

## Amendment No. 1083

Senate Amendment to Assembly Bill No. 621 First Reprint (BDR 58-1512)

**Proposed by:** Senate Committee on Commerce and Labor**Amendment Box:** Replaces Amendment No. 1072**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 621 (§ 16).

ASSEMBLY ACTION		Initial and Date		SENATE ACTION		Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

BJE



Date: 5/31/2007

A.B. No. 621—Makes various changes in the provision of tax abatements and exemptions based upon the use of energy and repeals certain prospective energy requirements for public buildings.  
(BDR 58-1512)



## ASSEMBLY BILL NO. 621—COMMITTEE ON COMMERCE AND LABOR

MAY 21, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes in the provision of tax abatements and exemptions based upon the use of energy and repeals certain prospective energy requirements for public buildings. (BDR 58-1512)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to energy; making various changes relating to the application procedures for and the provision of tax abatements and exemptions based upon the use of energy; repealing certain prospective energy requirements for public buildings; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Sections 2 and 3** of this bill require the Director of the Office of Energy to adopt a system for rating buildings based upon the Leadership in Energy and Environmental Design Green Building Rating System, and authorize the Director to grant, under certain conditions, a partial abatement of property taxes for certain buildings based upon the rating of the building.

Existing law authorizes the Commission on Economic Development to approve, under certain conditions, a partial abatement of certain taxes for a person who intends to locate or expand a business in this State. (NRS 360.750) Existing law prescribes the terms of such a partial abatement of property taxes for certain businesses that conserve energy or fossil sources of energy through recycling, for certain facilities that generate electrical energy from renewable energy and for facilities that produce certain devices for the storage of electrical energy. (NRS 361.0685, 361.0687) **Sections 4, 5, 8 and 16** of this bill repeal those terms and prescribe substantially identical terms.

Existing law provides an exemption from property taxes for any value added to the assessed value of a building by certain qualified systems that provide heating, cooling or electricity. (NRS 361.079) **Sections 6 and 16** of this bill repeal that exemption and provide a substantially similar exemption.

Existing law prescribes the terms of a partial abatement of certain sales and use taxes, if approved by the Commission on Economic Development, for certain facilities that generate electricity from renewable energy or produce certain devices for the storage of electrical energy. (NRS 374.357) **Sections 7 and 11** of this bill repeal those terms and prescribe substantially identical terms.

**Sections 12 and 16** of this bill repeal certain energy requirements for public buildings which otherwise would have become effective on July 1, 2007. ~~[Section 12 of this bill prescribes similar requirements for certain public buildings for which construction has not yet been completed on that date.]~~

Existing law requires an analysis of the cost of operating and maintaining certain public buildings prior to their construction or renovation. (NRS 338.190) Section 16 of this bill repeals those requirements.

Existing law requires the Director of the Office of Energy to adopt a system for rating buildings for the purposes of certain tax exemptions and the construction of certain public buildings. (NRS 701.217) Section 16 of this bill repeals those requirements.

Existing law authorizes the Commission on Economic Development to grant a partial abatement of property taxes for certain structures that use resources efficiently. (NRS 361.0775) Section 16 of this bill repeals that authority.

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

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**Section 1.** Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 7, inclusive, of this act.

**Sec. 2. 1.** *The Director of the Office of Energy shall adopt a Green Building Rating System for the purposes of determining the eligibility of a building or other structure for a tax abatement pursuant to section 3 of this act.*

*2. The Green Building Rating System must include standards and ratings equivalent to the standards and ratings provided pursuant to the Leadership in Energy and Environmental Design Green Building Rating System, except that the standards adopted by the Director:*

*(a) Except as otherwise provided in paragraphs (b) and (c), must not include:*

*(1) Any standard that has not been included in the Leadership in Energy and Environmental Design Green Building Rating System for at least 2 years; or*

*(2) Standards for homes;*

*(b) Must provide reasonable exceptions based on the size of the area occupied by the building or other structure; and*

*(c) Must require a building or other structure to obtain:*

*(1) At least 3 points of credit for energy conservation to meet the equivalent of the silver level;*

*(2) At least 5 points of credit for energy conservation to meet the equivalent of the gold level; and*

*(3) At least 8 points of credit for energy conservation to meet the equivalent of the platinum level.*

*3. As used in this section, "home" means a building or other structure for which the principal use is as a residential dwelling for not more than four families.*

