidence that the person is a person with mental illness, the court must order that he be committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services until he is discharged or conditionally released therefrom in accordance with NRS 178.467 to 178.471, inclusive.

➥ The court shall issue its finding within 90 days after the defendant is acquitted.

3. The Administrator shall make the reports and the court shall proceed in the manner provided in NRS 178.467 to 178.471, inclusive.

4. ***If the court accepts a verdict acquitting a defendant by reason of insanity pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record of that verdict to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.***

5. As used in this section, unless the context otherwise requires:

(a) "Division facility" has the meaning ascribed to it in NRS 433.094.

(b) "Forensic facility" means a secure facility of the Division of Mental Health and Developmental Services of the Department of Health and Human Services for offenders and defendants with mental disorders. The term includes, without limitation, Lakes Crossing Center.

(c) ***"National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.***

(d) "Person with mental illness" has the meaning ascribed to it in NRS 178.3986.

Sec. 4. NRS 178.425 is hereby amended to read as follows:

178.425 1. If the court finds the defendant incompetent, and that he is dangerous to himself or to society and that commitment is required for a determination of his ability to receive treatment to competency and to attain competence, the judge shall order the sheriff to convey the defendant forthwith, together with a copy of the complaint, the commitment and the physicians' certificate, if any, into the custody of the Administrator or his designee for detention and treatment at a division facility that is secure. The order may include the involuntary administration of medication if appropriate for treatment to competency.

2. The defendant must be held in such custody until a court orders his release or until he is returned for trial or judgment as provided in NRS 178.450, 178.455 and 178.460.

3. If the court finds the defendant incompetent but not dangerous to himself or to society, and finds that commitment is not required for a determination of the defendant's ability to receive treatment to competency and to attain competence, the judge shall order the defendant to report to the Administrator or his designee as an outpatient for treatment, if it might be beneficial, and for a determination of his ability to receive treatment to competency and to attain competence. The court may require the defendant to give bail for his periodic appearances before the Administrator or his designee.

4. Except as otherwise provided in subsection 5, proceedings against the defendant must be suspended until the Administrator or his designee or, if the defendant is charged with a misdemeanor, the judge finds him capable of standing trial or opposing pronouncement of judgment as provided in NRS 178.400.

5. Whenever the defendant has been found incompetent, with no substantial probability of attaining competency in the foreseeable future, and released from custody or from obligations as an outpatient pursuant to paragraph (d) of subsection 4 of NRS 178.460, the proceedings against the defendant which were suspended must be dismissed. No new charge arising out of the same circumstances may be brought after a period, equal to the maximum time allowed by law for commencing a criminal action for the crime with which the defendant was charged, has lapsed since the date of the alleged offense.

6. If a defendant is found incompetent pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record of that finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating

that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

7. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 5. Chapter 179A of NRS is hereby amended by adding thereto the provisions set forth as sections 6 to 8.5, inclusive, of this act.

Sec. 6. ***"National Instant Criminal Background Check System" means the national system created by the federal Brady Handgun Violence Prevention Act, Public Law 103-159.***

Sec. 7. ***1. Upon receiving a record transmitted pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act, the Central Repository shall take reasonable steps to ensure that the information reported in the record is included in each appropriate database of the National Instant Criminal Background Check System.***

2. Except as otherwise provided in subsection 3, if the Central Repository receives a record described in subsection 1, the person who is the subject of the record may petition the court for an order declaring that:

(a) The basis for the adjudication reported in the record no longer exists;

(b) The adjudication reported in the record is deemed not to have occurred for purposes of 18 U.S.C. § 922(d)(4) and (g)(4) and NRS 202.360; and

(c) The information reported in the record must be removed from the National Instant Criminal Background Check System.

3. To the extent authorized by federal law, if the record concerning the petitioner was transmitted to the Central Repository pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 [,] or section 11.5 of this act, the petitioner may not file a petition pursuant to subsection 2 until 3 years after the date of the order transmitting the record to the Central Repository.

4. A petition filed pursuant to subsection 2 must be:

(a) Filed in the court which made the adjudication or finding pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act; and

(b) Served upon the district attorney for the county in which the court described in paragraph (a) is located.

5. The Nevada Rules of Civil Procedure govern all proceedings concerning a petition filed pursuant to subsection 2.

6. The court shall grant the petition and issue the order described in subsection 2 if the court finds that the petitioner has established that:

(a) The basis for the adjudication or finding made pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act concerning the petitioner no longer exists;

(b) The petitioner's record and reputation indicate that the petitioner is not likely to act in a manner dangerous to public safety; and

(c) Granting the relief requested by the petitioner pursuant to subsection 2 is not contrary to the public interest.

~~[6.]~~ 7. Except as otherwise provided in this subsection, the petitioner must establish the provisions of subsection ~~[5]~~ 6 by a preponderance of the evidence. If the adjudication or finding concerning the petitioner was made pursuant to NRS 433A.310 or section 11.5 of this act, the petitioner must establish the provisions of subsection ~~[5]~~ 6 by clear and convincing evidence.

~~[7.]~~ 8. The court, upon entering an order pursuant to this section, shall cause, on a form prescribed by the Department of Public Safety, a record of the order to be transmitted to the Central Repository.

~~[8.]~~ 9. Within 5 business days after receiving a record of an order transmitted pursuant to subsection ~~[7,]~~ 8, the Central Repository shall take reasonable steps to ensure that information concerning the adjudication or finding made pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act is removed from the National Instant Criminal Background Check System.

~~[9.]~~ 10. If the Central Repository fails to remove a record as provided in subsection ~~[8,]~~ 9, the petitioner may bring an action to compel the removal of the record. If the petitioner prevails in the action, the court may award the petitioner reasonable attorney's fees and costs incurred in bringing the action.

