

CHAPTER.....

AN ACT relating to state financial administration; requiring that certain changes in the scope of installment-purchase and lease-purchase agreements entered into by the State or one of its agencies be approved by the Legislature or Interim Finance Committee; defining what constitutes a change in the scope of such an agreement; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State of Nevada and its state agencies may enter into installment-purchase and lease-purchase agreements to acquire real or personal property and pay the purchase price over a period of time that extends beyond the applicable biennium. (NRS 353.500-353.630) If such an agreement involves the construction, alteration, repair or remodeling of an improvement, the agreement may be carried out without compliance with any law requiring competitive bidding and without compliance with the provisions of chapter 341 of NRS relating to the State Public Works Board. (NRS 353.590)

This bill provides that, before the scope of such an agreement is changed, the change in scope must be approved by the Nevada Legislature or the Interim Finance Committee, depending upon whether the Legislature is in session. This bill defines a change in the scope of an agreement based upon whether the amount of square footage, the intended use or the number of users of the property will change by a specified percentage. This definition prescribes similar criteria to the criteria prescribed for the approval of changes in the scope of the design or construction of certain projects presided over by the State Public Works Board. (NRS 341.145; NAC 341.017)

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Before the State of Nevada or a state agency causes or allows a change in the scope of an agreement, the change must be approved by:

(a) The Legislature, by concurrent resolution, when the Legislature is in regular or special session; or

(b) The Interim Finance Committee, by resolution, while the Legislature is not in regular or special session.

2. As used in this section, "change in the scope of an agreement" means that, as compared to when the agreement was originally entered into or previously changed, whichever is the more recent:



(a) The square footage of the property that is the subject of the agreement will be increased or decreased by 10 percent or more;

(b) Ten percent or more of the square footage of the property that is the subject of the agreement will be allocated to a different intended use; or

(c) The number of users of the property that is the subject of the agreement will be increased or decreased by 10 percent or more.

Sec. 2. NRS 353.500 is hereby amended to read as follows:

353.500 As used in NRS 353.500 to 353.630, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 353.510 to 353.540, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 333A.090 is hereby amended to read as follows:

333A.090 1. Any financing related to a performance contract must be approved by the Board.

2. A performance contract may be financed through:

(a) A person other than the qualified service company.

(b) An installment-purchase contract or lease-purchase contract. Such an installment-purchase contract or lease-purchase contract is not subject to:

(1) The provisions of NRS 353.500 to 353.630, inclusive *H*, *and section 1 of this act*.

(2) Any requirement of competitive bidding or other restriction imposed on the procedure for the awarding of contracts or the procurement of goods or services.

3. A performance contract may be structured as:

(a) A performance contract that guarantees operating cost savings, which includes, without limitation, the design and installation of equipment, the operation and maintenance, if applicable, of any of the operating cost-savings measures and the guaranteed annual savings which must meet or exceed the total annual contract payments to be made by the using agency, including, without limitation, any financing charges to be incurred by the using agency over the life of the performance contract. The using agency may require that these savings be verified:

(1) When the work required by the performance contract is completed and 1 year after that work is completed; or

(2) Over a sufficient period that demonstrates savings.

(b) A shared-savings contract which includes provisions mutually agreed upon by the using agency and qualified service company as to the negotiated rate of payments based upon operating



cost savings and a stipulated maximum consumption level of energy or water, or both energy and water, over the life of the contract.

4. The annual operating cost savings resulting from a performance contract must meet or exceed the total annual contract payments to be made by the using agency, including any financing charges to be incurred by the using agency over the life of the performance contract.

5. A change order to a performance contract executed pursuant to NRS 333A.080 may not be approved by the using agency if the cost of the change order would cause the annual operating cost savings resulting from the performance contract to be less than the total annual contract payments to be made by the using agency, including any financing charges to be incurred by the using agency over the life of the performance contract, unless approval of the change order is more economically feasible than termination of the operating cost-savings measure.