**Sec. 3. 1.** *Except as otherwise provided in this section, the Director shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure that is determined to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to section 2 of this act, if:*

*(a) No funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this paragraph:*

*(1) Private activity bonds must not be considered funding provided by a governmental entity.*

*(2) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.*

(b) *The owner of the property:*

(1) *Submits an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.*

(2) *Except as otherwise provided in this subparagraph, provides to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to section 2 of this act. The Director may, for good cause shown, extend the period for providing such proof.*

2. *As soon as practicable after the Director receives:*

(a) *The application required by subsection 1, the Director shall forward a copy of that application to the:*

(1) *Chief of the Budget Division of the Department of Administration;*

(2) *Department of Taxation;*

(3) *County assessor;*

(4) *County treasurer; and*

(5) *Commission on Economic Development.*

(b) *The application and proof required by subsection 1, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:*

(1) *Department of Taxation;*

(2) *County assessor;*

(3) *County treasurer; and*

(4) *Commission on Economic Development.*

3. *As soon as practicable after receiving a copy of ~~it~~:*

(a) *An application pursuant to paragraph (a) of subsection 2 ~~of the~~:*

(1) *The Chief of the Budget Division ~~and each affected local government~~ shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on ~~that governmental entity~~ the State; and*

(2) *The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government.*

(b) *A certificate of eligibility pursuant to paragraph (b) of subsection 2, the Department of Taxation shall forward a copy of the certificate to each affected local government.*

4. *The partial abatement:*

(a) *Must be for a duration of not more than 10 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:*

(1) *The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land;*

(2) *The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land; or*

(3) *The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public*

education, that would otherwise be payable for the building or other structure, excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

(1) Department of Taxation ~~and~~ , who shall immediately notify each affected local government of the determination;

(2) County assessor;

(3) County treasurer; and

(4) Commission on Economic Development.

5. The Director shall adopt regulations:

(a) Establishing the qualifications and methods to determine eligibility for the abatement;

(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (b) of subsection 1,

and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

6. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education ~~and~~ of pupils in kindergarten through grade 12.

Sec. 4. 1. Except as otherwise provided in this section, if a:

(a) Business that engages in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate product through a process in which at least 50 percent of the material or product is recycled on-site; or

(b) Business that includes as a primary component a facility for the generation of electricity from recycled material,

is found by the Commission on Economic Development to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy and obtains certification from the Commission on Economic Development pursuant to NRS 360.750, the Commission may, if the business additionally satisfies the requirements set forth in subsection 2 of NRS

1 *361.0687, grant to the business a partial abatement from the taxes imposed on*  
2 *real property pursuant to chapter 361 of NRS.*

3 *2. If a partial abatement from the taxes imposed on real property pursuant*  
4 *to chapter 361 of NRS is approved by the Commission on Economic Development*  
5 *pursuant to NRS 360.750 for a business described in subsection 1:*

6 *(a) The partial abatement must:*

7 *(1) Be for a duration of at least 1 year but not more than 10 years;*

8 *(2) Not exceed 50 percent of the taxes on real property payable by the*  
9 *business each year; and*

10 *(3) Be administered and carried out in the manner set forth in NRS*  
11 *360.750.*

12 *(b) The Executive Director of the Commission on Economic Development*  
13 *shall notify the county assessor of the county in which the business is located of*  
14 *the approval of the partial abatement, including, without limitation, the duration*  
15 *and percentage of the partial abatement that the Commission granted. The*  
16 *Executive Director shall, on or before April 15 of each year, advise the county*  
17 *assessor of each county in which a business qualifies for a partial abatement*  
18 *during the current fiscal year as to whether the business is still eligible for the*  
19 *partial abatement in the next succeeding fiscal year.*

20 *3. The partial abatement provided in this section applies only to the*  
21 *business for which certification was granted pursuant to NRS 360.750 and the*  
22 *property used in connection with that business. The exemption does not apply to*  
23 *property in this State that is not related to the business for which the certification*  
24 *was granted pursuant to NRS 360.750 or to property in existence and subject to*  
25 *taxation before the certification was granted.*

26 *4. As used in this section, "facility for the generation of electricity from*  
27 *recycled material" means a facility for the generation of electricity that uses*  
28 *recycled material as its primary fuel, including material from:*