~~[10.]~~ 11. If a petition brought pursuant to subsection 2 is denied, the person who is the subject of the record may petition for a rehearing not sooner than 2 years after the date of the denial of the petition.

Sec. 8. ***1. Any record described in section 7 of this act is confidential and is not a public book or record within the meaning of NRS 239.010. A person may not use the record for any purpose other than for inclusion in the appropriate database of the National Instant Criminal Background Check System.***

2. If a person or governmental entity is required to transmit, report or take any other action concerning a record pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 7 or 11.5 of this act, no action for damages may be brought against the person or governmental entity for:

(a) Transmitting or reporting the record or taking any other required action concerning the record;

(b) Failing to transmit or report the record or failing to take any other required action concerning the record;

(c) Delaying the transmission or reporting of the record or delaying in taking any other required action concerning the record; or

(d) Transmitting or reporting an inaccurate or incomplete version of the record or taking any other required action concerning an inaccurate or incomplete version of the record.

Sec. 8.5. ***1. The Central Repository shall permit a person who is or believes he may be the subject of information relating to records of mental health held by the Central Repository to inspect and correct any information contained in such records.***

2. The Central Repository shall adopt regulations and make available necessary forms to permit inspection, review and correction of information relating to records of mental health by those persons who are the subjects thereof. The regulations must specify:

(a) The requirements for proper identification of the persons seeking access to the records; and

(b) The reasonable charges or fees, if any, for inspecting records.

3. The Director of the Department shall adopt regulations governing:

(a) All challenges to the accuracy or sufficiency of information or records of mental health by the person who is the subject of the allegedly inaccurate or insufficient record;

(b) The correction of any information relating to records of mental health found by the Director to be inaccurate, insufficient or incomplete in any material respect;

(c) The dissemination of corrected information to those persons or agencies which have previously received inaccurate or incomplete information; and

(d) A reasonable time limit within which inaccurate or insufficient information relating to records of mental health must be corrected and the corrected information disseminated.

4. As used in this section, "information relating to records of mental health" means information contained in a record:

(a) Transmitted to the Central Repository pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act; or

(b) Transmitted to the National Instant Criminal Background Check System pursuant to section 7 of this act.

Sec. 9. NRS 179A.010 is hereby amended to read as follows:

179A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 179A.020 to 179A.073, inclusive, ***and section 6 of this act*** have the meanings ascribed to them in those sections.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 11.5. Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the court orders a general guardian appointed for a proposed ward, the court shall determine, by clear and convincing evidence, whether the proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(d)(4) or (g)(4). If a court makes a finding pursuant to this section that the proposed ward is a person with a mental defect, the court shall include the finding in the order appointing the guardian and cause a record of the order to be transmitted

to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

2. As used in this section:

(a) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

(b) "Person with a mental defect" means a person who, as a result of marked subnormal intelligence, mental illness, incompetence, condition or disease, is:

(1) A danger to himself or others; or

(2) Lacks the capacity to contract or manage his own affairs.

Sec. 12. NRS 202.362 is hereby amended to read as follows:

202.362 1. Except as otherwise provided in subsection 3, a person within this State shall not sell or otherwise dispose of any firearm or ammunition to another person if he has actual knowledge that the other person:

(a) Is under indictment for, or has been convicted of, a felony in this or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless he has received a pardon and the pardon does not restrict his right to bear arms;

(b) Is a fugitive from justice;

(c) Has been adjudicated as mentally ill or has been committed to any mental health facility; or

(d) Is illegally or unlawfully in the United States.

2. A person who violates the provisions of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

3. This section does not apply to a person who sells or disposes of any firearm or ammunition to:

(a) A licensed importer, licensed manufacturer, licensed dealer or licensed collector who, pursuant to 18 U.S.C. § 925(b), is not precluded from dealing in firearms or ammunition; or

(b) A person who has been granted relief from the disabilities imposed by federal laws pursuant to 18 U.S.C. § 925(c) ~~[.]~~ ***or section 7 of this act.***

Sec. 13. NRS 433A.310 is hereby amended to read as follows:

433A.310 1. Except as otherwise provided in NRS 432B.6076 and 432B.6077, if the district court finds, after proceedings for the involuntary court-ordered admission of a person to a public or private mental health facility:

(a) That there is not clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness or exhibits observable behavior such that he is likely to harm himself or others if

allowed his liberty, the court shall enter its finding to that effect and the person must not be involuntarily detained in such a facility.

(b) That there is clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness and, because of that illness, is likely to harm himself or others if allowed his liberty, the court may order the involuntary admission of the person for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is unconditionally released pursuant to NRS 433A.390.

2. Except as otherwise provided in NRS 432B.608, an involuntary admission pursuant to paragraph (b) of subsection 1 automatically expires at the end of 6 months if not terminated previously by the medical director of the public or private mental health facility as provided for in subsection 2 of NRS 433A.390. Except as otherwise provided in NRS 432B.608, at the end of the court-ordered period of treatment, the Division or any mental health facility that is not operated by the Division may petition to renew the detention of the person for additional periods not to exceed 6 months each. For each renewal, the petition must set forth to the court specific reasons why further treatment would be in the person's own best interests.

3. Before issuing an order for involuntary admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the person, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the person.

4. If the court issues an order involuntarily admitting a person to a public or private mental health facility pursuant to this section, the court shall, notwithstanding the provisions of NRS 433A.715, cause, on a form prescribed by the Department of Public Safety, a record of such order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

5. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 14. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 15. This act becomes effective on January 1, 2010.

Assemblyman Ohrenschall moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 46.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Senate Bill No. 17, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 746 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 3, which is attached to and hereby made a part of this report.

MO DENIS	JOYCE WOODHOUSE
ELLEN SPIEGEL	VALERIE WIENER
LYNN STEWART	RANDOLPH TOWNSEND
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA3.

AN ACT relating to health care; revising provisions governing the retention and destruction of health care records; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires that certain boards post a statement on their Internet websites that the health care records of patients who are less than 23 years of age may not be destroyed and that the health care records of other patients may be destroyed after 5 years.

Existing law requires certain providers of health care, including pharmacists, to retain the health care records of patients for 5 years after their receipt or production. (NRS 629.051) Section 2 of this bill **~~[,]~~ provides that this requirement relating to the retention of records does not apply to pharmacists. Section 2 also:** (1) requires that certain disclosures regarding destruction of records be provided to patients; (2) prohibits the destruction of health care records for a person who is less than 23 years of age until the person attains the age of 23 years; and (3) requires the State Board of Health to adopt regulations relating to the required disclosures.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board of Health and each board created pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 640, 640A, 640B, 640C, 641, 641A, 641B or 641C of NRS shall post on its website on the Internet, if any, a statement which discloses that:

(a) Pursuant to the provisions of subsection 7 of NRS 629.051:

(1) The health care records of a person who is less than 23 years of age may not be destroyed; and

(2) The health care records of a person who has attained the age of 23 years may be destroyed for those records which have been retained for at least 5 years or for any longer period provided by federal law; and

(b) Except as otherwise provided in subsection 7 of NRS 629.051 and unless a longer period is provided by federal law, the health care records of a patient who is 23 years of age or older may be destroyed after 5 years pursuant to subsection 1 of NRS 629.051.

2. The State Board of Health shall adopt regulations prescribing the contents of the statements required pursuant to this section.

Sec. 2. NRS 629.051 is hereby amended to read as follows:

629.051 ***1.*** Except as otherwise provided in ~~*[subsection 7]*~~ ***this section and in*** regulations adopted by the State Board of Health pursuant to NRS 652.135 with regard to the records of a medical laboratory ~~[,]~~ ***and unless a longer period is provided by federal law,*** each provider of health care shall retain the health care records of his patients as part of his regularly maintained records for 5 years after their receipt or production. Health care records may be retained in written form, or by microfilm or any other recognized form of size reduction, including, without limitation, microfiche, computer disc, magnetic tape and optical disc, which does not adversely affect their use for the purposes of NRS 629.061. Health care records may be created, authenticated and stored in a computer system which limits access to those records.

2. A provider of health care shall post, in a conspicuous place in each location at which the provider performs health care services, a sign which discloses to patients that their health care records may be destroyed after the period set forth in subsection 1.

3. When a provider of health care performs health care services for a patient for the first time, the provider of health care shall deliver to the patient a written statement which discloses to the patient that the health care records of the patient may be destroyed after the period set forth in subsection 1.

4. If a provider fails to deliver the written statement to the patient pursuant to subsection 3, the provider of health care shall deliver to the patient the written statement described in subsection 3 when the provider next performs health care services for the patient.

5. In addition to delivering a written statement pursuant to subsection 3 or 4, a provider of health care may deliver such a written statement to a patient at any other time.

6. A written statement delivered to a patient pursuant to this section may be included with other written information delivered to the patient by a provider of health care.

7. A provider of health care shall not destroy the health care records of a person who is less than 23 years of age on the date of the proposed destruction of the records. The health care records of a person who has attained the age of 23 years may be destroyed in accordance with this section for those records which have been retained for at least 5 years or for any longer period provided by federal law.

8. The provisions of this section do not apply to a pharmacist.

9. The State Board of Health shall adopt:

(a) Regulations prescribing the form, size, contents and placement of the signs and written statements required pursuant to this section; and

(b) Any other regulations necessary to carry out the provisions of this section.

Sec. 3. NRS 630.254 is hereby amended to read as follows:

630.254 1. Each licensee shall maintain a permanent mailing address with the Board to which all communications from the Board to the licensee must be sent. A licensee who changes his permanent mailing address shall notify the Board in writing of his new permanent mailing address within 30 days after the change. If a licensee fails to notify the Board in writing of a change in his permanent mailing address within 30 days after the change, the Board:

(a) Shall impose upon the licensee a fine not to exceed $250; and

(b) May initiate disciplinary action against the licensee as provided pursuant to subsection 9 of NRS 630.306.

2. Any licensee who changes the location of his office in this State shall notify the Board in writing of the change before practicing at the new location.

3. Any licensee who closes his office in this State shall:

(a) Notify the Board in writing of this occurrence within 14 days after the closure; and

(b) For a period of 5 years thereafter ***, unless a longer period of retention is provided by federal law,*** keep the Board apprised in writing of the location of the medical records of his patients.

Assemblyman Denis moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 17.

Remarks by Assemblyman Denis.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Senate Bill No. 101, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 4, which is attached to and hereby made a part of this report.

WILLIAM HORNE	TERRY CARE
TICK SEGERBLOM	ALLISON COPENING
RICHARD MCARTHUR	WILLIAM RAGGIO
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA4.

AN ACT relating to securities; revising the provisions governing the examination of certain records by the Administrator of the Securities Division of the Office of the Secretary of State; increasing the amount of certain civil penalties for certain violations relating to securities; revising the provisions governing recovery of the costs of investigation and prosecution of certain violations; authorizing the Department of Motor Vehicles to issue a driver's license to a criminal investigator employed by the Secretary of State who is engaged in an undercover investigation; making various other changes relating to securities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill: (1) changes the name of the entity that administers examinations for a sales representative from the National Association of Securities Dealers to the Financial Industry Regulatory Authority; and (2) requires a sales representative to pass either the Uniform Investment Adviser Law Examination or the Uniform Combined State Law Examination and the General Securities Registered Representative Examination. (NRS 90.340)

Sections 3 and 4 of this bill make technical changes to include references to the Investment Adviser Registration Depository and the Financial Industry Regulatory Authority. (NRS 90.350)

Section 5 of this bill removes the requirement in existing law that the Administrator of the Securities Division of the Office of the Secretary of State must obtain authorization from the Attorney General or his designee to examine the records of a person issuing securities who is not licensed but is required to be licensed. (NRS 90.410)

Section 7 of this bill increases the civil penalty that the Administrator may impose for a willful violation of chapter 90 of NRS from $2,500 for a single violation and $100,000 for multiple violations to $25,000 for each violation. (NRS 90.630) **Section 7** also authorizes the Administrator to order reimbursement for the costs of a proceeding to impose sanctions, including investigative costs and attorney's fees, rather than applying to a court for an order for reimbursement of such costs.

Section 7.5 of this bill increases the civil penalty that a district court may impose for a violation of chapter 90 of NRS from $2,500 for a single violation and $100,000 for multiple violations to $25,000 for each violation. (NRS 90.640)

Section 8 of this bill provides that a court may order a person who is convicted of a willful violation of a statute, a regulation or an order of the Administrator to pay the costs of investigation and prosecution incurred by the Division and the Office of the Attorney General. (NRS 90.650)

Section 9 of this bill provides that chapter 239A of NRS, which contains provisions regarding disclosure of financial records to governmental agencies, does not prohibit the Administrator from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts. (NRS 239A.070)

Section 9.5 of this bill increases: (1) the period that the court may delay the notification of a customer that a subpoena for the financial records of the customer has been issued from 60 days to ~~[120]~~ **90** days; and (2) the period for any additional extension of such a delayed notification from 30 days to ~~[60]~~ **45** days. (NRS 239A.100)

Sections 10 and 11 of this bill authorize the Department of Motor Vehicles to issue a driver's license for purposes of identification only to a criminal investigator employed by the Secretary of State who is engaged in an undercover investigation. (NRS 483.340)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. NRS 90.340 is hereby amended to read as follows:

90.340 1. The following persons are exempt from licensing under NRS 90.330:

(a) An investment adviser who is registered or is not required to be registered as an investment adviser under the Investment Advisers Act of 1940 if:

(1) Its only clients in this State are other investment advisers, broker-dealers or financial or institutional investors;

(2) The investment adviser has no place of business in this State and directs business communications in this State to a person who is an existing client of the investment adviser and whose principal place of residence is not in this State; or

(3) The investment adviser has no place of business in this State and during any 12 consecutive months it does not direct business communications in this State to more than five present or prospective clients other than those specified in subparagraph (1), whether or not the person or client to whom the communication is directed is present in this State;

(b) A representative of an investment adviser who is employed by an investment adviser who is exempt from licensing pursuant to paragraph (a);

(c) A sales representative licensed pursuant to NRS 90.310 who:

(1) Has passed ~~[one of]~~ the following examinations administered by the ~~[National Association of Securities Dealers, Inc.:]~~ ***Financial Industry Regulatory Authority:***

(I) The Uniform Investment Adviser Law Examination, designated as the Series 65 examination; or

(II) The ~~[examination]~~ ***Uniform Combined State Law Examination*** designated as the Series 66 examination ~~[;]~~ ***and the General Securities Registered Representative Examination, designated as the Series 7 examination;*** or

(2) On January 1, 1996, has been continuously licensed in this State as a sales representative for 5 years or more; and

(d) Other investment advisers and representatives of investment advisers the Administrator by regulation or order exempts.

2. The Administrator may, by order or rule, waive the ~~[examination]~~ ***examinations*** required by subparagraph (1) of paragraph (c) of subsection 1 for an applicant or a class of applicants if the Administrator determines that the examination is not necessary for the protection of investors because of the training and experience of the applicant or class of applicants.

Sec. 3. NRS 90.350 is hereby amended to read as follows:

90.350 1. Except as otherwise provided in subsection 3, an applicant for licensing as a broker-dealer, sales representative, investment adviser,

representative of an investment adviser or transfer agent must file with the Administrator an application for licensing and a consent to service of process pursuant to NRS 90.770 and pay the fee required by NRS 90.360. The application for licensing must contain the social security number of the applicant and any other information the Administrator determines by regulation to be necessary and appropriate to facilitate the administration of this chapter.

2. The requirements of subsection 1 are satisfied by an applicant who has filed and maintains a completed and current registration with the Securities and Exchange Commission or a self-regulatory organization if the information contained in that registration is readily available to the Administrator through the ***Investment Adviser Registration Depository, the*** Central Registration Depository or another depository for registrations that has been approved by the Administrator by regulation or order. Except as otherwise provided in subsection 3, such an applicant must also file a notice with the Administrator in the form and content determined by the Administrator by regulation and a consent to service of process pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator, by order, may require the submission of additional information by an applicant.

3. An applicant for licensing as a transfer agent is not required to pay the fee required by NRS 90.360.

4. As used in this section ~~[,]~~ ***:***

(a) ”Central Registration Depository” means the Central Registration Depository of the ~~[National Association of Securities Dealers, Inc.,]~~ ***Financial Industry Regulatory Authority,*** or its successor, and the North American Securities Administrators Association or its successor.

(b) ”Investment Adviser Registration Depository” means the Investment Adviser Registration Depository of the Financial Industry Regulatory Authority, or its successor, and the North American Securities Administrators Association or its successor.

Sec. 4. NRS 90.350 is hereby amended to read as follows:

90.350 1. Except as otherwise provided in subsection 3, an applicant for licensing as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent must file with the Administrator an application for licensing and a consent to service of process pursuant to NRS 90.770 and pay the fee required by NRS 90.360. The application for licensing must contain the information the Administrator determines by regulation to be necessary and appropriate to facilitate the administration of this chapter.

2. The requirements of subsection 1 are satisfied by an applicant who has filed and maintains a completed and current registration with the Securities and Exchange Commission or a self-regulatory organization if the information contained in that registration is readily available to the Administrator through the ***Investment Adviser Registration Depository, the*** Central Registration Depository or another depository for registrations that

has been approved by the Administrator by regulation or order. Except as otherwise provided in subsection 3, such an applicant must also file a notice with the Administrator in the form and content determined by the Administrator by regulation and a consent to service of process pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator, by order, may require the submission of additional information by an applicant.

3. An applicant for licensing as a transfer agent is not required to pay the fee required by NRS 90.360.

4. As used in this section ~~[,]~~ ***:***

(a) "Central Registration Depository" means the Central Registration Depository of the ~~[National Association of Securities Dealers, Inc.,]~~ ***Financial Industry Regulatory Authority,*** or its successor, and the North American Securities Administrators Association or its successor.

(b) "Investment Adviser Registration Depository" means the Investment Adviser Registration Depository of the Financial Industry Regulatory Authority, or its successor, and the North American Securities Administrators Association or its successor.

Sec. 5. NRS 90.410 is hereby amended to read as follows:

90.410 1. The Administrator, without previous notice, may examine in a manner reasonable under the circumstances the records, within or without this State, of a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser ~~[or any person issuing securities who would otherwise be required to be licensed pursuant to NRS 90.310 upon authorization by the Attorney General or his designee, in order]~~ to determine compliance with this chapter. ~~[Broker-dealers,]~~ ***Licensed broker-dealers,*** sales representatives, investment advisers and representatives of investment advisers shall make their records available to the Administrator in legible form.

2. ***The Administrator, without previous notice, may examine, in a manner reasonable under the circumstances and as the Administrator considers necessary or appropriate in the public interest and for the protection of investors, the records, within or without this State, of any person who would otherwise be required to be licensed pursuant to NRS 90.310 or 90.330. Such persons shall make their records available to the Administrator in legible form.***

3. Except as otherwise provided in subsection ~~[3,]~~ ***4,*** the Administrator may copy records or require a licensed person to copy records and provide the copies to the Administrator to the extent and in a manner reasonable under the circumstances.

~~[3.]~~ ***4.*** The Administrator may inspect and copy records or require a transfer agent to copy records and provide the copies to the Administrator to the extent such records relate to information concerning principals, corporate officers or stockholders of any publicly traded company based in this State.

~~[4.]~~ ***5.*** The Administrator by regulation may impose a reasonable fee for the expense of conducting an examination under this section.

Sec. 6. NRS 90.520 is hereby amended to read as follows:

90.520 1. As used in this section:

(a) "Guaranteed" means guaranteed as to payment of all or substantially all of principal and interest or dividends.

(b) "Insured" means insured as to payment of all or substantially all of principal and interest or dividends.

2. Except as otherwise provided in subsections 4 and 5, the following securities are exempt from NRS 90.460 and 90.560:

(a) A security, including a revenue obligation, issued, insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or a certificate of deposit ~~[.]~~ for any of the foregoing, but this exemption does not include a security payable solely from revenues to be received from an enterprise unless the:

(1) Payments are insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or by a person whose securities are exempt from registration pursuant to paragraphs (b) to (e), inclusive, or (g), or the revenues from which the payments are to be made are a direct obligation of such a person;

(2) Security is issued by this State or an agency, instrumentality or political subdivision of this State; or

(3) Payments are insured or guaranteed by a person who, within the 12 months next preceding the date on which the securities are issued, has received a rating within one of the top four rating categories of either Moody's Investors Service, Inc., or Standard and Poor's Ratings Services.

(b) A security issued, insured or guaranteed by Canada, a Canadian province or territory, a political subdivision of Canada or of a Canadian province or territory, an agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government or governmental combination or entity with which the United States maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer, insurer or guarantor.

(c) A security issued by and representing an interest in or a direct obligation of a depository institution if the deposit or share accounts of the depository institution are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a successor to an applicable agency authorized by federal law.

(d) A security issued by and representing an interest in or a direct obligation of, or insured or guaranteed by, an insurance company organized under the laws of any state and authorized to do business in this State.

(e) A security issued or guaranteed by a railroad, other common carrier, public utility or holding company that is:

(1) Subject to the jurisdiction of the Surface Transportation Board;

(2) A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of a registered holding company within the meaning of that act;

(3) Regulated in respect to its rates and charges by a governmental authority of the United States or a state; or

(4) Regulated in respect to the issuance or guarantee of the security by a governmental authority of the United States, a state, Canada, or a Canadian province or territory.

(f) Equipment trust certificates in respect to equipment leased or conditionally sold to a person, if securities issued by the person would be exempt pursuant to this section.

(g) A security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Chicago Stock Exchange, the Pacific Stock Exchange or other exchange designated by the Administrator, any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so listed or approved, or a warrant or right to purchase or subscribe to any of the foregoing.

(h) A security designated or approved for designation upon issuance or notice of issuance for inclusion in the national market system by the ~~[National Association of Securities Dealers, Inc.,]~~ ***Financial Industry Regulatory Authority,*** any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so designated, or a warrant or a right to purchase or subscribe to any of the foregoing.

(i) An option issued by a clearing agency registered under the Securities Exchange Act of 1934, other than an off-exchange futures contract or substantially similar arrangement, if the security, currency, commodity or other interest underlying the option is:

(1) Registered under NRS 90.470, 90.480 or 90.490;

(2) Exempt pursuant to this section; or

(3) Not otherwise required to be registered under this chapter.

(j) A security issued by a person organized and operated not for private profit but exclusively for a religious, educational, benevolent, charitable, fraternal, social, athletic or reformatory purpose, or as a chamber of commerce, or trade or professional association if at least 10 days before the sale of the security the issuer has filed with the Administrator a notice setting forth the material terms of the proposed sale and copies of any sales and

advertising literature to be used and the Administrator by order does not disallow the exemption within the next 5 full business days.

(k) A promissory note, draft, bill of exchange or banker's acceptance that evidences an obligation to pay cash within 9 months after the date of issuance, exclusive of days of grace, is issued in denominations of at least $50,000 and receives a rating in one of the three highest rating categories from a nationally recognized statistical rating organization, or a renewal of such an obligation that is likewise limited, or a guarantee of such an obligation or of a renewal.

(l) A security issued in connection with an employees' stock purchase, savings, option, profit-sharing, pension or similar employees' benefit plan.

(m) A membership or equity interest in, or a retention certificate or like security given in lieu of a cash patronage dividend issued by, a cooperative organized and operated as a nonprofit membership cooperative under the cooperative laws of any state if not traded to the general public.

(n) A security issued by an issuer registered as an open-end management investment company or unit investment trust under section 8 of the Investment Company Act of 1940 if:

(1) The issuer is advised by an investment adviser that is a depository institution exempt from registration under the Investment Advisers Act of 1940 or that is currently registered as an investment adviser, and has been registered, or is affiliated with an adviser that has been registered, as an investment adviser under the Investment Advisers Act of 1940 for at least 3 years next preceding an offer or sale of a security claimed to be exempt pursuant to this paragraph, and the issuer has acted, or is affiliated with an investment adviser that has acted, as investment adviser to one or more registered investment companies or unit investment trusts for at least 3 years next preceding an offer or sale of a security claimed to be exempt under this paragraph; or

(2) The issuer has a sponsor that has at all times throughout the 3 years before an offer or sale of a security claimed to be exempt pursuant to this paragraph sponsored one or more registered investment companies or unit investment trusts the aggregate total assets of which have exceeded $100,000,000.

3. For the purpose of paragraph (n) of subsection 2, an investment adviser is affiliated with another investment adviser if it controls, is controlled by, or is under common control with the other investment adviser.

4. The exemption provided by paragraph (n) of subsection 2 is available only if the person claiming the exemption files with the Administrator a notice of intention to sell which sets forth the name and address of the issuer and the securities to be offered in this State and pays a fee:

(a) Of $500 for the initial claim of exemption and the same amount at the beginning of each fiscal year thereafter in which securities are to be offered in this State, in the case of an open-end management company; or

(b) Of $300 for the initial claim of exemption in the case of a unit investment trust.

5. An exemption provided by paragraph (c), (e), (f), (i) or (k) of subsection 2 is available only if, within the 12 months immediately preceding the use of the exemption, a notice of claim of exemption has been filed with the Administrator and a nonrefundable fee of $300 has been paid.

Sec. 7. NRS 90.630 is hereby amended to read as follows:

90.630 1. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that:

(a) The sale of a security is subject to registration under this chapter and the security is being offered or has been offered or sold by the issuer or another person in violation of NRS 90.460; or

(b) A person is acting as a broker-dealer or investment adviser in violation of NRS 90.310 or 90.330,

➥ the Administrator, in addition to any specific power granted under this chapter and subject to compliance with the requirements of NRS 90.820, may issue, without a prior hearing, a summary order against the person engaged in the prohibited activities, directing him to desist and refrain from further activity until the security is registered or he is licensed under this chapter. The summary order to cease and desist must state the section of this chapter or regulation or order of the Administrator under this chapter which the Administrator reasonably believes has been or is being violated.

2. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that a person has violated this chapter or a regulation or order of the Administrator under this chapter, the Administrator, in addition to any specific power granted under this chapter, after giving notice by registered or certified mail and conducting a hearing in an administrative proceeding, unless the right to notice and hearing is waived by the person against whom the sanction is imposed, may:

(a) Issue an order against him to cease and desist;

(b) Censure him if he is a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser;

(c) Bar or suspend him from association with a licensed broker-dealer or investment adviser in this State;

(d) Issue an order against an applicant, licensed person or other person who willfully violates this chapter, imposing a civil penalty of not more than ~~[~~$2,500~~]~~ ***$25,000*** for ~~[~~a single~~]~~ ***each*** violation ***;*** or ~~[~~$100,000 for multiple violations in a single proceeding or a series of related proceedings; or~~]~~

(e) Initiate one or more of the actions specified in NRS 90.640.

3. If the person to whom the notice is addressed pursuant to subsection 2 does not request a hearing within 45 days after receipt of the notice, he waives his right to a hearing and the Administrator shall issue a permanent order. If a hearing is requested, the Administrator shall set the matter for hearing not less than 15 days nor more than 60 days after he receives the

request for a hearing. The Administrator shall promptly notify the parties by registered or certified mail of the time and place set for the hearing.

4. Imposition of the sanctions under this section is limited as follows:

(a) If the Administrator revokes the license of a broker-dealer, sales representative, investment adviser or representative of an investment adviser or bars a person from association with a licensed broker-dealer or investment adviser under this section or NRS 90.420, the imposition of that sanction precludes imposition of a civil penalty under subsection 2; and

(b) The imposition by the Administrator of one or more sanctions under subsection 2 with respect to a specific violation precludes him from later imposing any other sanctions under paragraphs (a) to (d), inclusive, of subsection 2 with respect to the violation.

5. For the purposes of determining any sanction to be imposed pursuant to paragraphs (a) to (d), inclusive, of subsection 2, the Administrator shall consider, among other factors, the frequency and persistence of the conduct constituting a violation of this chapter, or a regulation or order of the Administrator under this chapter, the number of persons adversely affected by the conduct and the resources of the person committing the violation.

6. If a sanction is imposed pursuant to this section, ***reimbursement for*** the costs of the proceeding, including investigative costs and attorney's fees ~~[,]~~ ***incurred,*** may be ***ordered and*** recovered by the Administrator. ***Money recovered for reimbursement of the investigative costs and attorney's fees must be deposited in the State General Fund for credit to the Revolving Account for Investigation, Enforcement and Education created by NRS 90.851.***

Sec. 7.5. NRS 90.640 is hereby amended to read as follows:

90.640 1. Upon a showing by the Administrator that a person has violated or is about to violate this chapter, or a regulation or order of the Administrator under this chapter, the appropriate district court may grant or impose one or more of the following appropriate legal or equitable remedies:

(a) Upon a showing that a person has violated this chapter, or a regulation or order of the Administrator under this chapter, the court may singly or in combination:

(1) Issue a temporary restraining order, permanent or temporary prohibitory or mandatory injunction or a writ of prohibition or mandamus;

(2) Impose a civil penalty of not more than ~~[~~$2,500~~]~~ ***$25,000*** for ~~[~~a single~~]~~ ***each*** violation ***;*** ~~[~~or $100,000 for multiple violations in a single proceeding or a series of related proceedings;~~]~~

(3) Issue a declaratory judgment;

(4) Order restitution to investors;

(5) Provide for the appointment of a receiver or conservator for the defendant or the defendant's assets;

(6) Order payment of the Division's investigative costs; or

(7) Order such other relief as the court deems just.

(b) Upon a showing that a person is about to violate this chapter, or a regulation or order of the Administrator under this chapter, a court may issue:

(1) A temporary restraining order;

(2) A temporary or permanent injunction; or

(3) A writ of prohibition or mandamus.

2. In determining the appropriate relief to grant, the court shall consider enforcement actions taken and sanctions imposed by the Administrator under NRS 90.630 in connection with the transactions constituting violations of this chapter or a regulation or order of the Administrator under this chapter. If a remedial action is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Administrator.

3. The court shall not require the Administrator to post a bond in an action under this section.

4. Upon a showing by the administrator or securities agency of another state that a person has violated the securities act of that state or a regulation or order of the administrator or securities agency of that state, the appropriate district court may grant, in addition to any other legal or equitable remedies, one or more of the following remedies:

(a) Appointment of a receiver, conservator or ancillary receiver or conservator for the defendant or the defendant's assets located in this State; or

(b) Other relief as the court deems just.

Sec. 8. NRS 90.650 is hereby amended to read as follows:

90.650 1. A person who willfully violates:

(a) A provision of this chapter, except NRS 90.600, or who violates NRS 90.600 knowing that the statement made is false or misleading in any material respect;

(b) A regulation adopted pursuant to this chapter; or

(c) An order denying, suspending or revoking the effectiveness of registration or an order to cease and desist issued by the Administrator pursuant to this chapter,

➥ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, or by a fine of not more than $500,000, or by both fine and imprisonment, for each violation. In addition to any other penalty, the court shall order the person to pay restitution ~~[.]~~ ***and may order the person to repay the costs of investigation and prosecution incurred by the Division and the Office of the Attorney General. Money recovered for reimbursement of the costs of investigation and prosecution must be deposited in the State General Fund for credit to the Revolving Account for Investigation, Enforcement and Education created by NRS 90.851.***

2. A person convicted of violating a regulation or order under this chapter may be fined, but must not be imprisoned, if the person proves lack of knowledge of the regulation or order.

3. This chapter does not limit the power of the State to punish a person for conduct which constitutes a crime under other law.

Sec. 9. NRS 239A.070 is hereby amended to read as follows:

239A.070 This chapter does not apply to any subpoena issued pursuant to title 14 or chapters 616A to 617, inclusive, of NRS or prohibit:

1. Dissemination of any financial information which is not identified with or identifiable as being derived from the financial records of a particular customer.

2. The Attorney General, district attorney, Department of Taxation, Director of the Department of Health and Human Services, ***Administrator of the Securities Division of the Office of the Secretary of State,*** public administrator, sheriff or a police department from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts.

3. A financial institution, in its discretion, from initiating contact with and thereafter communicating with and disclosing the financial records of a customer to appropriate governmental agencies concerning a suspected violation of any law.

4. Disclosure of the financial records of a customer incidental to a transaction in the normal course of business of the financial institution if the director, officer, employee or agent of the financial institution who makes or authorizes the disclosure has no reasonable cause to believe that such records will be used by a governmental agency in connection with an investigation of the customer.

5. A financial institution from notifying a customer of the receipt of a subpoena or a search warrant to obtain his financial records, except when ordered by a court to withhold such notification.

6. The examination by or disclosure to any governmental regulatory agency of financial records which relate solely to the exercise of its regulatory function if the agency is specifically authorized by law to examine, audit or require reports of financial records of financial institutions.

7. The disclosure to any governmental agency of any financial information or records whose disclosure to that particular agency is required by the tax laws of this State.

8. The disclosure of any information pursuant to NRS 425.393, 425.400 or 425.460.

9. A governmental agency from obtaining a credit report or consumer credit report from anyone other than a financial institution.

Sec. 9.5. NRS 239A.100 is hereby amended to read as follows:

239A.100 1. Except as provided in subsection 2, a subpoena authorizing a governmental agency to obtain financial records may be served upon a financial institution only if:

(a) A copy of the subpoena is served upon the customer in the manner provided by law for the service of subpoenas, except that the copy may be served by an employee of the governmental agency;

(b) The subpoena includes the name of the agency in whose name it is issued and the statutory purpose for which the information is to be obtained; and

(c) The customer has not moved to quash the subpoena within 10 days after service of the copy of the subpoena upon the customer.

2. A governmental agency issuing or seeking a subpoena to obtain financial records may petition a court of competent jurisdiction to order that service upon the customer or the 10-day period provided in subsection 1 be waived or shortened. The court may issue the order upon a showing that the agency can reasonably infer from facts relevant to its investigation of the customer that a law subject to the agency's jurisdiction has been or is about to be violated. In granting a petition to waive service upon the customer, the court shall also order the agency to notify the customer in writing within a period determined by the court, but not to exceed ~~[60]~~ ~~*[120]*~~ ***90*** days. The notice shall specify the name of the agency in whose name the subpoena was issued, the financial records which were examined under the subpoena and the statutory purpose for which the information was obtained. The time of notification may be extended for additional ~~[30-day]~~ ~~*[60-day]*~~ ***45-day*** periods upon petition and good cause shown.

3. A court may order a financial institution to withhold notification to a customer of the receipt of the subpoena when the court issues an order under subsection 2 and if it finds that the notification would impede the investigation.

4. If a customer files a motion to quash the subpoena, the proceedings on the motion shall be afforded priority on the court calendar and the matter shall be heard within 10 days after the filing of the motion.

Sec. 10. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive. The license must bear a unique number assigned to the licensee pursuant to NRS 483.345, the licensee's social security number, if he has one, unless he requests that it not appear on the license, the name, date of birth, mailing address and a brief description of the licensee, and a space upon which the licensee shall write his usual signature in ink immediately upon receipt of the license. A license is not valid until it has been so signed by the licensee.

2. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in

undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations ***, criminal investigators employed by the Secretary of State while engaged in undercover investigations*** and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General ***, the Secretary of State or his designee*** or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

3. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to subsection 2 is confidential.

4. It is unlawful for any person to use a driver's license issued pursuant to subsection 2 for any purpose other than the special investigation for which it was issued.

5. At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to have indicated whether he wishes to donate $1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his driver's license.

6. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

7. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 5 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those

persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 11. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive.

2. The Department shall adopt regulations prescribing the information that must be contained on a driver's license.

3. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations ***, criminal investigators employed by the Secretary of State while engaged in undercover investigations*** and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General ***, the Secretary of State or his designee*** or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

4. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to subsection 3 is confidential.

5. It is unlawful for any person to use a driver's license issued pursuant to subsection 3 for any purpose other than the special investigation for which it was issued.

6. At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to have indicated whether he wishes to donate $1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this

paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his driver's license.

7. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

8. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 6 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 12. 1. This section and sections 1, 2, 3 and 5 to 10, inclusive, of this act become effective on July 1, 2009.

2. Section 4 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

3. Section 11 of this act becomes effective upon the later of:

(a) The effective date of the regulations issued by the Secretary of Homeland Security to implement the provisions of the Real ID Act of 2005; or

(b) The expiration of any extension of time granted to this State by the Secretary of Homeland Security to comply with the provisions of the Real ID Act of 2005.

Assemblyman Horne moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 101.

Motion carried by a constitutional majority.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 395 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 29, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 564.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 223, Amendment No. 963, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 418.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 910 to Senate Bill No. 188.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 947 to Senate Bill No. 182.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 418.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 92, 207, 555; Senate Bills Nos. 31, 78, 82, 92, 94, 124, 146, 152, 173, 190, 194, 239, 248, 267, 318, 376, 382, 396, 400, 401, 416, 422, 423, 424, 425 and 430.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Ed Jucevic, Virginia Durgin, and Michele C Beard.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperons from Huffacker Elementary School: Sandy Armentrout, Sienna Addison, Cierra Atchley, Will Barnard, Ryan Bauserman, Erin Bennett, Emily Block, Tony Bolin, Lilith Born, Clayton Buck, Jordan Calderon, Brandon Deaven-Clarke, Nicholas Clayton, Marissa Comcowich, Michael Davis, Bryce Denning, Justin Dhindsa, Catherine Kish, Elizabeth Kish, Isabelle Marting, Walter Marting, Lillian McIntyre, Jose Medina, Jessica Mueller, Jackson Pappas, Meaghan Pferschy, Elizabeth Phelan, Drew Rippingham, Angel Torres, Tyler Vetter, Krista Williams, Sara Coney, Benjamin Newberg, Beverly Blackson, Blake Gaston, Caroline Cartlidge, Elaina Meeker, Evan Moyle, Henry Ernaut, Jackson Hummel, Jasmine Carter, Johnathan Pilch, Johnathon Curatolo, Joseph Scolari, Joshua Acree,

Joshua Fleiner, Joshua Stoddard, Kalista Ganser, Madison Najima, Mallory Johnson, Marlee Parkin, McKain Murdock, Mia Sprau, Olivia Luchetti, Rachel Shumsky, Ranon Salinas, Razmig Malakian, Tanner Chappel, Tiffany Rubins, Will Hart, Zachery Seidel, Nicole Galinato and Steven George.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Hummel Elementary School: Merri Clark, Alexander Young, Dimitri Grigorov, Czarina Banzon, Grissel Oliveros, Sadie Backer, Alexander Beal, Adrianna Castellanos, Sami Cooksey, Samantha Cripe, Daniel Franco, Ethan Guse, Dennis Legaspi, Daniel Reyes, Mariah Ruiz, Michael Struemke, Alyssa Tiangco, Randyn Villanueva, Corey Wanamaker, Karley Darrington, Betty Parker, Dawn Young, Kimberly Lang, Elaina Dinesen, Dina Khaito, Ernelyn Samaniego, Mike Struemke and Rick Darrington.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Teresa Benitez.

Assemblyman Oceguera moved that the Assembly adjourn until Saturday, May 30, 2009, at 11 a.m. and that it do so in the memory of Page Porter.

Motion carried.

Assembly adjourned at 5:01 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly