

THE ONE HUNDRED AND TENTH DAY

CARSON CITY (Friday), May 27, 2011

Senate called to order at 1 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Norm Milz.

O Lord God, thank You for guiding us so far in this Legislative Session. Be with us as we diligently and thoughtfully consider all the issues before us today and act in the most positive way for the citizens of this State.

As we come into the last two weeks of the Session, the budget decisions loom before us. The deficit is large and the solutions to close that gap seem to be getting smaller. Guide us through the tough decisions that will need to be made to make this State solvent and continue to grow.

As the Senate, in union with the Assembly, keep us all focused on the growth of this State and the good of its citizens.

We lift up all these things to You and You alone, for only with You are all things possible. In the Name of Your Son, Jesus Christ.

AMEN.

Pledge of Allegiance to the Flag.

MOTIONS, RESOLUTIONS AND NOTICES

By Senators Horsford, Breeden, Brower, Cegavske, Copening, Denis, Gustavson, Halseth, Hardy, Kieckhefer, Kihuen, Lee, Leslie, Manendo, McGinness, Parks, Rhoads, Roberson, Schneider, Settlemeyer, Wiener; Assemblymen Mastroluca, Aizley, Anderson, Atkinson, Benitez-Thompson, Bobzien, Brooks, Bustamante Adams, Carlton, Carrillo, Conklin, Daly, Diaz, Dondero Loop, Ellison, Flores, Frierson, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Hogan, Horne, Kirkpatrick, Kirner, Kite, Livermore, McArthur, Munford, Neal, Ocegüera, Ohrenschall, Pierce, Segerblom, Sherwood, Smith, Stewart and Woodbury:

Senate Concurrent Resolution No. 13—Commending Casey Family Programs for its dedication in helping children and families across the nation.

WHEREAS, At any given time, there are nearly a half million children in foster care in the United States, many of whom have suffered abuse or severe neglect and are traumatized by circumstances beyond their control; and

WHEREAS, Jim Casey, the founder of United Parcel Service, always credited his mother Annie E. Casey with holding their family together after Jim's father died and realized that many children lacked the family life he knew to be crucial; and

WHEREAS, Jim Casey, along with his brothers George and Harry and sister Marguerite, created Casey Family Programs in 1966 to help children who are unable to live with their birth parents, giving those children stability and an opportunity to grow to responsible adulthood; and

WHEREAS, With field offices in five states, Casey Family Programs offers strategic consulting services to about half of the 50 states, including Nevada, provides state and federal lawmakers, counties and Native American tribes with nonpartisan research and technical expertise and assists in the crafting of policies and laws to improve the lives of at-risk children; and

WHEREAS, Approximately 270,000 adults incarcerated in America's prisons were once in foster care, and a child in foster care has a 25 percent chance of becoming homeless within

18 months after emancipation from care, is subject to posttraumatic stress disorder and often is not prepared to live on his or her own after transitioning from foster care; and

WHEREAS, Casey Family Programs has provided a unique tool to help youths combat these problems by creating the Casey Life Skills website, which offers online assessments with instant feedback, customized learning plans and learning resources, as well as information regarding career planning, daily living, housing and money management, social relationships, and work and study skills, to enable youths to get the life skills necessary not only to survive, but to thrive on their own; and

WHEREAS, As the nation's largest operating foundation focused entirely on foster care and improving the child welfare system, Casey Family Programs has invested more than \$1.6 billion in programs and services to benefit children and families in the child welfare system; and

WHEREAS, Over the next decade, Casey Family Programs will continue to invest to fulfill the 2020 Strategy: A Vision for America's Children, a plan for safely reducing the number of children in foster care by 50 percent, improving the lives of those who remain in foster care and ensuring that children who grow up in foster care are prepared for independent living and have equitable access to education, employment and mental health services; and

WHEREAS, Improving the future of the nation's children who are in foster care is a daunting task, but one that Casey Family Programs has taken on with fervor to protect and ensure the future of our children; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the members of the 76th Session of the Nevada Legislature hereby commend Casey Family Programs for its commitment to at-risk children and praise its dedication to improving the lives of children and families in the child welfare system; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Casey Family Programs.

Senator Horsford moved the adoption of the resolution.

Remarks by Senator Horsford.

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

I rise today to honor James E. Casey, a great Nevadan, a great businessman, and a great philanthropist. His life is one of America's most fascinating success stories.

Jim Casey's father, Henry Joseph Casey, was a poor Irish immigrant who came west in 1887 with his newlywed wife, Annie. Jim Casey was born on March 29, 1888, in Pickhandle Gulch, a mining camp near Candelaria, Nevada, where his father was employed as a quartz miner. After 1893, when Jim was about five years old, the development of the mines in Candelaria dried up, and the family moved on to Seattle, which was then the jumping off place for the Klondike gold rush, in hopes of finding a better life. Seattle was a rough town; there were many temptations and dangers for a young man. He always credited, by guidance and by example, his mother, who kept him safe and grounded. The family struggled with poverty and unemployment and then in 1902, when Jim was only 14 years old, his father died. As the eldest son, it fell to him and his mother to keep the family together.

Jim was forced to drop out of school to care for his mother and his younger siblings. At the age of 19, he borrowed \$100 from a friend and started American Messenger Service, a bicycle delivery company. The company's motto was "Best Service, Lowest Rates." He employed his brothers and friends as delivery boys. The company grew, and, a few years later, it changed its name to United Parcel Service and expanded its operations beyond Seattle and the rest, as they say, is history.

In 1966, along with his brothers, George and Henry, and his sister Marguerite, Jim Casey founded Casey Family Programs. Its object is to help children who are unable to live with both parents, to give them stability, and help them grow up to be responsible adults. Jim Casey always remembered the struggles of his teenaged years, growing up without a father on the rough streets of Seattle. He used his influence and his wealth to give other children the chance at a better future.

Nevada owes a great debt to Casey Family Programs. The organization has worked for many years with Nevada's Department of Health and Human Services, Clark County Family Services, Washoe County Family Services, Indian tribes, and other State and local agencies to improve the lives of thousands of children and families in our State.

The activities of Casey Family Programs in Nevada fall into three categories: first, strategic counseling, providing expertise and support to child welfare agencies in bettering the lives of children in foster care; second, public policy, building public support and political will to improve the child welfare and foster care system; and third, providing direct services such as high quality foster care, kinship care, and transition services for children and families.

I would like to share a few some specific examples of the programs that it has carried out in our State. I feel this is so important as we conclude our discussions on the State budget; it is partners like Casey Family Programs that help us bridge the gap in many ways. In the areas of helping child welfare tailor responses to meet family needs Casey Family Programs has supported our statewide "Differential Response" program aimed at providing helpful services to families as an alternative to child removal. Working to improve Indian child welfare through The Fostering Connections to Success and Increasing Adoptions Act of 2008 gives American Indian tribes the same access to federal child welfare funding that states currently receive. Casey Family Programs is working to help tribes use these additional federal dollars in the most efficient and effective ways possible to better support and serve children in foster care. Casey Family Programs facilitated a statewide workgroup that made recommendations to a subcommittee of the Nevada Legislature to reduce the number of children in foster care, a committee I was pleased to chair. Finally, Casey Family Programs supports the redesign of Clark County's Independent Living Program that provides youth aging out of foster care with resources and support related to education, employment and housing. It also supports the development of a group of young adults formerly in foster care that recommends changes in policies and laws to improve the foster care system. These are only a few of the examples of the great work the Casey Family Programs have done in our State and across the country. It is my honor to have them here with us today and to commend them on their work and investment in our children and families.

Resolution adopted.

Senator Horsford moved that all necessary rules be suspended and that Senate Concurrent Resolution No. 13 be immediately transmitted to the Assembly.

Motion carried unanimously.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was re-referred Senate Bill No. 231, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation as amended.

STEVEN A. HORSFORD, *Chair*

Mr. President:

Your Committee on Revenue, to which was referred Assembly Bill No. 504, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 26, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 489, 530, 531, 562.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 148, 247, 528, 529.

SUSAN FURLONG
Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Hardy moved to reconsider the vote whereby Assembly Bill No. 304 was lost.

Motion carried.

Senator Wiener moved that Senate Bill No. 208; Senate Joint Resolution No. 15; Assembly Bills Nos. 260, 299, 301, 410, be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Halseth.

Senator Halseth requested that her remarks be entered in the Journal.

Thank you, Mr. President. On May 20 and May 22, I rolled Assembly Bill No. 282 two times waiting for an amendment, which we received and passed unanimously. However, we waited four days, not including today, rolling Assembly Bill No. 410 for a possible amendment, and have yet to receive that. We are wondering why I was forced to put a bill on General File without an amendment while the majority party is continuing to roll a Republican bill without an amendment.

Motion carried on a division of the house

Remarks by Senator Horsford.

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

Thank you, Mr. President. I would like to respond to my colleague from Clark District No. 9. To be clear, the bills that have been rolled are not for partisan purposes. These are bills that were rolled that are on that list from the majority party in the other house as well. This is not about partisanship. We are in a deadline process. We do not have all of the technical amendments. We are trying to consider those bills that are ready to be considered. As every bill is ready, we will bring it up for a "yes" or "no" vote.

Senator Lee moved that Assembly Bill No. 265 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Halseth moved that Assembly Bill No. 198 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 148.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 247.

Senator Wiener moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 489.

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

Motion carried.

Assembly Bill No. 528.

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

Motion carried.

Assembly Bill No. 529.

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

Motion carried.

Assembly Bill No. 530.

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

Motion carried.

Assembly Bill No. 531.

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

Motion carried.

Assembly Bill No. 562.

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

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 98.

Bill read second time and ordered to third reading.

Assembly Bill No. 199.

Bill read second time.

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

Amendment No. 658.