29 *(a) Industrial or domestic waste, other than hazardous waste, even though it*  
30 *includes a product made from oil, natural gas or coal, such as plastics, asphalt*  
31 *shingles or tires;*

32 *(b) Agricultural crops, whether terrestrial or aquatic, and agricultural waste,*  
33 *such as manure and residue from crops; and*

34 *(c) Municipal waste, such as sewage and sludge.*

35 *↳ The term includes all the equipment in the facility used to process and convert*  
36 *into electricity the energy derived from a recycled material fuel.*

37 **Sec. 5. 1. If a partial abatement from the taxes imposed pursuant to**  
38 **chapter 361 of NRS is approved by the Commission on Economic Development**  
39 **pursuant to NRS 360.750 for a facility for the generation of electricity from**  
40 **renewable energy or a facility for the production of an energy storage device:**

41 *(a) The partial abatement must be:*

42 *(1) For a duration of 10 years;*

43 *(2) Equal to 50 percent of the taxes on real and personal property*  
44 *payable by the facility each year; and*

45 *(3) Administered and carried out in the manner set forth in NRS*  
46 *360.750.*

47 *(b) The Executive Director of the Commission on Economic Development*  
48 *shall:*

49 *(1) Notify the county assessor of the county in which the facility is*  
50 *located of the approval of the partial abatement; and*

51 *(2) Advise the county assessor of the county in which the facility is*  
52 *located as to the dates on which the partial abatement will begin and end.*

53 *2. As used in this section:*

(a) *“Biomass” means any organic matter that is available on a renewable basis, including, without limitation:*

- (1) Agricultural crops and agricultural wastes and residues;*
- (2) Wood and wood wastes and residues;*
- (3) Animal wastes;*
- (4) Municipal wastes; and*
- (5) Aquatic plants.*

(b) *“Energy storage device” means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.*

(c) *“Facility for the generation of electricity from renewable energy” means a facility for the generation of electricity that:*

- (1) Uses renewable energy as its primary source of energy; and*
- (2) Has a generating capacity of at least 10 kilowatts.*

↪ *The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.*

(d) *“Renewable energy” means:*

- (1) Biomass;*
- (2) Solar energy; or*
- (3) Wind.*

↪ *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

**Sec. 6. 1. For purposes of the assessment of property pursuant to chapter 361 of NRS:**

(a) *Except as otherwise provided in paragraph (b), the value of a qualified system must not be included in the assessed value of a building.*

(b) *Any value added by a qualified system must be included in the assessed value of a commercial or industrial building during any period in which the business that owns the commercial or industrial building is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.*

2. *The Department of Taxation shall adopt such regulations as it determines to be necessary for the administration of this section.*

3. *As used in this section, “qualified system” means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in a residential, commercial or industrial building to heat or cool the building or water used in the building, or to provide electricity used in the building, by using:*

(a) *Energy from the wind or from solar devices not thermally insulated from the area where the energy is used;*

(b) *Geothermal resources;*

(c) *Energy derived from conversion of solid wastes; or*

(d) *Waterpower,*

↪ *which conforms to standards established by regulation of the Department of Taxation.*

**Sec. 7. If an application for an abatement from taxes pursuant to NRS 374.357 is approved pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:**

1. *The taxpayer is eligible for the abatement for 2 years.*

1       2. *The abatement must be administered and carried out in the manner set*  
2 *forth in NRS 360.750.*

3       3. *For the purposes of this section and the abatement, unless the context*  
4 *otherwise requires:*

5       (a) *“Biomass” means any organic matter that is available on a renewable*  
6 *basis, including, without limitation:*

7           (1) *Agricultural crops and agricultural wastes and residues;*

8           (2) *Wood and wood wastes and residues;*

9           (3) *Animal wastes;*

10          (4) *Municipal wastes; and*

11          (5) *Aquatic plants.*

12       (b) *“Eligible machinery or equipment” means:*

13           (1) *If the business that qualifies for the abatement is a facility for the*  
14 *production of an energy storage device, machinery or equipment which is leased*  
15 *or purchased and for which a deduction is authorized pursuant to 26 U.S.C. §*  
16 *179. The term does not include:*

17               (I) *Buildings or the structural components of buildings;*

18               (II) *Equipment used by a public utility;*

19               (III) *Equipment used for medical treatment;*

20               (IV) *Machinery or equipment used in mining;*

21               (V) *Machinery or equipment used in gaming; or*

22               (VI) *Aircraft.*

23           (2) *If the business that qualifies for the abatement is a facility for the*  
24 *generation of electricity from renewable energy, all the machinery and equipment*  
25 *that is used in the facility to collect and store the renewable energy and to convert*  
26 *the renewable energy into electricity.*

27       (c) *“Energy storage device” means a device for use and storage of electrical*  
28 *energy that alleviates the consumption of fossil fuel and does not produce fossil*  
29 *fuel emissions.*

30       (d) *“Facility for the generation of electricity from renewable energy” means*  
31 *a facility for the generation of electricity that:*

32           (1) *Uses renewable energy as its primary source of energy; and*

33           (2) *Has a generating capacity of at least 10 kilowatts.*

34       ↪ *The term includes all the machinery and equipment that is used in the facility*  
35 *to collect and store the renewable energy and to convert the renewable energy*  
36 *into electricity. The term does not include a facility that is located on residential*  
37 *property.*

38       (e) *“Fuel cell” means a device or contrivance which, through the chemical*  
39 *process of combining ions of hydrogen and oxygen, produces electricity and*  
40 *water.*

41       (f) *“Renewable energy” means a source of energy that occurs naturally or is*  
42 *regenerated naturally, including, without limitation:*

43           (1) *Biomass;*

44           (2) *Fuel cells;*

45           (3) *Geothermal energy;*

46           (4) *Solar energy;*

47           (5) *Waterpower; and*

48           (6) *Wind.*

49       ↪ *The term does not include coal, natural gas, oil, propane or any other fossil*  
50 *fuel, or nuclear energy.*



**Sec. 8.** NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:

(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$2,000,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:

(1) The business will make a capital investment in the county of at least \$500,000; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

3. Except as otherwise provided in ~~[NRS 361.0685 and subsection 4.]~~ **sections 4 and 5 of this act**, if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

~~4. If a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:~~

~~— (a) The partial abatement must be:~~

~~— (1) For a duration of 10 years;~~

~~— (2) Equal to 50 percent of the taxes on real and personal property payable by the facility each year pursuant to this chapter; and~~

~~— (3) Administered and carried out in the manner set forth in NRS 360.750.~~

~~(b) The Executive Director of the Commission on Economic Development shall:~~

~~(1) Notify the county assessor of the county in which the facility is located of the approval of the partial abatement; and~~

~~(2) Advise the county assessor of the county in which the facility is located as to the dates on which the partial abatement will begin and end.~~

~~5.] As used in this section [:~~

~~(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:~~

~~(1) Agricultural crops and agricultural wastes and residues;~~

~~(2) Wood and wood wastes and residues;~~

~~(3) Animal wastes;~~

~~(4) Municipal wastes; and~~

~~(5) Aquatic plants.~~

~~(b) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.~~

~~(c) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:~~

~~(1) Uses renewable energy as its primary source of energy; and~~

~~(2) Has a generating capacity of at least 10 kilowatts.~~

~~➤ The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.~~

~~(d) "Industrial" , "industrial" or manufacturing business" does not include a facility for the generation of electricity from renewable energy [:~~

~~(e) "Renewable energy" means:~~

~~(1) Biomass;~~

~~(2) Solar energy; or~~

~~(3) Wind.~~

~~➤ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.] , as that term is defined in section 5 of this act.~~

**Sec. 9.** NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:

(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$5,000,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:

(1) The business will make a capital investment in the county of at least \$5,000,000 if the business is an industrial or manufacturing business or at least \$500,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

3. Except as otherwise provided in ~~NRS 361.0685~~ *section 4 of this act*, if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

**Sec. 10.** NRS 361.777 is hereby amended to read as follows:

361.777 Any partial abatements and partial exemptions ~~[from taxation]~~ to which a person may be entitled *from the taxes imposed* pursuant to this chapter must be applied in the following order of priority:

1. Any partial abatement to which the person is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724.

2. Any partial exemptions to which the person is entitled ~~. [pursuant to this chapter.]~~

3. Any partial abatements to which the person is entitled ~~[pursuant to this chapter]~~ other than a partial abatement described in subsection 1.

**Sec. 11.** NRS 374.357 is hereby amended to read as follows:

374.357 1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for an abatement from the taxes imposed by this chapter on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.

2. Except as otherwise provided in ~~[subsection 3.]~~ *section 7 of this act*, if an application for an abatement is approved pursuant to NRS 360.750:

(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for not more than 2 years for machinery or equipment which is leased or purchased. In the case of machinery or equipment that is leased, the lessee is the taxpayer who is eligible for an abatement.

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. ~~[If an application for an abatement is approved pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:]~~

~~— (a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for 2 years.~~

~~— (b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.~~

~~4. As used in~~ *For the purposes of this section, except as otherwise provided in section 7 of this act or* unless the context otherwise requires ~~{:~~

~~— (a) “Biomass” means any organic matter that is available on a renewable basis, including, without limitation:~~

~~— (1) Agricultural crops and agricultural wastes and residues;~~

~~— (2) Wood and wood wastes and residues;~~

~~— (3) Animal wastes;~~

~~— (4) Municipal wastes; and~~

~~— (5) Aquatic plants.~~

~~— (b) “Eligible,” “eligible machinery or equipment” means {:~~

~~— (1) If the business that qualifies for the abatement is not a facility for the generation of electricity from renewable energy,} machinery or equipment which is leased or purchased and for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:~~

~~{(I)}~~ *(a)* Buildings or the structural components of buildings;

~~{(II)}~~ *(b)* Equipment used by a public utility;

~~{(III)}~~ *(c)* Equipment used for medical treatment;

~~{(IV)}~~ *(d)* Machinery or equipment used in mining;

~~{(V)}~~ *(e)* Machinery or equipment used in gaming; or

~~{(VI)}~~ *(f)* Aircraft.

~~{(2) If the business that qualifies for the abatement is a facility for the generation of electricity from renewable energy, all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.~~

~~— (c) “Energy storage device” means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.~~

~~— (d) “Facility for the generation of electricity from renewable energy” means a facility for the generation of electricity that:~~

~~— (1) Uses renewable energy as its primary source of energy; and~~

~~— (2) Has a generating capacity of at least 10 kilowatts.~~

~~→ The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.~~

~~— (e) “Fuel cell” means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.~~

~~— (f) “Renewable energy” means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:~~

~~— (1) Biomass;~~

~~— (2) Fuel cells;~~

~~— (3) Geothermal energy;~~

~~— (4) Solar energy;~~

~~— (5) Waterpower; and~~

~~— (6) Wind.~~

~~→ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.}~~

**Sec. 12.** Section 42 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 90, is hereby amended to read as follows:

Sec. 42. 1. This section and sections 14 to 37, inclusive, 39, 40 and 41 of this act become effective upon passage and approval.

2. Section 38 of this act becomes effective on June 1, 2005.

3. Sections 1, 2, 4, 6, 7, 8 and 9 to 13, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2005, for all other purposes.

4. Section 5 of this act becomes effective on October 1, 2005, and applies to the construction or renovation of a public building, the designing of which begins on or after that date.

5. Sections 8.1 to 8.8, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2006, for all other purposes.

~~6. Section 3 of this act becomes effective on July 1, 2007, and applies to the construction of a public building, the designing of which begins on or after that date.~~

~~7.]~~ Sections 8.55 and 8.6 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

are repealed by the Congress of the United States.

**Sec. 13.** (Deleted by amendment.)

**Sec. 14.** 1. The Director of the Office of Energy shall, not later than September 1, 2007, adopt:

(a) The Green Building Rating System required by section 2 of this act; **and**

(b) The regulations required by section 3 of this act. ~~and~~

~~(c) The Green Building Rating System required by section 13 of this act.]~~

2. The Department of Taxation shall, not later than September 1, 2007, adopt the regulations required by section 3 of this act.

3. The Director of the Office of Energy shall provide an expedited procedure to carry out the provisions of section 3 of this act which allows for the consideration as soon as practicable for that purpose of applications filed before the effective date of this section with the Commission on Economic Development for a partial abatement of taxes pursuant to NRS 361.0775.

**Sec. 15.** 1. The provisions of section 4 of this act shall be deemed to apply to any partial abatement of taxes granted pursuant to NRS 361.0685 before the effective date of this section.

2. The provisions of section 5 of this act shall be deemed to apply to any partial abatement of taxes to which subsection 4 of NRS 361.0687 applied before the effective date of this section.

3. The provisions of section 7 of this act shall be deemed to apply to any partial abatement of taxes to which subsection 3 of NRS 374.357 applied before the effective date of this section.

4. The Commission on Economic Development shall not grant any partial abatement of taxes pursuant to NRS 361.0775 on or after the effective date of this section. The provisions of this act do not affect the terms of any partial abatement of taxes granted by the Commission on Economic Development pursuant to NRS 361.0775 before the effective date of this section.

5. The tax exemption provided pursuant to paragraph (d) of subsection 1 of NRS 374.307, as amended by chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 71, shall be deemed to apply to products and materials purchased on or after October 1, 2005, and on or before December 31, 2010, that are used in the construction of a building which:

(a) Is constructed:

(1) Pursuant to a preconstruction or construction contract executed on or before December 31, 2005; and

(2) As part of a construction project registered with the Office of Energy for the purpose of obtaining that tax exemption; ~~and~~

(b) **For which an opinion letter was issued by the Department of Taxation before February 1, 2007, stating that the project will qualify for a partial sales and use tax exemption under Assembly Bill No. 3 (Special Session 2005) if certain conditions are met.**

(c) Is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System adopted by the Director of the Office of Energy pursuant to the former provisions of NRS 701.217.

**Sec. 15.5.** 1. Except as otherwise provided in this section, the Director shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure which:

(a) Is constructed:

(1) Pursuant to a preconstruction or construction contract executed on or before December 31, 2005; and

(2) As part of a construction project registered with the Office of Energy for the purpose of obtaining the partial abatement of taxes provided pursuant to the former provisions of NRS 361.0775; ~~and~~

(b) **For which an opinion letter was issued by the Department of Taxation before February 1, 2007, stating that the project will qualify for a partial sales and use tax exemption under Assembly Bill No. 3 (Special Session 2005) if certain conditions are met.**

(c) Is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System adopted by the Director of the Office of Energy pursuant to the former provisions of NRS 701.217 ~~and~~

2. The Director shall not grant the partial abatement if any funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this subsection:

(a) Private activity bonds must not be considered funding provided by a governmental entity.

(b) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

3. To obtain the partial abatement, the owner of the property must:

(a) Submit an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.

(b) Except as otherwise provided in this paragraph, provide to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System adopted by the Director pursuant to the former provisions of NRS 701.217. The Director may, for good cause shown, extend the period for providing such proof.

4. As soon as practicable after the Director receives:

(a) The application required by subsection 3, the Director shall forward a copy of that application to the:

- (1) Chief of the Budget Division of the Department of Administration;
- (2) Department of Taxation;
- (3) County assessor;
- (4) County treasurer; and
- (5) Commission on Economic Development.

(b) The application and proof required by subsection 3, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

- (1) Department of Taxation;
- (2) County assessor;
- (3) County treasurer; and
- (4) Commission on Economic Development.

5. As soon as practicable after receiving a copy of ~~an~~ :

(a) **An** application pursuant to paragraph (a) of subsection 4 ~~[the]~~ :

(1) **The** Chief of the Budget Division ~~[and each affected local government]~~ shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on ~~[that governmental entity.]~~ **the State; and**

(2) **The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government.**

(b) **A certificate of eligibility pursuant to paragraph (b) of subsection 4, the Department of Taxation shall forward a copy of the certificate to each affected local government.**

6. The partial abatement:

(a) Must be for a duration of ~~[not more than]~~ 10 years , **unless earlier terminated pursuant to paragraph (c),** and in an annual amount that equals 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption from the taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement to which the owner is entitled pursuant to NRS 361.471 to 361.4735, inclusive.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other

structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

(1) Department of Taxation ~~§~~, who shall immediately notify each affected local government of the determination;

(2) County assessor;

(3) County treasurer; and

(4) Commission on Economic Development.

7. The Director shall:

(a) Adopt regulations:

(1) Establishing the qualifications and methods to determine eligibility for the abatement;

(2) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(3) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of paragraph (a) of subsection 3, and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

(b) Provide an expedited procedure to carry out the provisions of this section which allows for the consideration as soon as practicable for that purpose of applications filed before the effective date of this section with the Commission on Economic Development for a partial abatement of taxes pursuant to NRS 361.0775.

8. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education ~~§~~ of pupils in kindergarten through grade 12.

**Sec. 16.** 1. NRS 338.190, 361.0685, 361.0775, 361.079 and 701.217 are hereby repealed.

2. Section 3 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 69, is hereby repealed.

**Sec. 17.** 1. This section and sections 1, 4 to 8, inclusive, and 10 to 16, inclusive, of this act become effective upon passage and approval.

2. Sections 2 and 3 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2007, for all other purposes.

3. Sections 5, 7, 8 and 11 of this act expire by limitation on June 30, 2009.

4. Section 9 of this act becomes effective on July 1, 2009.



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## TEXT OF REPEALED SECTIONS

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**338.190 Analysis of certain public buildings before construction or renovation to estimate certain costs and to identify measures for conservation of energy and use of alternative types of energy; requirements for contracts for cost-saving measures.**

1. Before it begins to construct or renovate any occupied public building which is larger than 20,000 square feet, each agency of the State or a political subdivision, district, authority, board or public corporation of the State shall obtain a detailed analysis of the cost of operating and maintaining the building for its expected useful life.

2. The analysis must:

(a) Estimate the cost to construct or renovate the occupied public building and the cost to operate and maintain the building; and

(b) Identify measures, including, without limitation, for the:

(1) Conservation of water;

(2) Conservation of energy and energy efficiency that will generate cost savings within 10 years that are equal to or greater than the cost of implementation; and

(3) Use of types of energy which are alternatives to fossil fuels, such as active and passive applications of solar energy, wind and geothermal energy, which can be included in the building in its construction or renovation.

3. The agency of government which proposes to construct or renovate the occupied public building must consider the results of the analysis required by this section in deciding upon the type of construction or renovation and the components and systems which will be included in the building. The agency of government shall consider the use of types of energy which are alternatives to fossil fuels and any other energy conservation measures identified in the analysis into the design of the building if it is determined to be in the best interest of the State.

4. The agency of government may select, through the bidding process, a contractor to conduct the analysis required pursuant to this section. If a contractor is selected to conduct the analysis, any contract for the purchase, lease or rental of cost-saving measures must provide that all payments, other than any obligations that become due if the contract is terminated before the contract expires, be made from the cost savings.

5. As used in this section, "occupied public building" means a public building used primarily as an office space or work area for persons employed by an agency of the State or a political subdivision, district, authority, board or public corporation of the State. The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes.

**361.0685 Exemption of percentage of personal and real property of certain businesses certified by Commission on Economic Development.**

1. Except as otherwise provided in this section, if a:

(a) Business that engages in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate product through a process in which at least 50 percent of the material or product is recycled on site; or

(b) Business that includes as a primary component a facility for the generation of electricity from recycled material,

↳ is found by the Commission on Economic Development to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy and obtains certification from the Commission on Economic Development pursuant to NRS 360.750, the Commission may, if the business additionally satisfies the requirements set forth in subsection 2 of NRS 361.0687, grant to the business a partial abatement from the taxes imposed on real property by this chapter.

2. If a partial abatement from the taxes imposed on real property by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750 for a business described in subsection 1:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on real property payable by the business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

3. The partial abatement provided in this section applies only to the business for which certification was granted pursuant to NRS 360.750 and the property used in connection with that business. The exemption does not apply to property in this state that is not related to the business for which the certification was granted pursuant to NRS 360.750 or to property in existence and subject to taxation before the certification was granted.

4. As used in this section, a "facility for the generation of electricity from recycled material" is a facility which uses recycled material as its primary fuel including material from:

(a) Industrial or domestic waste, other than hazardous waste, even though it includes a product made from oil, natural gas or coal, such as plastics, asphalt shingles or tires;

(b) Agricultural crops, whether terrestrial or aquatic, and agricultural waste, such as manure and residue from crops; and

(c) Municipal waste, such as sewage and sludge.

↳ The term includes all the equipment in the facility used to process and convert into electricity the energy derived from a recycled material fuel.

**361.0775 Partial abatement of taxes imposed on certain structures that use resources efficiently.**

1. The Commission on Economic Development shall grant a partial abatement from the tax imposed on real property by this chapter for property which has a building or other structure that is certified at or meets the equivalent of the silver level or higher by a person authorized to grant such certification in accordance with the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent, as adopted by the Director of the Office of Energy pursuant to NRS 701.217.

2. The partial abatement must be for a duration of not more than 10 years and must not exceed 50 percent of the taxes on real property payable each year pursuant to this chapter.

3. The Commission on Economic Development shall establish by regulation the qualifications and methods to determine eligibility for the abatement.

4. The Commission on Economic Development shall immediately forward a certificate of eligibility for the abatement to:

- (a) The Department of Taxation;
- (b) The Nevada Tax Commission;
- (c) The county treasurer; and
- (d) The county assessor.

**361.079 Exemption of qualified systems for heating, cooling or provision of electricity.**

1. Except as otherwise provided in subsection 2, for any assessment made on or after July 1, 1983, any value added by a qualified system must be excluded from the assessed value of the building regardless of the date the system was installed.

2. Value added by a qualified system must not be excluded from the assessed value of a commercial or industrial building during any period in which the business that owns the commercial or industrial building is receiving another abatement or exemption from the taxes imposed by this chapter.

3. As used in this section, "qualified system" means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in a residential, commercial or industrial building to heat or cool the building or water used in the building, or to provide electricity used in the building, by using:

- (a) Energy from the wind or from solar devices not thermally insulated from the area where the energy is used;
- (b) Geothermal resources;
- (c) Energy derived from conversion of solid wastes; or
- (d) Waterpower,

which conforms to standards established by regulation of the Department.

**701.217 Adoption of Green Building Standards for certain public buildings; adoption of Green Building Rating System for certain purposes.**

1. The Director, in consultation with the State Public Works Board and any other interested agency, shall:

(a) In cooperation with representatives of the building and development industry, adopt guidelines establishing Green Building Standards for all occupied public buildings whose construction will be sponsored or financed by this State or a local government.

(b) Adopt a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent, pursuant to subsections 4 and 5. With regard to buildings or structures that are not public buildings or structures, the Green Building Rating System adopted by the Director is to be used only for the purposes of determining eligibility for tax abatements or tax exemptions that are authorized by law to use the Green Building Rating System.

2. Guidelines adopted pursuant to paragraph (a) of subsection 1 must include, without limitation, suggested:

- (a) Requirements for the use of resource-efficient materials for the construction and maintenance of the building;
- (b) Standards for indoor environmental quality;
- (c) Standards for the efficient use of water, including the efficient use of water for landscaping purposes;

- (d) Standards for the efficient use of energy; and
  - (e) Requirements for the design and preparation of building lots.
3. If standards equivalent to the Leadership in Energy and Environmental Design Green Building Rating System are adopted, the standards adopted must provide reasonable exceptions based on the size, location and use of the building.
4. Subject to the provisions of subsection 5, the Director shall establish a process for adopting a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent. The process must include, without limitation:
- (a) The gathering and development of scientific data;
  - (b) Comments from representatives of the building industry;
  - (c) Consensus from representatives of the building industry;
  - (d) A method by which the Director, the State Public Works Board and other interested agencies may cast ballots on the proposed standards;
  - (e) A pilot program for the purpose of refining the standards; and
  - (f) A process by which an aggrieved person may file an appeal of the standards adopted.
5. In adopting a Green Building Rating System pursuant to subsection 4, the Director is not required to adopt and is not limited to using the Leadership in Energy and Environmental Design Green Building Rating System but may adopt an equivalent rating system based on any other nationally recognized standards for green buildings, or any combination of those standards.

### **Section 3 of chapter 2, Statutes of Nevada 2005, 22nd Special Session:**

Sec. 3. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2, each occupied public building whose construction will be sponsored or financed by this State must, when completed, meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act.*

*2. During each biennium, at least two occupied public buildings whose construction will be sponsored or financed by this State must be designated as demonstration projects and must, when completed, meet the requirements to be certified at or meet the equivalent of the silver level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act if:*

*(a) The Director of the Office of Energy, in consultation with the State Board of Examiners and the State Public Works Board, has determined that it is feasible for the buildings to meet such requirements and standards and that it is a cost-effective investment to do so; and*

*(b) The agency or agencies that will occupy the buildings have agreed to allow the buildings to be designated as demonstration projects pursuant to this subsection.*

*3. Each occupied public building whose construction is sponsored or financed by a local government may meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design*

*Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act.*

*4. As used in this section, "occupied public building" means a public building used primarily as an office space or work area for persons employed by this State or a local government. The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes.*