"SUMMARY—Revises provisions governing the practice of pharmacy. (BDR 54-875)"

"AN ACT relating to the practice of pharmacy; revising provisions governing the authority of a registered pharmacist to collaborate with a practitioner for the implementation, monitoring and modification of drug

therapy; authorizing the State Board of Pharmacy to establish regulations relating to collaborative pharmacy practice; **revising provisions governing the use of the letters "Rx" and "RX" by certain persons; revising provisions relating to the authority of a registered pharmacist to possess and administer controlled substances and dangerous drugs under certain circumstances;** providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes a registered pharmacist to collaborate with a practitioner to engage in the implementation and modification of drug therapy for a patient at a licensed medical facility or licensed pharmacy. (NRS 639.0124) **Section 1** of this bill prescribes requirements for written guidelines and protocols which must be developed by a pharmacist who collaborates with a practitioner and requires those guidelines and protocols to be approved by the State Board of Pharmacy. **Section 1** also authorizes the written guidelines and protocols to set forth provisions for a pharmacist to implement, monitor and modify the drug therapy of a patient in **a medical facility or a setting ~~other than~~ that is affiliated with** a licensed medical facility. ~~for licensed pharmacy.~~ **Sections 10.3 and 10.7 of this bill revise the authority of a pharmacist to possess and administer controlled substances and dangerous drugs under certain circumstances for the care of a patient in accordance with the written guidelines and protocols developed pursuant to section 1.**

Existing law prohibits a person operating a business from using the letters "Rx" or "RX" if the person does not have a license from the Board. (NRS 639.230) Section 10 of this bill authorizes persons who are not subject to the laws governing the practice of pharmacy to use those letters if the person obtains approval from the Board.

A person who violates any provision of chapter 639 of NRS governing pharmacists and pharmacies, including any provision of this bill, is guilty of a misdemeanor. (NRS 639.310)

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

Section 1. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Written guidelines and protocols developed by a registered pharmacist in collaboration with a practitioner which authorize the implementation, monitoring and modification of drug therapy:

(a) May authorize a pharmacist to order and use the findings of laboratory tests and examinations.

(b) May provide for implementation, monitoring and modification of drug therapy for a patient receiving care ~~in~~ :

(1) In a licensed medical facility; or ~~if~~

(2) If developed to ensure continuity of care for a patient, in any setting ~~outside~~ that is affiliated with a medical facility where the patient is

receiving care. A pharmacist who modifies a drug therapy of a patient receiving care in a setting that is affiliated with a medical facility shall, within 72 hours after implementing or modifying the drug therapy, provide written notice of the implementation or modification of the drug therapy to the collaborating practitioner or enter the appropriate information concerning the drug therapy in an electronic patient record system shared by the pharmacist and the collaborating practitioner.

(c) Must state the conditions under which a prescription of a practitioner relating to the drug therapy of a patient may be changed by the pharmacist without a subsequent prescription from the practitioner.

(d) Must be approved by the Board.

2. The Board may adopt regulations which:

(a) Prescribe additional requirements for written guidelines and protocols developed pursuant to this section; and

(b) Set forth the process for obtaining the approval of the Board of such written guidelines and protocols.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 639.0124 is hereby amended to read as follows:

639.0124 "Practice of pharmacy" includes, but is not limited to, the:

1. Performance or supervision of activities associated with manufacturing, compounding, labeling, dispensing and distributing of a drug, including the receipt, handling and storage of prescriptions and other confidential information relating to patients.

2. Interpretation and evaluation of prescriptions or orders for medicine.

3. Participation in drug evaluation and drug research.

4. Advising of the therapeutic value, reaction, drug interaction, hazard and use of a drug.

5. Selection of the source, storage and distribution of a drug.

6. Maintenance of proper documentation of the source, storage and distribution of a drug.

7. Interpretation of clinical data contained in a person's record of medication.

8. Development of written guidelines and protocols in collaboration with a practitioner which are intended for a patient in a licensed medical facility ~~or in a setting outside~~ that is affiliated with a medical facility where the patient is receiving care and which authorize the implementation, monitoring and modification of drug therapy. The written guidelines and protocols ~~may authorize a pharmacist to order and use the findings of laboratory tests and examinations.~~ must comply with section 1 of this act.

9. Implementation and modification of drug therapy in accordance with the authorization of the prescribing practitioner for a patient in a pharmacy in which drugs, controlled substances, poisons, medicines or chemicals are sold at retail.

↪ The term does not include the changing of a prescription by a pharmacist or practitioner without the consent of the prescribing practitioner, except as otherwise provided in NRS 639.2583.

Sec. 10. NRS 639.230 is hereby amended to read as follows:

639.230 1. A person operating a business in this State shall not use ~~the~~ letters "Rx" or "RX" or the word "drug" or "drugs," "prescription" or "pharmacy," or similar words or words of similar import, without first having secured a license from the Board. **A person operating a business in this State which is not otherwise subject to the provisions of this chapter shall not use the letters "Rx" or "RX" without the approval of the Board. The Board must not unreasonably deny approval of the use of the letters "Rx" or "RX" by any person but may deny approval upon a determination that:**

(a) The person is subject to the provisions of this chapter but has not secured a license from the Board; or

(b) The use of the letters "Rx" or "RX" by the person is confusing or misleading to or threatens the health or safety of the residents of this State.

2. Each license must be issued to a specific person and for a specific location and is not transferable. The original license must be displayed on the licensed premises as provided in NRS 639.150. The original license and the fee required for reissuance of a license must be submitted to the Board before the reissuance of the license.

3. If the owner of a pharmacy is a partnership or corporation, any change of partners or corporate officers must be reported to the Board at such a time as is required by a regulation of the Board.

4. Except as otherwise provided in subsection 6, in addition to the requirements for renewal set forth in NRS 639.180, every person holding a license to operate a pharmacy must satisfy the Board that the pharmacy is conducted according to law.

5. Any violation of any of the provisions of this chapter by a managing pharmacist or by personnel of the pharmacy under the supervision of the managing pharmacist is cause for the suspension or revocation of the license of the pharmacy by the Board.

6. The provisions of this section do not prohibit ~~it~~ :

(a) A Canadian pharmacy which is licensed by the Board and which has been recommended by the Board pursuant to subsection 4 of NRS 639.2328 for inclusion on the Internet website established and maintained pursuant to subsection 9 of NRS 223.560 from providing prescription drugs through mail order service to residents of Nevada in the manner set forth in NRS 639.2328 to 639.23286, inclusive ~~it~~ ; or

(b) A registered pharmacist or practitioner from collaborating in the implementation, monitoring and modification of drug therapy pursuant to guidelines and protocols approved by the Board.

Sec. 10.3. NRS 453.026 is hereby amended to read as follows:

453.026 "Agent" means a pharmacist ~~or~~ who cares for a patient of a prescribing practitioner in a medical facility or in a setting that is affiliated with a medical facility where the patient is receiving care in accordance with written guidelines and protocols developed and approved pursuant to section 1 of this act, a licensed practical nurse or registered nurse who cares for a patient of a prescribing practitioner in a medical facility or an authorized person who acts on behalf of or at the direction of and is employed by a manufacturer, distributor, dispenser or prescribing practitioner. The term does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

Sec. 10.7. NRS 454.213 is hereby amended to read as follows:

454.213 A drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:

1. A practitioner.
2. A physician assistant licensed pursuant to chapter 630 or 633 of NRS, at the direction of his or her supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist.
3. Except as otherwise provided in subsection 4, a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practitioner of nursing, or pursuant to a chart order, for administration to a patient at another location.
4. In accordance with applicable regulations of the Board, a registered nurse licensed to practice professional nursing or licensed practical nurse who is:
 - (a) Employed by a health care agency or health care facility that is authorized to provide emergency care, or to respond to the immediate needs of a patient, in the residence of the patient; and
 - (b) Acting under the direction of the medical director of that agency or facility who works in this State.
5. Except as otherwise provided in subsection 6, an intermediate emergency medical technician or an advanced emergency medical technician, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:
 - (a) The State Board of Health in a county whose population is less than 100,000;
 - (b) A county board of health in a county whose population is 100,000 or more; or
 - (c) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.

6. An intermediate emergency medical technician or an advanced emergency medical technician who holds an endorsement issued pursuant to NRS 450B.1975, under the direct supervision of a local health officer or a designee of the local health officer pursuant to that section.

7. A respiratory therapist employed in a health care facility. The therapist may possess and administer respiratory products only at the direction of a physician.

8. A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.

9. A medical student or student nurse in the course of his or her studies at an approved college of medicine or school of professional or practical nursing, at the direction of a physician and:

(a) In the presence of a physician or a registered nurse; or

(b) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the drug or medicine outside the presence of a physician or nurse.

↳ A medical student or student nurse may administer a dangerous drug in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.

10. Any person designated by the head of a correctional institution.

11. An ultimate user or any person designated by the ultimate user pursuant to a written agreement.

12. A nuclear medicine technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

13. A radiologic technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

14. A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.

15. A physical therapist, but only if the drug or medicine is a topical drug which is:

(a) Used for cooling and stretching external tissue during therapeutic treatments; and

(b) Prescribed by a licensed physician for:

(1) Iontophoresis; or

(2) The transmission of drugs through the skin using ultrasound.

16. In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

17. A veterinary technician at the direction of his or her supervising veterinarian.

18. In accordance with applicable regulations of the Board, a registered pharmacist who:

(a) Is trained in and certified to carry out standards and practices for immunization programs;

(b) Is authorized to administer immunizations pursuant to written protocols from a physician; and

(c) Administers immunizations in compliance with the "Standards of Immunization Practices" recommended and approved by the United States Public Health Service Advisory Committee on Immunization Practices.

19. **A registered pharmacist pursuant to written guidelines and protocols developed and approved pursuant to section 1 of this act.**

20. A person who is enrolled in a training program to become a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

Sec. 11. This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 658 to Assembly Bill No. 199 revises the provisions that allow a pharmacist to collaborate with a physician on the implementation, monitoring and modification of drug therapy.

The amendment also authorizes a person operating a business which is not subject to regulation by the State Board of Pharmacy to use the letters "Rx" with the Board's permission as long as the use of the letters is not confusing or misleading and does not pose a threat to public health or safety.

I brought this amendment to our Committee because during the last interim it was brought to my attention by a constituent who owns "Rx Realty" in Las Vegas that he was ordered to cease and desist by the Pharmacy Board because he used the designation "Rx" in realty. It did not seem right to me. We sent letters to the Pharmacy Board. They agreed that it was a broad interpretation of "pharmacy" so they pulled back and suggested I approach this with an adjustment to the law this Session. We have the "Rx Rehab Lounge" in Las Vegas and other entities that use the term "Rx" in their name. This is not a confusing term. It is not one that would cause a person to think they were going to the establishment to get a prescription filled.

The Pharmacy Board is okay with this amendment as is the prime sponsor of the bill in the Assembly.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 223.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 694.

"SUMMARY—Makes various changes concerning the execution on property of a judgment debtor or defendant. (BDR 2-989)"

"AN ACT relating to civil actions; providing that a certain amount of money held in a personal bank account that is likely to be exempt from execution is not subject to a writ of execution or garnishment ~~¶~~ **except in certain circumstances**; providing a procedure to execute on property held in a safe-deposit box; revising the procedure for claiming an exemption from execution on certain property; making various other changes to provisions governing writs of execution, attachment and garnishment; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows a judgment creditor to obtain a writ of execution, attachment or garnishment to levy on the property of a judgment debtor or defendant in certain circumstances. (Chapters 21 and 31 of NRS) Certain property, however, is exempt from execution and therefore cannot be the subject of such a writ. (NRS 21.090) **Section 3** of this bill provides that a certain amount of money held in the personal bank account of a judgment debtor which is likely to be exempt from execution is not subject to a writ of execution or garnishment and must remain accessible to the judgment debtor ~~¶~~ **except in certain circumstances**. **Section 3** further provides immunity from liability to a financial institution which makes an incorrect determination concerning whether money is subject to execution. **Section 4** of this bill provides that notwithstanding the provisions of **section 3**, if a judgment debtor has personal bank accounts in more than one financial institution, the writ may attach to all money in those accounts. The judgment debtor then may claim any exemption that may apply.

Section 5 of this bill provides that a separate writ must be issued to levy on property in a safe-deposit box and provides a procedure for executing on such a writ.

Section 5.5 of this bill revises the form for a writ of execution issued on a judgment for the recovery of money to include notice on the form to financial institutions of whether the judgment is for the recovery of money for the support of a person.

Section 7 of this bill provides additional exemptions from execution which are provided by Nevada law.

Section 8 of this bill revises the procedures for claiming an exemption from execution, and for objecting to such a claim of exemption. **Sections 6 and 10** of this bill revise the notice that is provided to a judgment debtor or defendant when a writ of execution, attachment or garnishment is levied on the property of the judgment debtor or defendant so that the procedures listed in the notice reflect the changes made in **section 8**. **Sections 6 and 10** further revise the notice to provide additional information concerning the claiming of exemptions.

Sections 2 and 9 of this bill clarify that a constable has authority to perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff with respect to a writ of execution, garnishment or attachment.

Section 11 of this bill revises the interrogatories that are used with a writ of execution, attachment or garnishment to clarify the manner of determining the earnings which must be identified as subject to execution and to provide specific questions for a bank to conform to the new provisions in **section 3**.

Section 12 of this bill requires the judgment creditor who caused a writ of attachment to issue to prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days providing information about the debt and the rights of the debtor. The accounting must also be submitted with each subsequent application for a writ filed by the judgment creditor concerning the same judgment.

Section 13 of this bill provides that the fee for receiving, removing and taking care of property on execution, attachment or court order collected by a constable is not payable in advance.

Section 14 of this bill provides that certain unemployment benefits are exempt from execution regardless of whether they are mingled with other money.

Section 15 of this bill repeals NRS 21.114 concerning the submission of sureties to the jurisdiction of the court because the requirement for an undertaking requiring a surety is removed in **section 8**.

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

Section 1. Chapter 21 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of execution or garnishment.*

Sec. 3. 1. *If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account, \$2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to*

the judgment debtor. For the purposes of this section, money is reasonably identifiable as exempt from execution if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation, money deposited as:

(a) Benefits provided pursuant to the Social Security Act which are exempt from execution pursuant to 42 U.S.C. §§ 407 and 1383, including, without limitation, retirement and survivors' benefits, supplemental security income benefits, disability insurance benefits and child support payments that are processed pursuant to Part D of Title IV of the Social Security Act;

(b) Veterans' benefits which are exempt from execution pursuant to 38 U.S.C. § 5301;

(c) Annuities payable to retired railroad employees which are exempt from execution pursuant to 45 U.S.C. § 231m;

(d) Benefits provided for retirement or disability of federal employees which are exempt from execution pursuant to 5 U.S.C. §§ 8346 and 8470;

(e) Annuities payable to retired members of the Armed Forces of the United States and to any surviving spouse or children of such members which are exempt from execution pursuant to 10 U.S.C. §§ 1440 and 1450;

(f) Payments and allowances to members of the Armed Forces of the United States which are exempt from execution pursuant to 37 U.S.C. § 701;

(g) Federal student loan payments which are exempt from execution pursuant to 20 U.S.C. § 1095a;

(h) Wages due or accruing to merchant seamen which are exempt from execution pursuant to 46 U.S.C. § 11109;

(i) Compensation or benefits due or payable to longshore and harbor workers which are exempt from execution pursuant to 33 U.S.C. § 916;

(j) Annuities and benefits for retirement and disability of members of the foreign service which are exempt from execution pursuant to 22 U.S.C. § 4060;

(k) Compensation for injury, death or detention of employees of contractors with the United States outside the United States which is exempt from execution pursuant to 42 U.S.C. § 1717;

(l) Assistance for a disaster from the Federal Emergency Management Agency which is exempt from execution pursuant to 44 C.F.R. § 206.110;

(m) Black lung benefits paid to a miner or a miner's surviving spouse or children pursuant to 30 U.S.C. § 922 or 931 which are exempt from execution; and

(n) Benefits provided pursuant to any other federal law.

2. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and the provisions of subsection 1 do not apply, \$1,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor ~~ff~~

unless the writ of execution or garnishment is for the recovery of money owed for the support of any person.

3. If a judgment debtor has more than one personal bank account with the bank to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 or 2, as applicable.

4. A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a personal bank account which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2.

5. If money in the personal account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2 includes exempt and nonexempt money, the judgment debtor may claim an exemption for the exempt money in the manner set forth in NRS 21.112. To determine whether such money in the account is exempt, the judgment creditor must use the method of accounting which applies the standard that the first money deposited in the account is the first money withdrawn from the account. The court may require a judgment debtor to provide statements from the bank which include all deposits into and withdrawals from the account for the immediately preceding 90 days.

6. A financial institution which makes a reasonable effort to determine whether money in the account of a judgment debtor is subject to execution for the purposes of this section is immune from civil liability for any act or omission with respect to that determination, including, without limitation, when the financial institution makes an incorrect determination after applying commercially reasonable methods for determining whether money in an account is exempt because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified the source of the money. If a court determines that a financial institution failed to identify that money in an account was not subject to execution pursuant to this section, the financial institution must adjust its actions with respect to a writ of execution as soon as possible but may not be held liable for damages.

7. Nothing in this section requires a financial institution to revise its determination about whether money is exempt, except by an order of a court.

Sec. 4. 1. Notwithstanding the provisions of section 3 of this act, if a judgment debtor has a personal bank account in more than one financial institution, the judgment creditor is entitled to an order from the court to be issued with the writ of execution or garnishment which states that all money held in all such accounts of the judgment debtor that are identified in the application for the order are subject to the writ.

2. *A judgment creditor may apply to the court for an order pursuant to subsection 1 by submitting a signed affidavit which identifies each financial institution in which the judgment debtor has a personal account.*

3. *A judgment debtor may claim an exemption for any exempt money in the account to which the writ attaches in the manner set forth in NRS 21.112.*

Sec. 5. 1. *If a writ of execution or garnishment is levied on property in a safe-deposit box maintained at a financial institution, a separate writ must be issued from any writ that is issued to levy on an account of the judgment debtor with the financial institution. Notice of the writ must be served personally on the financial institution and promptly thereafter on any third person who is named on the safe-deposit box.*

2. *During the period in which the writ of execution or garnishment is in effect, the financial institution must not allow the contents of the safe-deposit box to be removed other than as directed by the sheriff or by court order.*

3. *The sheriff may allow the person in whose name the safe-deposit box is held to open the safe-deposit box so that the contents may be removed pursuant to the levy. The financial institution may refuse to allow the forcible opening of the safe-deposit box to allow the removal of the property levied upon unless the judgment creditor pays in advance the cost of forcibly opening the safe-deposit box and of repairing any damage caused thereby.*

Sec. 5.5. NRS 21.025 is hereby amended to read as follows:

21.025 A writ of execution issued on a judgment for the recovery of money must be substantially in the following form:

(Title of the Court)

(Number and abbreviated title of the case)

EXECUTION

THE PEOPLE OF THE STATE OF NEVADA:

To the sheriff of County.

Greetings:

To FINANCIAL INSTITUTIONS: This judgment is for the recovery of money for the support of a person.

On ...(month)...(day)...(year), a judgment was entered by the above-entitled court in the above-entitled action in favor of as judgment creditor and against as judgment debtor for:

- \$..... principal,
- \$..... attorney's fees,
- \$..... interest, and
- \$..... costs, making a total amount of
- \$..... the judgment as entered, and

WHEREAS, according to an affidavit or a memorandum of costs after judgment, or both, filed herein, it appears that further sums have accrued since the entry of judgment, to wit:

\$..... accrued interest, and
\$..... accrued costs, together with \$.... fee, for the issuance of this writ, making a total of
\$..... as accrued costs, accrued interest and fees.

Credit must be given for payments and partial satisfactions in the amount of \$.....

which is to be first credited against the total accrued costs and accrued interest, with any excess credited against the judgment as entered, leaving a net balance of

\$.....

actually due on the date of the issuance of this writ, of which

\$.....

bears interest at percent per annum, in the amount of \$.... per day, from the date of judgment to the date of levy, to which must be added the commissions and costs of the officer executing this writ.

NOW, THEREFORE, SHERIFF OF COUNTY, you are hereby commanded to satisfy this judgment with interest and costs as provided by law, out of the personal property of the judgment debtor, except that for any workweek, 75 percent of the disposable earnings of the debtor during that week or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater, is exempt from any levy of execution pursuant to this writ, and if sufficient personal property cannot be found, then out of the real property belonging to the debtor in the aforesaid county, and make return to this writ within not less than 10 days or more than 60 days endorsed thereon with what you have done.

Dated: This day of the month of of the year

....., Clerk.

By....., Deputy Clerk.

Sec. 6. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to (name of person), the judgment creditor. The judgment creditor has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the

federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

↳ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you

may be eligible for assistance through (name of organization in county providing legal services to indigent or elderly persons). ***If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.***

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court ~~a notarized affidavit claiming the~~ ***an executed claim of exemption***. A copy of the ~~affidavit~~ ***claim of exemption*** must be served upon the sheriff, ***the garnishee*** and the judgment creditor within ~~8~~ ***20 calendar days*** after the notice of execution ***or garnishment*** is ~~mailed~~ ***served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.*** The property must be ~~returned to you~~ ***released by the garnishee or the sheriff*** within ~~5~~ ***9 judicial days*** after you ~~file~~ ***serve*** the ~~affidavit~~ ***claim of exemption upon the sheriff, garnishee and judgment creditor***, unless ~~you or the judgment creditor files a motion~~ ***the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice*** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The ~~motion~~ ***objection to the claim of exemption and notice*** for the hearing to determine the issue of exemption must be filed within ~~10~~ ***8 judicial days*** after the ~~affidavit claiming~~ ***claim of exemption*** is ~~filed~~ ***served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.*** The hearing to determine whether the property or money is exempt must be held within ~~10~~ ***7 judicial days*** after the ~~motion~~ ***objection to the claim of exemption and notice*** for the hearing is filed. ***You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.***

IF YOU DO NOT FILE THE ~~AFFIDAVIT~~ ***EXECUTED CLAIM OF EXEMPTION*** WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 7. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed \$5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed \$12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed \$4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed \$10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding \$4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed \$15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed \$15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the \$15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed \$550,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed \$500,000 in present value, held in:

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without

limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed \$1,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A beneficial interest in the trust as defined in NRS 163.4145 if the interest has not been distributed;

(2) A remainder interest in the trust as defined in NRS 163.416 if the trust does not indicate that the remainder interest is certain to be distributed within 1 year after the date on which the instrument that creates the remainder interest becomes irrevocable;

(3) A discretionary interest in the trust as described in NRS 163.4185 if the interest has not been distributed;

(4) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been distributed or transferred;

(5) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been distributed or transferred;

(6) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been distributed or transferred; and

(7) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

(dd) If a trust contains a spendthrift provision:

(1) A mandatory interest in the trust as described in NRS 163.4185 if the interest has not been distributed;

(2) Notwithstanding a beneficiary's right to enforce a support interest, a support interest in the trust as described in NRS 163.4185 if the interest has not been distributed; and

(3) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 8. NRS 21.112 is hereby amended to read as follows:

21.112 1. In order to claim exemption of any property levied on ~~it~~ pursuant to this section, the judgment debtor must, within ~~8~~ 20 calendar days after the notice ~~prescribed in NRS 21.075 is mailed,~~ of a writ of execution or garnishment is served on the judgment debtor by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on, serve on the sheriff, the garnishee and the judgment creditor and file with the clerk of the court issuing the writ of execution ~~an affidavit setting out~~ the judgment debtor's claim of exemption ~~it~~ which is executed in the manner set forth in NRS 53.045. If the property that is levied on is the earnings of the judgment debtor, the judgment debtor must file the claim of exemption pursuant to this subsection within 20 calendar days after the date of each withholding of the judgment debtor's earnings.

2. The clerk of the court shall provide the form for the ~~affidavit~~:

~~2. When the affidavit is served, the sheriff shall release the property if the judgment creditor, within 5 days after written demand by the sheriff:~~

~~(a) Fails to give the sheriff an undertaking executed by two good and sufficient sureties which:~~

~~(1) Is in a sum equal to double the value of the property levied on; and~~

~~(2) Indemnifies the judgment debtor against loss, liability, damages, costs and attorney's fees by reason of the taking, withholding or sale of the property by the sheriff; or~~

~~(b) Fails to file a motion for a hearing to determine whether the property or money is exempt.~~

~~The clerk of the court shall provide the form for the motion.~~

~~3. At the time of giving the sheriff the undertaking provided for in subsection 2, the judgment creditor shall give notice of the undertaking to the judgment debtor.~~

~~4. It shall be the duty of the judgment creditor to file with the court a claim of exemption and shall further provide with the form instructions concerning the manner in which to claim an exemption, a checklist and description of the most commonly claimed exemptions, instructions concerning the manner in which the property must be released~~

to the judgment debtor if no objection to the claim of exemption is filed and an order to be used by the court to grant or deny an exemption. No fee may be charged for providing such a form or for filing the form with the court.

3. An objection to the claim of exemption and notice for a hearing must be filed with the court within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee. The judgment creditor shall also serve notice of the date of the hearing on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.

4. If an objection to the claim of exemption and notice for a hearing are not filed within 8 judicial days after the claim of exemption has been served, the property of the judgment debtor must be released by the person who has control or possession over the property in accordance with the instructions set forth on the form for the claim of exemption provided pursuant to subsection 2 within 9 judicial days after the claim of exemption has been served.

5. The sheriff is not liable to the judgment debtor for damages by reason of the taking, withholding or sale of any property ~~if~~ where ~~if~~

~~*(a) No affidavit claiming a claim of exemption is not served on the sheriff. ~~if~~ or*~~

~~*(b) An affidavit claiming exemption is served on the sheriff, but the sheriff fails to release the property in accordance with this section.*~~

~~*5. **6.** Unless the court continues the hearing for good cause shown, the hearing on an objection to a claim of exemption to determine whether the property or money is exempt must be held within ~~10~~ 7 judicial days after the ~~motion~~ objection to the claim and notice for ~~the~~ a hearing is filed.*~~

~~*6. The judgment creditor shall give the judgment debtor at least 5 days' notice of the hearing. The judgment debtor has the burden to prove that he or she is entitled to the claimed exemption at such a hearing. After determining whether the judgment debtor is entitled to an exemption, the court shall mail a copy of the order to the judgment debtor, the judgment creditor, any other named party, the sheriff and any garnishee.*~~

7. If the sheriff or garnishee does not receive a copy of a claim of exemption from the judgment debtor within 25 calendar days after the property is levied on, the garnishee must release the property to the sheriff or, if the property is held by the sheriff, the sheriff must release the property to the judgment creditor.

8. At any time after:

(a) An exemption is claimed pursuant to this section, the judgment debtor may withdraw the claim of exemption and direct that the property be released to the judgment creditor.

(b) An objection to a claim of exemption is filed pursuant to this section, the judgment creditor may withdraw the objection and direct that the property be released to the judgment debtor.

9. The provisions of this section do not limit or prohibit any other remedy provided by law.

10. In addition to any other procedure or remedy authorized by law, a person other than the judgment debtor whose property is the subject of a writ of execution or garnishment may follow the procedures set forth in this section for claiming an exemption to have the property released.

11. A judgment creditor shall not require a judgment debtor to waive any exemption which the judgment debtor is entitled to claim.

Sec. 9. Chapter 31 of NRS is hereby amended by adding thereto a new section to read as follows:

A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of attachment.

Sec. 10. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

↪ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR

YOUR WAGES ARE BEING GARNISHED

Plaintiff, (name of person), alleges that you owe the plaintiff money. The plaintiff has begun the procedure to collect that money. To secure satisfaction of judgment, the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue

Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

↪ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to the indigent or elderly persons). ***If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.***

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk ~~to~~ ***an executed claim of exemption***. A copy of the ~~affidavit~~ ***claim of exemption*** must be served upon the sheriff, ***the garnishee*** and the judgment creditor within ~~18~~ ***20 calendar*** days after the notice of execution ***or garnishment*** is ~~mailed~~ ***served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.*** The property

must be ~~returned to you~~ **released by the garnishee or the sheriff** within ~~{5}~~ **9 judicial** days after you ~~file~~ **serve the ~~{affidavit}~~ claim of exemption upon the sheriff, garnishee and judgment creditor**, unless the ~~judgment creditor files a motion~~ **sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. **The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.** The hearing must be held within ~~{10}~~ **7 judicial** days after the ~~{motion}~~ **objection to the claim of exemption and notice** for a hearing is filed. **You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.**

IF YOU DO NOT FILE THE ~~{AFFIDAVIT}~~ **EXECUTED CLAIM OF EXEMPTION** WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 11. NRS 31.290 is hereby amended to read as follows:

31.290 1. The interrogatories to **be submitted with any writ of execution, attachment or garnishment** to the garnishee may be in substance as follows:

INTERROGATORIES

Are you in any manner indebted to the defendants

.....

or either of them, either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars.

Answer:

.....

Are you an employer of one or all of the defendants? If so, state the length of your pay period and the amount of disposable earnings, as defined in NRS 31.295, that each defendant presently earns during a pay period. State the minimum amount of disposable earnings that is exempt from this garnishment, which is the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable multiplied by 50 for each week of the pay period, after deducting any amount required by law to be withheld.

Calculate the attachable amount as follows:

(Check one of the following) The employee is paid:

[A] Weekly: ___ [B] Biweekly: ___ [C] Semimonthly: ___ [D] Monthly: ___

(1) Gross Earnings \$ _____

(2) Deductions required by law (not including child support) \$ _____

(3) Disposable Earnings [Subtract line 2 from line 1] \$ _____

(4) Federal Minimum Wage \$ _____

(5) Multiply line 4 by 50 \$ _____

(6) Complete the following directions in accordance with the letter selected above:

[A] Multiply line 5 by 1 \$ _____

[B] Multiply line 5 by 2 \$ _____

[C] Multiply line 5 by 52 and then divide by 24 \$ _____

[D] Multiply line 5 by 52 and then divide by 12 \$ _____

(7) Subtract line 6 from line 3 \$ _____

This is the attachable earnings. This amount must not exceed 25% of the disposable earnings from line 3.

Answer:

.....

Did you have in your possession, in your charge or under your control, on the date the writ of garnishment was served upon you, any money, property, effects, goods, chattels, rights, credits or choses in action of the defendants, or either of them, or in whichis interested? If so, state its value, and state fully all particulars.

Answer:

.....

Do you know of any debts owing to the defendants, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to or in whichis interested, and now in the possession or under the control of others? If so, state particulars.

Answer:

Are you a financial institution with a personal account held by one or all of the defendants? If so, state the account number and the amount of money in the account which is subject to garnishment. As set forth in section 3 of this act, \$2,000 or the entire amount in the account, whichever is less, is not subject to garnishment if the financial institution reasonably identifies that an electronic deposit of money has been made into the account within the immediately preceding 45 days which is exempt from execution, including, without limitation, payments of money described in section 3 of this act or, if no such deposit has been made, \$1,000 or the entire amount in the account, whichever is less, is not subject to garnishment. The amount which is not subject to garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount that is not subject to garnishment.

Answer:

State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.

Answer:

Garnishee

I (insert the name of the garnishee), ~~do solemnly swear (or affirm)~~ **declare under penalty of perjury** that the answers to the foregoing interrogatories by me subscribed are true ~~+~~ **and correct.**

.....
(Signature of garnishee)

~~{SUBSCRIBED and SWORN to before me this day of the month of of the year}~~

2. The garnishee shall answer the interrogatories in writing upon oath or affirmation and submit the answers to the sheriff within the time required by the writ. **The garnishee shall submit his or her answers to the judgment debtor within the same time.** If the garnishee fails to do so, the garnishee shall be deemed in default.

Sec. 12. NRS 31.296 is hereby amended to read as follows:

31.296 1. Except as otherwise provided in subsection 3, if the garnishee indicates in the garnishee's answer to garnishee interrogatories that the garnishee is the employer of the defendant, the writ of garnishment

served on the garnishee shall be deemed to continue for 120 days or until the amount demanded in the writ is satisfied, whichever occurs earlier.

2. In addition to the fee set forth in NRS 31.270, a garnishee is entitled to a fee from the plaintiff of \$3 per pay period, not to exceed \$12 per month, for each withholding made of the defendant's earnings. This subsection does not apply to the first pay period in which the defendant's earnings are garnished.

3. If the defendant's employment by the garnishee is terminated before the writ of garnishment is satisfied, the garnishee:

(a) Is liable only for the amount of earned but unpaid, disposable earnings that are subject to garnishment.

(b) Shall provide the plaintiff or the plaintiff's attorney with the last known address of the defendant and the name of any new employer of the defendant, if known by the garnishee.

4. *The judgment creditor who caused the writ of attachment to issue pursuant to NRS 31.013 shall prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days which sets forth, without limitation, the amount owed by the judgment debtor, the costs and fees allowed pursuant to NRS 18.160 and any accrued interest and costs on the judgment. The report must advise the judgment debtor of the judgment debtor's right to request a hearing pursuant to NRS 18.110 to dispute any accrued interest, fee or other charge. The judgment creditor must submit this accounting with each subsequent application for writ made by the judgment creditor concerning the same debt.*

Sec. 13. NRS 258.230 is hereby amended to read as follows:

258.230 Except with respect to the ~~fees~~ **fees** described in ~~paragraph~~ **paragraphs (a) and (d)** of subsection 2 of NRS 258.125, all fees prescribed in this chapter shall be payable in advance, if demanded. If a constable shall not have received any or all of his or her fees, which may be due the constable for services rendered by him or her in any suit or proceedings, the constable may have execution therefor in his or her own name against the party or parties from whom they are due, to be issued from the court where the action is pending, upon the order of the justice of the peace or court upon affidavit filed.

Sec. 14. NRS 612.710 is hereby amended to read as follows:

612.710 Except as otherwise provided in NRS 31A.150:

1. Any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this chapter is void, except for a voluntary assignment of benefits to satisfy an obligation to pay support for a child.

2. Benefits are exempt from levy, execution, attachment, or any other remedy provided for the collection of debt. Benefits received by any person ~~if they are not mingled with other money of the recipient,~~ are exempt from any remedy for the collection of all debts, except debts incurred for

necessaries furnished to the person or the person's spouse or dependents during the time when the person was unemployed.

3. Any other waiver of any exemption provided for in this section is void.

Sec. 15. NRS 21.114 is hereby repealed.

TEXT OF REPEALED SECTION

21.114 Sureties: Submission to jurisdiction of court; exceptions to sufficiency and justification.

1. By entering into any undertaking provided for in NRS 21.112, the sureties thereunder submit themselves to the jurisdiction of the court and irrevocably appoint the clerk of the court as agent upon whom any papers affecting liability on the undertaking may be served. Liability on such undertaking may be enforced on motion to the court without the necessity of an independent action. The motion and such reasonable notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.

2. Exceptions to the sufficiency of the sureties and their justification may be had and taken in the same manner as upon an undertaking given in other cases under titles 2 and 3 of NRS. If they, or others in their place, fail to justify at the time and place appointed, the sheriff must release the property; but if no exception is taken within 5 days after notice of receipt of the undertaking, the judgment debtor shall be deemed to have waived any and all objections to the sufficiency of the sureties.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

The amendment clarifies that the \$1,000 exemption from a writ of execution does not apply to certain court orders, such as those for support of any person including, for example, child support. To that end, the amendment also revises the form for a writ of execution to include notice to financial institutions of whether the judgment is for the recovery of money for the support of a person.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 240.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 764.

"SUMMARY—Revises provisions governing contracts for services entered into by certain public employers. (BDR 23-149)"

"AN ACT relating to public agencies; revising the restrictions on contracts with or employment of former or current state employees by a state agency; **providing certain exceptions**; requiring state agencies to report all contracts for services as part of the budget process; requiring that a contractor with a

state agency be in active and good standing with the Secretary of State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law restricts the employment of consultants by public agencies and requires the approval of certain contracts with consultants by the Interim Finance Committee. (NRS 284.1729) **Section 1** of this bill expands those restrictions to apply to all contracts to provide services to state agencies, revises the exceptions to the restrictions and requires approval of the State Board of Examiners rather than the Interim Finance Committee of contracts subject to the restrictions. **Section 1** also prohibits a state agency from entering into a contract with a person for services without ensuring that the person is in active and good standing with the Secretary of State. **Section 1 also provides that certain provisions governing state purchasing apply to such contracts.** **Section 2** of this bill requires state agencies to report all contracts for services as part of the budget process instead of only reporting contracts with consultants and temporary employment services. **Section 3** moves the reporting requirements for school districts regarding consultants to the chapter which specifically governs school districts.

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

Section 1. NRS 284.1729 is hereby amended to read as follows:

284.1729 1. Except as otherwise provided in this section, a department, division or other agency of this State shall not ~~employ, by~~ **enter into a contract ~~for otherwise,~~ with a person to provide services ~~as a consultant,~~** for the agency if:

- (a) The person is a current employee of an agency of this State;
- (b) The person is a former employee of an agency of this State and less than ~~1 year has~~ **2 years have** expired since the termination of the person's employment with the State;
- (c) Except as otherwise provided in paragraph (d), the term of the contract is for more than 2 years, or is amended or otherwise extended beyond 2 years; or
- (d) The person is employed by the Department of Transportation for a transportation project that is ~~federally~~ **entirely funded by federal money** and the term of the contract is for more than 4 years, ~~for is amended or otherwise extended beyond 4 years,~~

~~↪ unless, before the ~~person is employed,~~ contract is executed~~ by the agency, the ~~Interim Finance Committee~~ **State Board of Examiners** approves the employment of the person. ***The requirements of this subsection apply to any person employed by a business or other entity that enters into a contract to provide services for a department, division or agency of this State if the person will be performing or producing the services for which the business or entity is employed.***

2. The provisions of paragraph (b) of subsection 1 apply to employment through a temporary employment service. A temporary employment service

providing employees for a state agency shall provide the agency with the names of the employees to be provided to the agency. The ~~Interim Finance Committee~~ **State Board of Examiners** shall not approve ~~the employment of a consultant~~ **a contract** pursuant to paragraph (b) of subsection 1 unless the ~~Interim Finance Committee~~ **Board** determines that one or more of the following circumstances exist:

(a) The person provides services that are not provided by any other employee of the agency or for which a critical labor shortage exists; or

(b) A short-term need or unusual economic circumstance exists for the agency to ~~employ~~ **contract with** the person. ~~as a consultant.~~

3. A department, division or other agency of this State may ~~employ~~ **contract with** a person pursuant to paragraph (a) or (b) of subsection 1 without obtaining the approval of the ~~Interim Finance Committee~~ **State Board of Examiners** if the term of ~~employment~~ **the contract** is for less than 4 months and the executive head of the department, division or agency determines that an emergency exists which necessitates the ~~employment.~~ **contract**. If a department, division or agency ~~employs~~ **contracts with** a person pursuant to this subsection, the department, division or agency shall ~~include in the report to the~~ ~~Interim Finance Committee~~ ~~State Board of Examiners pursuant to subsection 4~~ **submit a copy of the contract and a description of the emergency, to the State Board of Examiners, which shall review the contract and the description of the emergency and notify the department, division or agency whether the State Board of Examiners would have approved the contract if it had not been entered into pursuant to this subsection.**

4. Except as otherwise provided in subsection ~~7,~~ ~~8,~~ **9**, a department, division or other agency of this State shall **, not later than 10 days after the end of each fiscal quarter,** report to the Interim Finance Committee ~~whenever it~~ ~~employs, by contract or otherwise,~~ **concerning all contracts** ~~with a person~~ to provide services ~~as a consultant~~ for the agency **that were entered into by the agency during the fiscal quarter with a person** who is a **current or** former employee of a department, division or other agency of this State.

5. Except as otherwise provided in subsection ~~7,~~ ~~8,~~ **9**, a department, division or other agency of this State shall not contract with a temporary employment service unless the contracting process is controlled by rules of open competitive bidding.

6. Each board or commission of this State ~~each school district in this State~~ and each institution of the Nevada System of Higher Education that employs a consultant shall, at least once every 6 months, submit to the Interim Finance Committee a report setting forth:

(a) The number of consultants employed by the board, commission ~~school district~~ or institution;

(b) The purpose for which the board, commission ~~school district~~ or institution employs each consultant;

(c) The amount of money or other remuneration received by each consultant from the board, commission ~~[-school district]~~ or institution; and

(d) The length of time each consultant has been employed by the board, commission ~~[-school district]~~ or institution.

7. A department, division or other agency of this State, including a board or commission of this State and each institution of the Nevada System of Higher Education, shall not enter into a contract with a person to provide services without ensuring that the person is in active and good standing with the Secretary of State.

8. The provisions of chapter 333 of NRS that are not in conflict or otherwise inconsistent with this section apply to a contract entered into pursuant to this section.

9. The provisions of subsections 1 to 5, inclusive, do not apply to : ~~the-~~

(a) **The** Nevada System of Higher Education or a board or commission of this State.

(b) ~~Employment~~ **The employment** of professional engineers by the Department of Transportation if those engineers are employed for a transportation project that is ~~federally funded.~~

~~8. For the purposes of this section, "consultant" includes any person employed by a business or other entity that is providing consulting services if the person will be performing or producing the work for which the business or entity is employed.~~ **entirely funded by federal money.**

(c) Contracts in the amount of \$1 million or more entered into:

(1) Pursuant to the State Plan for Medicaid established pursuant to NRS 422.271.

(2) For financial services.

(3) Pursuant to the Public Employees' Benefits Program.

(d) The employment of a person by a business or entity which is a provider of services under the State Plan for Medicaid and which provides such services on a fee-for-service basis or through managed care.

Sec. 2. NRS 353.210 is hereby amended to read as follows:

353.210 1. Except as otherwise provided in subsection 6, on or before September 1 of each even-numbered year, all departments, institutions and other agencies of the Executive Department of the State Government, and all agencies of the Executive Department of the State Government receiving state money, fees or other money under the authority of the State, including those operating on money designated for specific purposes by the Nevada Constitution or otherwise, shall prepare, on blanks furnished them by the Chief, and submit to the Chief:

(a) The number of positions within the department, institution or agency that have been vacant for at least 12 months, the number of months each such position has been vacant and the reasons for each such vacancy;

(b) Any existing contracts **for services** the department, institution or agency has with ~~consultants or~~ temporary employment services ~~[-]~~ **or other**

persons, the proposed expenditures for such contracts in the next 2 fiscal years and the reasons for the use of such ~~consultants or~~ services; and

(c) Estimates of their expenditure requirements, together with all anticipated income from fees and all other sources, for the next 2 fiscal years compared with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year.

2. The Chief shall direct that one copy of the forms submitted pursuant to subsection 1, accompanied by every supporting schedule and any other related material, be delivered directly to the Fiscal Analysis Division of the Legislative Counsel Bureau on or before September 1 of each even-numbered year.

3. The Budget Division of the Department of Administration shall give advance notice to the Fiscal Analysis Division of the Legislative Counsel Bureau of any conference between the Budget Division of the Department of Administration and personnel of other state agencies regarding budget estimates. A Fiscal Analyst of the Legislative Counsel Bureau or his or her designated representative may attend any such conference.

4. The estimates of expenditure requirements submitted pursuant to subsection 1 must be classified to set forth the data of funds, organizational units, and the character and objects of expenditures, and must include a mission statement and measurement indicators for each program. The organizational units may be subclassified by functions and activities, or in any other manner at the discretion of the Chief.

5. If any department, institution or other agency of the Executive Department of the State Government, whether its money is derived from state money or from other money collected under the authority of the State, fails or neglects to submit estimates of its expenditure requirements as provided in this section, the Chief may, from any data at hand in the Chief's office or which the Chief may examine or obtain elsewhere, make and enter a proposed budget for the department, institution or agency in accordance with the data.

6. Agencies, bureaus, commissions and officers of the Legislative Department, the Public Employees' Retirement System and the Judicial Department of the State Government shall submit to the Chief for his or her information in preparing the proposed executive budget the budgets which they propose to submit to the Legislature.

Sec. 3. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

Each school district in this State that employs a consultant shall, at least once every 6 months, submit to the Interim Finance Committee a report setting forth:

- 1. The number of consultants employed by the school district;*
- 2. The purpose for which the school district employs each consultant;*
- 3. The amount of money or other remuneration received by each consultant from the school district; and*

4. *The length of time each consultant has been employed by the school district.*

Sec. 4. This act becomes effective on July 1, 2011.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 764 to Assembly Bill No. 240 specifies that emergency contracts must be filed with the Board of Examiners (BOE) and provides that the BOE must review the contract and notify the department or division whether the Board would have approved the contract if it had not been an emergency. It requires a State agency that contracts with a current or former employee to report such contracts to the BOE and the Interim Finance Committee (IFC) on a quarterly basis.

The amendment clarifies that the provisions of Chapter 333 of the *Nevada Revised Statutes* (NRS) that are not in conflict or otherwise inconsistent with the new contracting requirements in the bill do apply to a contract entered into under Section 1 of the bill. It clarifies that the new contracting requirements in the bill do not apply to the employment of a person or business entity which is a provider of services under the State Plan for Medicaid and which provides those services on a fee-for-service basis.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 419.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 789.

"SUMMARY—Revises provisions relating to groundwater basins. (BDR 48-299)"

"AN ACT relating to water; requiring the State Engineer to designate certain groundwater basins as critical management areas in certain circumstances; requiring the State Engineer to take certain actions in such a basin unless a groundwater management plan has been approved for the basin; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State Engineer has various powers and duties with respect to regulating the groundwater in this State. (Chapter 534 of NRS) **Section 3** of this bill requires the State Engineer to designate as a critical management area any basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin upon the petition of a majority of the holders of certificates or permits to appropriate water in the basin that are on file in the Office of the State Engineer. If a basin is so designated for at least 10 consecutive years, **section 3** requires the State Engineer to order that withdrawals of groundwater be restricted in the basin to conform to priority rights, unless a groundwater management plan has been approved for the basin. **Section 1** of this bill prescribes the procedure for the proposal, approval and revision of such a plan. **Section 2** of this bill

includes the existence of a groundwater management plan in a basin as a consideration for the State Engineer in determining whether to grant a request for an extension of the time necessary to work a forfeiture of water in such a basin.

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

Section 1. Chapter 534 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *In a basin that has been designated as a critical management area by the State Engineer pursuant to subsection 7 of NRS 534.110, a petition for the approval of a groundwater management plan for the basin may be submitted to the State Engineer. The petition must be signed by a majority of the holders of permits or certificates to appropriate water in the basin that are on file in the Office of the State Engineer and must be accompanied by a groundwater management plan which must set forth the necessary steps for removal of the basin's designation as a critical management area.*

2. *In determining whether to approve a groundwater management plan submitted pursuant to subsection 1, the State Engineer shall consider, without limitation:*

(a) The hydrology of the basin;

(b) The physical characteristics of the basin;

~~*(c) The relationship between surface water and groundwater in the basin;*~~

~~*(d) The geographic spacing and location of the withdrawals of groundwater in the basin;*~~

~~*(e)*~~ *(d) The quality of the water in the basin;*

~~*(f)*~~ *(e) The wells located in the basin, including, without limitation, domestic wells;*

~~*(g)*~~ *(f) Whether a groundwater management plan already exists for the basin; and*

~~*(h)*~~ *(g) Any other factor deemed relevant by the State Engineer.*

3. *Before approving or disapproving a groundwater management plan submitted pursuant to subsection 1, the State Engineer shall hold a public hearing to take testimony on the plan in the county where the basin lies or, if the basin lies in more than one county, within the county where the major portion of the basin lies. The State Engineer shall cause notice of the hearing to be:*

(a) Given once each week for 2 consecutive weeks before the hearing in a newspaper of general circulation in the county or counties in which the basin lies.

(b) Posted on the Internet website of the State Engineer for at least 2 consecutive weeks immediately preceding the date of the hearing.

4. The decision of the State Engineer on a groundwater management plan may be reviewed by the district court of the county pursuant to NRS 533.450.

5. An amendment to a groundwater management plan must be proposed and approved in the same manner as an original groundwater management plan is proposed and approved pursuant to this section.

Sec. 2. NRS 534.090 is hereby amended to read as follows:

534.090 1. Except as otherwise provided in this section, failure for 5 successive years after April 15, 1967, on the part of the holder of any right, whether it is an adjudicated right, an unadjudicated right or a permitted right, and further whether the right is initiated after or before March 25, 1939, to use beneficially all or any part of the underground water for the purpose for which the right is acquired or claimed, works a forfeiture of both undetermined rights and determined rights to the use of that water to the extent of the nonuse. If the records of the State Engineer or any other documents specified by the State Engineer indicate at least 4 consecutive years, but less than 5 consecutive years, of nonuse of all or any part of a water right which is governed by this chapter, the State Engineer shall notify the owner of the water right, as determined in the records of the Office of the State Engineer, by registered or certified mail that the owner has 1 year after the date of the notice in which to use the water right beneficially and to provide proof of such use to the State Engineer or apply for relief pursuant to subsection 2 to avoid forfeiting the water right. If, after 1 year after the date of the notice, proof of beneficial use is not sent to the State Engineer, the State Engineer shall, unless the State Engineer has granted a request to extend the time necessary to work a forfeiture of the water right, declare the right forfeited within 30 days. Upon the forfeiture of a right to the use of groundwater, the water reverts to the public and is available for further appropriation, subject to existing rights. If, upon notice by registered or certified mail to the owner of record whose right has been declared forfeited, the owner of record fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the forfeiture becomes final. The failure to receive a notice pursuant to this subsection does not nullify the forfeiture or extend the time necessary to work the forfeiture of a water right.

2. The State Engineer may, upon the request of the holder of any right described in subsection 1, extend the time necessary to work a forfeiture under that subsection if the request is made before the expiration of the time necessary to work a forfeiture. The State Engineer may grant, upon request and for good cause shown, any number of extensions, but a single extension must not exceed 1 year. In determining whether to grant or deny a request, the State Engineer shall, among other reasons, consider:

(a) Whether the holder has shown good cause for the holder's failure to use all or any part of the water beneficially for the purpose for which the holder's right is acquired or claimed;

(b) The unavailability of water to put to a beneficial use which is beyond the control of the holder;

(c) Any economic conditions or natural disasters which made the holder unable to put the water to that use;

(d) Any prolonged period in which precipitation in the basin where the water right is located is below the average for that basin or in which indexes that measure soil moisture show that a deficit in soil moisture has occurred in that basin; ~~and~~

(e) *Whether a groundwater management plan has been approved for the basin pursuant to section 1 of this act; and*

(f) Whether the holder has demonstrated efficient ways of using the water for agricultural purposes, such as center-pivot irrigation.

↪ The State Engineer shall notify, by registered or certified mail, the owner of the water right, as determined in the records of the Office of the State Engineer, of whether the State Engineer has granted or denied the holder's request for an extension pursuant to this subsection.

3. If the failure to use the water pursuant to subsection 1 is because of the use of center-pivot irrigation before July 1, 1983, and such use could result in a forfeiture of a portion of a right, the State Engineer shall, by registered or certified mail, send to the owner of record a notice of intent to declare a forfeiture. The notice must provide that the owner has at least 1 year after the date of the notice to use the water beneficially or apply for additional relief pursuant to subsection 2 before forfeiture of the owner's right is declared by the State Engineer.

4. A right to use underground water whether it is vested or otherwise may be lost by abandonment. If the State Engineer, in investigating a groundwater source, upon which there has been a prior right, for the purpose of acting upon an application to appropriate water from the same source, is of the belief from his or her examination that an abandonment has taken place, the State Engineer shall so state in the ruling approving the application. If, upon notice by registered or certified mail to the owner of record who had the prior right, the owner of record of the prior right fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the alleged abandonment declaration as set forth by the State Engineer becomes final.

Sec. 3. NRS 534.110 is hereby amended to read as follows:

534.110 1. The State Engineer shall administer this chapter and shall prescribe all necessary regulations within the terms of this chapter for its administration.

2. The State Engineer may:

(a) Require periodical statements of water elevations, water used, and acreage on which water was used from all holders of permits and claimants of vested rights.

(b) Upon his or her own initiation, conduct pumping tests to determine if overpumping is indicated, to determine the specific yield of the aquifers and to determine permeability characteristics.

3. The State Engineer shall determine whether there is unappropriated water in the area affected and may issue permits only if the determination is affirmative. The State Engineer may require each applicant to whom a permit is issued for a well:

(a) For municipal, quasi-municipal or industrial use; and

(b) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,

↳ to report periodically to the State Engineer concerning the effect of that well on other previously existing wells that are located within 2,500 feet of the well.

4. It is a condition of each appropriation of groundwater acquired under this chapter that the right of the appropriator relates to a specific quantity of water and that the right must allow for a reasonable lowering of the static water level at the appropriator's point of diversion. In determining a reasonable lowering of the static water level in a particular area, the State Engineer shall consider the economics of pumping water for the general type of crops growing and may also consider the effect of using water on the economy of the area in general.

5. This section does not prevent the granting of permits to applicants later in time on the ground that the diversions under the proposed later appropriations may cause the water level to be lowered at the point of diversion of a prior appropriator, so long as any protectable interests in existing domestic wells as set forth in NRS 533.024 and the rights of holders of existing appropriations can be satisfied under such express conditions. At the time a permit is granted for a well:

(a) For municipal, quasi-municipal or industrial use; and

(b) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,

↳ the State Engineer shall include as a condition of the permit that pumping water pursuant to the permit may be limited or prohibited to prevent any unreasonable adverse effects on an existing domestic well located within 2,500 feet of the well, unless the holder of the permit and the owner of the domestic well have agreed to alternative measures that mitigate those adverse effects.

6. ~~The~~ ***Except as otherwise provided in subsection 7, the*** State Engineer shall conduct investigations in any basin or portion thereof where it appears that the average annual replenishment to the groundwater supply may not be adequate for the needs of all permittees and all vested-right claimants, and if the findings of the State Engineer so indicate, the State Engineer may order that withdrawals, ***including, without limitation, withdrawals from domestic wells,*** be restricted to conform to priority rights.

7. *The State Engineer:*

(a) May designate as a critical management area any basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin.

(b) Shall designate as a critical management area any basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin upon receipt of a petition for such a designation which is signed by a majority of the holders of certificates or permits to appropriate water in the basin that are on file in the Office of the State Engineer.

↪ The designation of a basin as a critical management area pursuant to this subsection may be appealed pursuant to NRS 533.450. If a basin has been designated as a critical management area for at least 10 consecutive years, the State Engineer shall order that withdrawals, including, without limitation, withdrawals from domestic wells, be restricted in that basin to conform to priority rights, unless a groundwater management plan has been approved for the basin pursuant to section 1 of this act.

8. In any basin or portion thereof in the State designated by the State Engineer, the State Engineer may restrict drilling of wells in any portion thereof if the State Engineer determines that additional wells would cause an undue interference with existing wells. Any order or decision of the State Engineer so restricting drilling of such wells may be reviewed by the district court of the county pursuant to NRS 533.450.

Sec. 4. This act becomes effective on July 1, 2011.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

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

Amendment No. 789 to Assembly Bill No. 419 removes one of the criteria the State Engineer may consider when determining whether to approve a groundwater management plan. This criteria is the relationship between surface water and groundwater in the basin.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 500.

Bill read second time and ordered to third reading.

Assembly Bill No. 519.

Bill read second time and ordered to third reading.

Assembly Bill No. 521.

Bill read second time and ordered to third reading.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was referred Senate Bill No. 54, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Finance, to which was re-referred Senate Bill No. 429, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVEN A. HORSFORD, *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 271.

Bill read third time.

Remarks by Senators Lee and Leslie.

Senator Lee requested that the following remarks be entered in the Journal.

SENATOR LEE:

Senate Bill No. 271 provides for the withdrawal of the State of Nevada from the Tahoe Regional Planning Compact under certain circumstances. This withdrawal will take effect on October 1, 2014, unless the governing body of the Tahoe Regional Planning Agency (TRPA) adopts an updated Regional Plan and certain proposed amendments to the Compact. These amendments include: the removal of the supermajority requirement for the governing body of the Agency to establish a quorum and to vote on matters considered by the TRPA; requiring the Regional Plan of the TRPA to consider the Lake Tahoe Basin's changing conditions; and adding language to the Compact that provides that a person who challenges the Regional Plan has the burden of proof to show that the plan violates the Compact. The Governor may issue a proclamation extending this withdrawal deadline to October 1, 2017.

Finally, Senate Bill No. 271 requires the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency to prepare a report on issues relating to this bill and the impacts of this bill to the Compact.

This bill has been highly vetted, highly worked on. We have had the Congressional team, the State Executive Office, the Legislature all work together on this bill. This is the compromise that the State of Nevada is willing to discuss with California.

SENATOR LESLIE:

As we all recall, the TRPA was enacted in 1969 by two Governors, Reagan and Laxalt. The Bi-State Agreement was a response to the challenges faced at Lake Tahoe by the five counties and the two states that border it. It was in response to concerns about pollution and development at the Lake. Everyone had the same goal in 1969, which was to keep the pristine waters of Lake Tahoe pristine. Since that time, there have been ongoing struggles by the different interests at the Lake including lawsuits, increased regulations and accusations from all sides. This bill conditions Nevada's continued participation in the TRPA upon actions by California and the federal government, approving compact amendments and making progress on an updated regional plan. If these goals are not reached by October 1, 2014, Nevada's Governor can ask for another three years or Nevada's Governor can agree to remove Nevada from the TRPA. There will be no negotiations about how much progress has or has not been made, and the Legislature will have no further say in the matter. This bill does not require Nevada to work with California or the federal government. It almost encourages people to do nothing. For those who want to get rid of TRPA, there is no incentive to work on a new regional plan at all. Their best option is to do nothing and hope that Nevada withdraws in 2014.

I fear this bill will result in increased environmental damage at Lake Tahoe and a loss of much needed federal funding. Who is going to give us federal funding in this state of uncertainty? I respect my colleague's position. I know he is sincere in his love for Lake Tahoe as I am. But this bill is too extreme. We should focus on working together to resolve these issues and not be threatening withdrawal. This bill sends a clear message, but it is the wrong message. It says that Nevadans care more about the needs of builders and developers than they do about the health of Lake Tahoe. I urge you to vote against this bill.

SENATOR LEE:

We have wonderful people who sit on the Board of the TRPA. They are appointed by the Governor. They are Nevadans. They care about what is happening on the Nevada side of the

Lake. We are not making any environmental changes. We are not doing anything that will not keep the Lake in its pristine condition now and in the future. What we are hoping to accomplish is to see that we can get a regional plan there. That we will be able to go in, work on a plan for the Lake, make it lake-wide so that everyone up there will know what they can and cannot do in the area, rather than an unnamed group of people or agency that fights every single thing that takes place up there. We are going into this next season with the ability to say, we do not want you to shut down everything Nevada thinks and does up there. We want to be able to discuss ideas, rather than come to a meeting where the votes are already in, and every good idea or thought that Nevada has is killed. If I thought for one minute that we were going to harm this compact without giving the Congressional team, the Governor's Office, or the Legislature a chance to be considered in this, then I would not have put this forth. We have the time and we have the people in the State of Nevada who want to work closely with California to bridge the challenges we have and to continue to keep Lake Tahoe one of the most beautiful places in the world.

Roll call on Senate Bill No. 271:

YEAS—19.

NAYS—Denis, Leslie—2.

Senate Bill No. 271 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 359.

Bill read third time.

Remarks by Senators Kieckhefer, Horsford, Brower and Denis.

Senator Kieckhefer requested that the following remarks be entered in the Journal.

SENATOR KIECKHEFER:

Thank you, Mr. President. I rise in opposition to this bill. I was able to serve on the subcommittee that reviewed the various provisions of this bill and there are many good provisions in Senate Bill No. 359. Those provisions need to be in there to ensure that we have a good process to ensure we are getting the most out of our taxpayer dollars when it comes to putting contracts out to bid. Unfortunately, I believe that Section 15 of the bill is going to result in the exact opposite of that. Section 15 is designed to collect the racial and gender data for people who both bid on and are awarded public works as a base line for creating a bidders' preference for all public works in this State for minority and women-owned businesses.

I believe that the public works process has been created and designed to offer a fair and equitable process for anyone to bid on a public work and that is why price is ultimately the deciding factor as to whether a contract is awarded. There is significant frustration that the process currently being utilized does not always offer opportunity or that minority and women-owned businesses are not participating at the rate that maybe they should when contracts are awarded. If there is a problem with that process, I believe that is a process that needs to be fixed. But, creating a bidders' preference is the wrong vehicle to do so. Bidders' preferences' whether they are geographically based or racially-based or gender-based, ultimately result in a higher cost to the taxpayers. The notion of what we are supposed to do is to get the best product for the best price for the taxpayers of this State. Bidders' preferences of any sort undermine that notion. While this bill does not implement a bidders' preference, it is the stated intent to collect this data in order to create one.

For that purpose, I oppose it and encourage you to do the same.

SENATOR HORSFORD:

I want to thank my colleague from Washoe District No. 4 for his many hours working on the subcommittee that deliberated on this measure. I want to clarify for the record that this bill does

not establish preferences. It does not collect the data to automatically determine preferences. That is not what this bill does.

Section 15, the provision that is in question, requires data on race, ethnicity, gender and age of individuals applying for or hired on public works projects. It was determined by Legal Counsel that preferences cannot be established for these protected classes without data to support the need. I do not know whether or not there is disparity among individuals who are applying for or are hired on public works projects based on race, ethnicity, gender or age. I do not know that because no one collects the data for that. It is not reported. This bill and the provisions in Section 15 merely allow for the collection of that information because these are public works projects paid for by taxpayers. It is information that I think we should want to know regardless whether or not there are disparities.

I want it to be absolutely clear that this bill does not establish preference. There was a statement made by my colleague that somehow if it does establish preferences that women or minority-owned businesses would charge more. Therefore, price would be a factor. There is nothing in this bill that deals with that, and I would challenge whether or not that is even true. A woman or minority-owned firm could have the lowest price contract and be issued a contract.

This is an issue that emerged during the four months of this Legislative Session. It goes to the heart of one of the things that we are trying to accomplish this Legislative Session, which is government efficiency.

We had a number of hearings in the Senate Finance Committee on contracting prices. We concentrated on several of the largest contracts that are current in State government that lack the elements of efficiency, transparency and accountability we want in State government. We found instances where sole-source contracts were rolled over year after year without consideration of other vendors who might be able to do the same work at a lower cost. We found multi-year contracts that were extended without competitive bidding, which might bring down the cost of those contracts. We found the need to periodically revisit contracts because of changes in economic conditions that could result in lower cost contracts. In terms of transparency, some of the contracts we reviewed contain fees charged to consumers that were not adequately disclosed in the terms of the contracts and not in ways that the average Nevadan would be able to find.

Senate Bill No. 359 addresses these issues. For the reasons of accountability, transparency and efficiency I urge the body's adoption of this bill. As for the area of Section 15, it lays the foundation for how we approach contracting in public works, starting with making a determination on whether all elements of our population are proportionately represented in the public works projects.

If we are going to put people to work, it should be all people. The provisions of this bill require contractors, subcontractors and suppliers to report the information listed under Section 15 so that we know who is working and who is applying and how we can put all Nevadans to work on these public projects. I urge the body's approval of this bill.

SENATOR BROWER:

Thank you, Mr. President. I appreciate the Majority Leader's concern about the sole-source issue. I think Section 15 goes too far. I do not know, why we as a State government, and why we as a federal government are so obsessed in determining the race, gender, ethnicity and age of our fellow citizens. I do not get that. Why should it matter? In this context, we ought to be focused on character, qualifications and cost. Those are the factors that should matter in determining who the best contractor might be for a State project. While this bill, as my colleague from Washoe County indicated, does have some positive attributes, I do not know why, as a government, we are so concerned with determining the race and ethnicity of people who want to do business with us.

SENATOR DENIS:

Thank you, Mr. President. I would like to respond to the previous speaker. We have had discussions in this Chamber concerning this subject in the redistricting plans. There was a lot of concern there for the Hispanic community, but now, we do not have concern when it comes to this bill. I think this is a good bill and I think we should support it.

Roll call on Senate Bill No. 359:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settlemeyer—10.

Senate Bill No. 359 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 439.

Bill read third time.

Roll call on Senate Bill No. 439:

YEAS—21.

NAYS—None.

Senate Bill No. 439 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 452.

Bill read third time.

Roll call on Senate Bill No. 452:

YEAS—21.

NAYS—None.

Senate Bill No. 452 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 499.

Bill read third time.

Roll call on Senate Bill No. 499:

YEAS—21.

NAYS—None.

Senate Bill No. 499 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Gustavson moved that Assembly Bill No. 545 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 122.

Bill read third time.

Roll call on Assembly Bill No. 122:

YEAS—21.

NAYS—None.

Assembly Bill No. 122 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 132.

Bill read third time.

Remarks by Senator Parks.

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

Assembly Bill No. 132 provides that certain charter cities in the State that do not currently hold their elections in concurrence with the statewide election cycle may, by ordinance, choose to switch to the statewide cycle. No term of office may be lengthened in order to accomplish the switch, but a term of office may be shortened as necessary.

If the city council of Boulder City, Henderson, Las Vegas, or North Las Vegas adopts such an ordinance, terms of current office holders may not be shortened, but subsequent terms may be shortened to accomplish the transition to the statewide cycle. This provision does not apply to Caliente or Yerington.

Roll call on Assembly Bill No. 132:

YEAS—21.

NAYS—None.

Assembly Bill No. 132 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 160.

Bill read third time.

Roll call on Assembly Bill No. 160:

YEAS—13.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, Roberson, Settelmeyer—8.

Assembly Bill No. 160 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 179.

Bill read third time.

Remarks by Senator Parks.

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

Assembly Bill No. 179 requires the appointing authorities of State agencies to provide permanent classified employees with a copy of the policy approved by the Personnel Commission explaining prohibited acts, violations and penalties, and the disciplinary process. Before taking certain disciplinary actions, an appointing authority must consult with the Attorney General or, for appointing authorities within the Nevada System of Higher Education, with the System's general counsel. The appointing authority is not required to get permission from the legal counsel to take action.

Internal investigations and any resulting determination must be completed within 90 days after notice of the allegations is given to the employee. The appointing authority may request an extension of not more than 60 days from the Director of the Department of Personnel upon a showing of good cause. Only the Governor may grant a further extension.

Roll call on Assembly Bill No. 179:

YEAS—21.

NAYS—None.

Assembly Bill No. 179 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 230.

Bill read third time.

Remarks by Senator Denis.

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

Assembly Bill No. 230 requires the Commission on Professional Standards in Education to adopt regulations on or before December 31, 2011, which prescribe the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure program. The measure sets forth certain requirements for the regulations, as follows.

The required education and training may be provided by any qualified provider that has been approved by the Commission, including institutions of higher education and other providers that operate independently of an institution of higher education.

A candidate may apply for a license obtained through an alternative route prior to receiving an offer for employment from a school district, charter school, or private school.

The regulations must significantly limit the amount of course work required or provide for the waiver of required course work for students who achieve certain scores on tests.

The required education and training under the program may be completed in two years or less; and upon completion of the required education and training required under the program and all other requirements for licensure, the person must be issued a regular license.

Finally, the State Board of Education is required to evaluate qualified providers of education and training for licensure of teachers and administrators. The evaluation must include the number of personnel licensed from each approved provider, how many of those persons are employed by school districts and charter schools in Nevada, along with aggregated data from performance evaluations. This information is to be made available to the public annually.

This is something we have talked about to provide opportunities for us to get teachers through this alternative route.

Roll call on Assembly Bill No. 230:

YEAS—21.

NAYS—None.

Assembly Bill No. 230 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 238.

Bill read third time.

Roll call on Assembly Bill No. 238:

YEAS—15.

NAYS—Cegavske, Gustavson, Halseth, McGinness, Roberson, Settlemeyer—6.

Assembly Bill No. 238 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 283.

Bill read third time.

Roll call on Assembly Bill No. 283:

YEAS—21.

NAYS—None.

Assembly Bill No. 283 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 289.

Bill read third time.

Remarks by Senators Schneider, Hardy and Wiener.

Senator Schneider requested that the following remarks be entered in the Journal.

SENATOR SCHNEIDER:

Assembly Bill No. 289 provides for regulation of the practice of dietetics by the State Board of Health and prescribes the powers and duties of the Board. The measure requires the Board to charge and collect fees relating to the issuance of licenses and to carry out its other duties. In addition to regular licenses, the Board may issue provisional licenses to persons who do not meet all of the requirements for licensure, and may issue temporary licenses for the purpose of treating patients in this State for a limited period.

I would like to comment that there is a group of people in this State who have spun out of control. They are on a mission to kill this bill for no reason. We have made all of the adjustments to this bill to take everyone out of the bill. My cell phone has been going off with robo calls. It started last night. It has been unbelievable how this robo call has been going around. There have been calls to our offices from robo calls. They are lighting up the public by having them think that we are going to make people who sell vitamins be licensed. That is anything but the truth. I am upset about this and the actions of the people out there. They have accused members of my Committee and other members of the Legislature of doing something that is not in the law. I encourage everyone to vote for this and to send a real message to these "yahoos" who are out of control in this State right now.

SENATOR HARDY:

Thank you, Mr. President. I rise in support of Assembly Bill No. 289. I would be remiss if I did not stand up in support of this. My daughter, Emily, is a Registered Dietician, an R.D. or real dietician. She is responsible for the continued life of my well-loved and adored mother-in-law who has been on dialysis for two and one-half years. Before that, she was supposed to have been on dialysis for five years but in doing simple things that dieticians do, she worked with my mother-in-law and had her change things that needed to be changed. The doctors often, repeatedly, and with much appreciation, use dieticians to care for critically ill patients on hyper alimentation, perennial feedings and save limbs from being cut off. I would be remiss if I did not say my appreciation for dieticians and particularly, my daughter Emily.

SENATOR WIENER:

Thank you, Mr. President. For many years, I have worked closely with Registered Dieticians in the fitness and wellness program that is part of the Health Division. With this licensure of Registered Dietitians comes a substantial amount of federal funding. And we Legislators have been talking a lot about money, these days. By not licensing R.D.s, or Registered Dieticians, we could lose significant money from the federal government because many health-related programs require licensure for the Registered Dieticians. So, there is a financial impact in my State, as well as the humanitarian impact that my colleague from Boulder City has mentioned.

Roll call on Assembly Bill No. 289:

YEAS—18.

NAYS—Gustavson, Halseth, Roberson—3.

Assembly Bill No. 289 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 291, 304, 308, 360, 393, 398, 501, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

RECEDE FROM SENATE AMENDMENTS

Senator Copenig moved that the Senate do not recede from its action on Assembly Bill No. 362, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Kihuen, Hardy and Copenig as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 362.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 245, 470, 474, 478, 479, 482; Senate Concurrent Resolutions Nos. 1, 2; Assembly Bills Nos. 365, 382, 422, 477, 551; Assembly Joint Resolution No. 5 of the 75th Session; Assembly Concurrent Resolution No. 11.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Brower, the privilege of the Floor of the Senate Chamber for this day was extended to Rick Korbel.

On request of Senator Horsford, the privilege of the Floor of the Senate Chamber for this day was extended to Antoinette Malveaux, William Bell, Marva Hammons and Paul Buehler.

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to Erica Korbel.

Senator Horsford moved that the Senate adjourn until Saturday, May 28, 2011, at 10 a.m.

Motion carried.

Senate adjourned at 2:30 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate