

Brian Sandoval
Governor

Rob Boehmer
Program Coordinator



**Nevada Public Employees'
Deferred Compensation Program**

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NOTICE OF PUBLIC MEETING

NEVADA PUBLIC EMPLOYEES'
DEFERRED COMPENSATION COMMITTEE

January 16, 2014 9:00 am – 4:30 pm
& January 17, 2014 8:00 am – completion of agenda items

Note: Persons may attend the meeting and provide testimony through a conference call conducted at the following location. If you would like to participate in the meeting by conference call, please email deferredcomp@defcomp.nv.gov for the conference call number and access code.

Office of the Attorney General
Mock Courtroom
100 N. Carson Street
Carson City, Nevada

Below is an agenda of all items to be considered. All items which are potential action items are noted as such. Items on the agenda may be taken out of order, combined for consideration, or removed from the agenda at any time at the discretion of the Committee.

AGENDA

1. Opening Remarks
2. Public Comment *Comments from the public are invited at this time prior to the commencement of possible action items. The Committee reserves the right to limit the amount of time that will be allowed for each individual to speak and may place reasonable restrictions on the manner of public comment. The Committee is precluded from acting on items raised during Public Comment that are not on the agenda. Public comment pursuant to this item should be limited to items listed on the agenda.*
3. Update on Participant Survey
4. Brief Report on Program Coordinator Activities to date

5. For Possible Action – RFP and Potential New Contract Planning Process
 - a) Presentation from Investment Consultant on recent and successful RFP processes for Deferred Compensation Plans
 - b) Presentation from the State Purchasing Division on how they would proceed with the RFP process for the Recordkeeper bid
 - c) Discussion of fee paid to Investment Consultant for handling of RFP, and/or how that might be affected by State Purchasing Division handling the RFP process
 - d) Unique variables relative to a Recordkeeper RFP
 - 1) Response time – 30 or 60 days?
 - 2) Best and final offers
 - 3) The Investment Consultant role
 - 4) The final presentation and scoring
 - 5) Recordkeeper references
 - 6) What is discussed behind closed doors and what is not?
 - 7) Loan provision
 - e) Scoring the RFP – What is important to the Plan?
 - 1) One Recordkeeper or multiple - including advantages and disadvantages
 - 2) General Account versus Stable Value Account
 - 3) Balancing enthusiasm for obtaining our contract against a just and reasonable track record and/or experience levels (what should our minimum requirements really be?)
 - 4) Weighing the items contained within the RFP (costs versus services, etc.)
 - 5) What really needs to be included in the RFP (what’s fluff – what’s not)
 - f) Presentation from Investment Consultant on cost sharing, RFP investment consultant costs, and how they are worked into RFP and final contract
 - g) Presentation from Investment Consultant on the issue of “wrapping” or insuring the general funds as allowed for by previous legislation
 - h) Timelines for the RFP, Contracting Process, and Transition
 - i) Discussion on how participants accounts would be changed to the new investment lineup
 - j) Educating the participants on the potential changes (participant education seminars)
6. Various methods for reporting and allocating program costs
7. Goals for 2014
 - a) Participant enrollment numbers
 - b) Review of Alliance Partnership Criteria/Participation
 - c) NDC Website Management and Maintenance
 - d) Participant Financial Education Days
 - e) Plan Document Updates
8. For Possible Action – Building the 2016/2017 Budget/Legislative Request
 - a) Do we make permanent changes to Executive Director versus Program Coordinator position
 - b) Do we do anything with support staff position (contract versus State FTE)
 - c) Any legislative needs?
9. For Possible Action – State Administrative Manual (SAM) Changes Needed
10. New requirements for posting meetings on State Department of Administration Website
11. Discussion on Committee Operations including Program Coordinator’s role in recapping minutes, conducting meetings, etc.

Closing Comments

12. Investment Consultant / Recordkeepers
13. Sr. Deputy Attorney General
14. Committee Members
15. Staff
16. Public Comment. *The Committee reserves the right to limit the amount of time that will be allowed for each individual to speak. The Committee is precluded from acting on items raised during Public Comment that are not on the agenda. Public comment pursuant to this item may be on any topic, principally those related to the Nevada Deferred Compensation Program.*
17. Adjournment

Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual the Committee may refuse to consider public comment. *See NRS 233B.126.*

Notice of this meeting was posted at the following locations in Carson City, Nevada:

Nevada State Library and Archives, 100 Stewart Street
Blasdel Building, 209 E. Musser Street
Capitol Building, 101 N. Carson Street
Legislative Building, 401 S. Carson Street

Notice of this meeting was posted at the following locations in Las Vegas, Nevada:

Grant Sawyer State Office Building, 555 E. Washington Avenue
Fax to Capitol Police – (702) 486-2012

Notice of this meeting was posted on the following website:

<http://defcomp.nv.gov/>

We are pleased to make reasonable accommodations for members of the public who are disabled and would like to attend the meeting. If special arrangements for the meeting are required, please notify the Deferred Compensation office at 100 North Stewart Street, Suite 210, Carson City, Nevada, least one working day before the meeting or call (775) 684-3397 or you can fax your request to (775) 684-3399.

Public Comments for NDC RFP workshop on Jan 16-17, 2014, by Kent Ervin, active participant

Thank you for the opportunity to provide input for this process. I would like to address a few specific points related to the next recordkeeper search:

- 1) **Single versus multiple recordkeepers.** The 2012 RFP clearly showed significant savings with a single recordkeeper. There is no reason to expect that the market has changed significantly since then. A single recordkeeper is also easier and cheaper for NDC to administer and monitor, e.g., reducing consultant fees. With open architecture for mutual funds, there is no advantage to having two different vendors provide similar or identical funds with different expense ratios. The only investment advantage of more than one vendor is that stable value accounts could be backed by different insurance companies, providing some diversification against default risk if a participant invests with multiple providers. However, better protection from default risk may be obtained by choosing a stable value product that is not a general account subject to one insurer's credit.
- 2) **Safety of insured accounts.** The financial strength rating of the insurer is a key factor in determining the safety of a guaranteed income fund and is a most important fiduciary concern especially for retirees. Neither of the two finalists in the recent RFP met the minimum financial strength ratings of AA-/Aa3 recommended by a past NDC consultant for choosing a guaranteed income fund (Mercer in 2008-2009). If a financial crisis of the 2008 magnitude recurs, it is doubtful that the federal government would again bail out insurance companies (as it did with The Hartford by allowing it to become a 'bank' temporarily). NDC has established a lower trigger of below A-/A3 for emergency consideration of replacement, but the Committee needs to consider whether that level is sufficient for selecting a future contract and whether relying on the financial strength of a single company is really adequate protection for NDC participants.
- 3) **Investment line-up.** In the last RFP, it was difficult to compare pricing because of the different investment vehicles offered by various vendors, especially for proprietary stable value funds. That could be avoided if the Committee chooses funds for a single investment fund line-up prior to the RFP, and then requires all vendors to bid on that lineup for an apples-to-apples comparison. In particular, the Committee should conduct a full fund search in advance to select a best-in-class non-proprietary stable value fund that most recordkeepers can support. Then ask for separate bids using that stable value fund versus substituting the provider's own option. That would allow the Committee to compare the offerings directly and fairly. Choosing a non-proprietary stable value fund would also educate the Committee and participants on the options and trade-offs. The final fund line-up could be reconsidered once recordkeeper(s) are chosen.

- 4) **Transparent and uniform fees.** The Committee should consider how to most fairly charge participants for recordkeeping and NDC administrative costs. Choose either a flat per-participant charge or a uniform asset-based percentage (bps) charge on all assets *including any general accounts* and with no revenue sharing retained by the recordkeeper. By charging a uniform fee for all participants and assets, the providers won't need to recoup recordkeeping expenses from their general account profits, and they could presumably offer a higher crediting rate instead. Under this scenario, there should be no difference in recordkeeping fee bids with or without proprietary funds—if there is a lower bid using a general account it means general account holders are subsidizing recordkeeping costs for other funds. The Committee needs to decide whether it wants that subsidization to continue.

- 5) **Target date funds.** The indexed Vanguard target date funds with set glide paths as Qualified Default Investment Alternatives (QDIAs) are very effective and inexpensive professional management options for “please-do-it-for-me” participants, as well as providing fiduciary self-harbor protection for plan-directed investments under ERISA rules as best practice. Most participants don't need individualized asset management with an added fee. I would just suggest increasing the number of target dates to 5 year intervals to more closely match the retirement dates of participants.

- 6) **Re-enrollment strategy to improve asset allocations.** For historical reasons, the asset allocations of NDC participants are strongly skewed toward the Hartford General Account, which provides a guaranteed but a relatively low return compared with historical market performance. Because PERS participants already have a guaranteed retirement income stream, a fixed interest account does not provide diversification. Education programs have very limited effectiveness in inducing participant action. If the NDC Program is serious about improving this situation, the Committee could consider a “re-enrollment” process that defaults all future contributions into the QDIAs (age-appropriate target date funds). Of course, individuals could opt-out and/or change their allocations at any time. The existing asset allocation could be further improved through a full “re-investment” process, where all existing funds transfer by default into the QDIAs (again, with individual investment allocation elections allowed). Re-enrollment or re-investment has the advantage of a fresh start getting most participants to a reasonable allocation, but does require a high level of communication during the transition.

The State of Nevada Deferred Compensation Program Survey Report (Survey: The State of Nevada)
 Generated: Wed, Jan 15 2014 08:09:46

Q2 (Single Choice)

Do you currently participate in the Deferred Compensation Program?

	Total
Total	942
1 Yes	100%
2 No	0%

Data: Including participants who completed primary survey only (Live data)
 Display: Showing % of column

Statistics	Total
Mean	1.0
Median	1.0

Q3 (Multiple Choice)

The Committee that oversees and administers the Program will in the future consider reducing the number of record-keepers, formerly "investment industry has evolved over the years, it is the current situation and going forward that the primary services that record-keepers provide are: (1) maintain a participant website; and (3) provide customer service to participants. These services, along with nominal of the following are the pros and cons of having one vs. two or more record-keepers: Pro: 2. A single record-keeper will allow participants access to open numerous accounts with separate record-keepers in order to have access to all of the high quality investment choices offered by participants a higher interest rate on its general or stable value account, because it can offer that investment to a greater number of participants. Con: 1. A single record-keeper may not offer a statement format and design, a website, or a customer service experience that individual participants a choice of statement formats and designs, websites, or customer service experiences. QUESTION: Would you prefer

	Total
Total	942
One	40%
Two or More	39%
No Opinion	21%

Data: Including participants who completed primary survey only (Live data)
 Display: Showing % of column

(Multiple Choice)

A popular investment choice is an account which, in our current interest rate environment, earns a fairly stable but moderate to low interest rate of principal without regard to wild swings in the stock or bond markets. The principal in this type of account enjoys a very good, though not perfect, protection of principal based on the so-called "principle of diversification" which the Committee in conjunction with its investment consultant monitors the financial strength and credit ratings of the company holding the account. The following are the pros and cons of a General Account vs. Stable Value Account: Pro: 1. A General Account typically offers a fixed interest rate, which could drop to zero, but offers a slightly higher protection of principal because solvency of the company holding the account is more transparent. Con: 2. The principal in a General Account is less transparent, a risk that does not apply for a Stable Value Account. QUESTION: Would you prefer a General Account or Stable Value Account?

	Total
Total	942
General Account	42%
Stable Value Account	39%
No Opinion	19%

Data: Including participants who completed primary survey only (Live data)
 Display: Showing % of column

Q5 (Multiple Choice)

The IRS Code allows 457b plans such as this Program to offer a loan provision similar to those available to participants in 401k plans. S value but no more than \$50,000. Repayment of the loan would be at a low interest rate. Interest collected would be credited to the pai participant default on the loan it would be considered a distribution from the participant’s account with associated tax consequences. Lo balance. Any fees associated with the administration of the loan provision would be borne solely by those participants in the loan progr participants who have no outstanding loans. The following are the pros and cons of a Loan Provision vs. No Loan Provision:Pro:1. A loa financing by accessing funds from their deferred compensation, 457b account by borrowing from him/herself and upon repayment intere typically low being calculated as prime plus 1 percent for all types of loans. 3. Having a Loan Provision could reduce the amount of “em foreclosure, and eviction.Con:1. Having a Loan Provision may hinder the process of saving for some individual participants which in turr Would you like the Program to offer a Loan Provision?

	Total
Total	942
Yes	68%
No	20%
No Opinion	12%

Data: Including participants who completed primary survey only (Live data)
 Display: Showing % of column

Q6 (Open End)

Please provide any additional comments related to this survey in the space below. Once you have completed this final step you can close

	Total
Total	942
Answered	21%
Did not answer	79%

Data: Including participants who completed primary survey only (Live data)
 Display: Showing % of column

Pricing Methods

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Fee Transparency



- **Identifying** fees can be a challenge
- The two biggest fees to evaluate include:
 - Investment Management Fee
 - Administrative Fees
- Reasonable estimates are often needed, especially when evaluating a “bundled” administrative fee structure

Source: “Doing Your Homework: Understanding 401(k) Fees and Making Every Basis Point Count,” [Benefits Quarterly](#), Fourth Quarter 2010

How Administrative/Recordkeeping Fees Are Charged to Participants

	2009	2011
Through fund fees - by using mutual funds with revenue sharing	77%	83%
Through fund fees - by adding on basis points for accruals either onto mutual fund or nonmutual fund options	23%	28%
Participants are charged a periodic dollar fee per account for ongoing administrative fees	11%	14%

Source: Aon Hewitt, 2011 Trends and Experience in Defined Contribution Plans

Main Fee Components in Defined Contribution Plans

Component Description How They Are Assessed Factors That Impact Cost Portion of Fees

Components	Description	How They Are Assessed	Factors That Impact Costs	Portion of Fees
Investment Management Fees	Costs paid from fund expense ratio to manage fund assets	<ul style="list-style-type: none"> ➤ Percentage of Assets ➤ Level varies by fund ➤ Netted out of fund performance 	<ul style="list-style-type: none"> ➤ Mutual fund vs. institutional fund ➤ Asset Class ➤ Active vs. passive ➤ Share class ➤ Bundle vs. unbundle administration 	<ul style="list-style-type: none"> ➤ Typically 50-80% of total fees ➤ Within bundled plans, fees often equal 100% of TPC, and subsidize other fee components
Administrative Fees	Cost of recordkeeping services, internet, call center	<ul style="list-style-type: none"> ➤ Costs incurred based on number of participants ➤ In bundled arrangements, fees are generally charged in % basis points 	<ul style="list-style-type: none"> ➤ Services used ➤ Plan complexity ➤ Bundled vs. unbundled services ➤ Number of participants serviced 	<ul style="list-style-type: none"> ➤ Typically 15-40% of total fees ➤ May be subsidized by fund fees
Other Fees	Compliance, legal, communication, investment consulting, investment advice, transaction based (e.g., loans), onsite services	Varies	Varies	<ul style="list-style-type: none"> ➤ In total, ranges from 2-5% of total fees ➤ May be subsidizing other components

*Source: Doing Your Homework: Understanding 401(k) Fees and Making Every Basis Point Count," Benefits Quarterly, Fourth Quarter 2010.

Administrative Fees

- Recordkeeping
- Website/internet
- Call center
- Communication materials
- Participant education onsite support
- Advisory Services
- Transactions, loans, hardships



Administrative Fees

- Paid by the plan (i.e., the participants)

- Asset-based
- Per-participants

- Implicit (not visible)
- Explicit (visible)

Revenue Sharing



Investment manager/fund company agrees to pay a portion of the fund's total expense ratio to the service provider to compensate for recordkeeping, administration and communication services

Revenue Sharing Sources

- 12(b)-1: Disclosed in prospectus, typically asset-based, included in the fund's expense ratio
- Sub T/A: Not disclosed in prospectus, typically asset-based or per account, negotiable
- Finder's Fee: Disclosure varies, typically asset-based
- Management rebates: Not disclosed, typically asset based, negotiable



Historically

Plan recordkeeping fees have been covered in whole, or in part, by revenue sharing between investment providers and record keepers



Prevalent because:

- Simple
- Invisible
- Consistent with asset-based fees
- Methods of bundling services



Example 1A: Service provider fee is 22(bps)

	Revenue Sharing (bp)	Plan Asset %	Fee (bp)
Fund A	00	20	0
Fund B	25	25	6.25
Fund C	35	20	7.0
Fund D	10	20	2.0
Fund E	45	15	6.75
	23bp	100%	22bp

Example 1B: Service provider fee is 22(bps) lower share class funds level - additional wrap fee

	Revenue Sharing (bp)	Wrap (add'l) Fee (bp)	Total Collected (bp)	Plan Asset %
Fund A	0	8.5	8.5	20
Fund B	15	8.5	23.5	25
Fund C	20	8.5	28.5	20
Fund D	10	8.5	18.5	20
Fund E	25	8.5	33.5	15
			22bp	

Example 1C: Service Provider fee is 22(bps) lower share class funds - fee equalization

	Revenue Sharing (bp)	Wrap (add'l) Fee (bp)	Total Collected (bp)	Plan Asset %
Fund A	0	22	22	20
Fund B	15	7	22	25
Fund C	20	2	22	20
Fund D	10	12	22	20
Fund E	25	0	25	15
			22.45bp	

Inherent weaknesses with revenue sharing used to pay administrative fees

- Not equitable
- Not transparent
- Changes to investment options affect vendor revenue



As we have seen, the ubiquitous Revenue Sharing Fee Collection Model has some problems:

- Revenue share amounts vary from fund to fund, so some participants pay a different percentage than others for plan administration costs
- The only way to change the amount of revenue generated by the Plan is to change investments (funds or share classes)
- Often times desirable investments are not available in the “right” revenue sharing amount
- Revenue sharing has been “invisible”, and is now being seen as not in-synch with the increasing emphasis on transparency and full disclosure

Revenue Sharing

City of Virginia Beach
Data as of June 30, 2013

Fund Name	Ticker	Balances as of 06/30/2013	Expense Ratio (%)	Expenses (\$)	Revenue Sharing (%)	Revenue Sharing (\$)	Proposed Change				
							Ticker	Expense Ratio	Expenses	(%)	(\$)
Wells Fargo Advantage Gov't Sec	STVSX	\$ 4,113,058	0.93%	\$ 38,251	0.40%	\$ 16,452	STVSX	0.93%	\$ 38,251	0.40%	\$ 16,452
Pimco Total Return	PTRAX	\$ 1,820,659	0.71%	\$ 12,927	0.25%	\$ 4,552	PTTRX	0.46%	\$ 8,375	0.00%	\$ -
Vanguard Total Bond Market Index Fund*	VBMFX	\$ 2,110,345	0.30%	\$ 6,331	0.10%	\$ 2,110	VBMFX	0.27%	\$ 5,698	0.05%	\$ 1,055
Mutual Shares	TESIX	\$ 4,643,065	1.12%	\$ 52,002	0.40%	\$ 18,572	TESIX	1.16%	\$ 53,860	0.40%	\$ 18,572
American Century Equity Growth	BEQGX	\$ 9,751,555	0.68%	\$ 66,311	0.25%	\$ 24,379	BEQGX	0.68%	\$ 66,311	0.25%	\$ 24,379
Vanguard Institutional Index*	VINIX	\$ 17,321,547	0.14%	\$ 24,250	0.10%	\$ 17,322	VINIX	0.09%	\$ 15,589	0.05%	\$ 8,661
American Funds Growth Fund of America	RGAEX	\$ 4,719,410	0.69%	\$ 32,564	0.35%	\$ 16,518	RGAEX	0.69%	\$ 32,564	0.35%	\$ 16,518
Janus Forty	JARTX	\$ 1,186,814	1.04%	\$ 12,343	0.50%	\$ 5,934	JARTX	1.04%	\$ 12,343	0.50%	\$ 5,934
MFS Mass Investors Growth	MIGFX	\$ 8,348,316	0.79%	\$ 65,952	0.40%	\$ 33,393	MIGFX	0.81%	\$ 67,621	0.40%	\$ 33,393
Janus Perkins Mid Cap Value	JDPAX	\$ 1,242,613	1.05%	\$ 13,047	0.25%	\$ 3,107	JDPAX	1.05%	\$ 13,047	0.25%	\$ 3,107
Vanguard MidCap Index*	VMCIX	\$ 2,630,991	0.34%	\$ 8,945	0.10%	\$ 2,631	VMCIX	0.29%	\$ 7,630	0.05%	\$ 1,315
Morgan Stanley Mid Cap Growth	MPEGX	\$ 774,267	0.71%	\$ 5,497	0.10%	\$ 774	MPEGX	0.71%	\$ 5,497	0.10%	\$ 774
Heartland Value	HRTVX	\$ 4,796,258	1.09%	\$ 52,279	0.35%	\$ 16,787	HRTVX	1.10%	\$ 52,759	0.35%	\$ 16,787
Baron Small Cap	BSCFX	\$ 6,593,935	1.31%	\$ 86,381	0.40%	\$ 26,376	BSCFX	1.31%	\$ 86,381	0.40%	\$ 26,376
Eagle Small Cap Growth	HSRSX	\$ 1,493,721	0.80%	\$ 11,950	0.15%	\$ 2,241	HSRSX	0.80%	\$ 11,950	0.15%	\$ 2,241
William Blair International Growth	WBIGX	\$ 3,747,263	1.44%	\$ 53,961	0.50%	\$ 18,736	WBIGX	1.46%	\$ 54,710	0.50%	\$ 18,736
Templeton World Fund	TEMWX	\$ 8,279,983	1.09%	\$ 90,252	0.25%	\$ 20,700	TEMWX	1.09%	\$ 90,252	0.25%	\$ 20,700
Conservative Profile	MXVPX	\$ 1,803,654	0.83%	\$ 14,970	0.35%	\$ 6,313	MXVPX	0.83%	\$ 14,970	0.35%	\$ 6,313
Moderately Conservative Profile	MXTPX	\$ 1,814,715	0.90%	\$ 16,332	0.35%	\$ 6,352	MXTPX	0.90%	\$ 16,332	0.35%	\$ 6,352
Moderate Profile	MXOPX	\$ 6,322,329	0.98%	\$ 61,959	0.35%	\$ 22,128	MXOPX	0.98%	\$ 61,959	0.35%	\$ 22,128
Moderately Aggressive Profile	MXRPX	\$ 8,393,528	1.12%	\$ 94,008	0.35%	\$ 29,377	MXRPX	1.12%	\$ 94,008	0.35%	\$ 29,377
Aggressive Profile	MXPPX	\$ 5,012,274	1.22%	\$ 61,150	0.35%	\$ 17,543	MXPPX	1.22%	\$ 61,150	0.35%	\$ 17,543
Total		\$ 106,920,301	0.82%	\$ 881,662	0.29%	\$ 312,296		0.81%	\$ 871,257	0.28%	\$ 296,713

*The pure investment fees on the Vanguard Funds are 22bps for the Vanguard Total Bond Market Index Fund, 4bps for the Vanguard Institutional Index and 24bps for the Vanguard MidCap Index.

Current	\$ 26,615
Proposed	\$ 11,031
Contribution Account	\$ 15,583

Example: Investment Menu with revenue sharing, with a goal revenue level of .25% of assets

Fund Name	Balances as of 06/30/2013	Expense Ratio (%)	Revenue Sharing (%)
Wells Fargo Advantage Gov't Sec	\$ 4,113,058	0.93%	0.40%
Pimco Total Return	\$ 1,820,659	0.71%	0.25%
Vanguard Total Bond Market Index Fund*	\$ 2,110,345	0.30%	0.10%
Mutual Shares	\$ 4,643,065	1.12%	0.40%
American Century Equity Growth	\$ 9,751,555	0.68%	0.25%
Vanguard Institutional Index*	\$ 17,321,547	0.14%	0.10%
American Funds Growth Fund of America	\$ 4,719,410	0.69%	0.35%
Janus Forty	\$ 1,186,814	1.04%	0.50%
MFS Mass Investors Growth	\$ 8,348,316	0.79%	0.40%
Janus Perkins Mid Cap Value	\$ 1,242,613	1.05%	0.25%
Vanguard MidCap Index*	\$ 2,630,991	0.34%	0.10%
Morgan Stanley Mid Cap Growth	\$ 774,267	0.71%	0.10%
Heartland Value	\$ 4,796,258	1.09%	0.35%
Baron Small Cap	\$ 6,593,935	1.31%	0.40%
Eagle Small Cap Growth	\$ 1,493,721	0.80%	0.15%
William Blair International Growth	\$ 3,747,263	1.44%	0.50%
Templeton World Fund	\$ 8,279,983	1.09%	0.25%
Conservative Profile	\$ 1,803,654	0.83%	0.35%
Moderately Conservative Profile	\$ 1,814,715	0.90%	0.35%
Moderate Profile	\$ 6,322,329	0.98%	0.35%
Moderately Aggressive Profile	\$ 8,393,528	1.12%	0.35%
Aggressive Profile	\$ 5,012,274	1.22%	0.35%
Total	\$ 198,622,394	0.63%*	0.25%*

* Weighted Average

What Are Some Alternatives to the Revenue Sharing Model?

- Revenue Sharing, but with compensating admin fees applied to lower-revenue share-paying investments
- Using a “Zero Revenue Share” investment menu, with an Explicit Fee charged to all participants, to pay for administration-related expenses
 - Percentage of assets bases
 - Fixed dollar

Discussion: Using revenue sharing, but with the application of compensating fees on lower-revenue sharing investments

- This approach can “equalize” some low or zero-revenue sharing funds, by adding a specific amount of plan administration fee to them
- For example, if the Vanguard family is from a firm that does not offer funds with revenue share, a fee of perhaps .25% might be added to those funds only, if the target revenue from the Plan is .25%
- This can address imbalances in fees, but may still leave some “lesser” differences unresolved
- Can be a very labor-intensive approach for the TPA

Discussion: “Zero Revenue Share Investment Menu, with a Percentage of assets fee”

- Investments are chosen that pay zero revenue share
- The Plan Sponsor has the TPA charge an explicit fee that will cover all Plan Administration costs; for example, .25% of assets
 - Everyone pays the same rate
 - Admin fees are no longer connected to investments
 - Fees appear plainly on statements

Example: Investment Menu with the Zero Revenue Share Model, and an asset-based explicit admin fee

Fund Name	Balances as of 06/30/2013	Expense Ratio (%)	Revenue Share	Explicit Fee
Wells Fargo Advantage Gov't Sec	\$ 4,113,058	0.93%	0.00%	0.25%
Pimco Total Return	\$ 1,820,659	0.71%	0.00%	0.25%
Vanguard Total Bond Market Index Fund*	\$ 2,110,345	0.30%	0.00%	0.25%
Mutual Shares	\$ 4,643,065	1.12%	0.00%	0.25%
American Century Equity Growth	\$ 9,751,555	0.68%	0.00%	0.25%
Vanguard Institutional Index*	\$ 17,321,547	0.14%	0.00%	0.25%
American Funds Growth Fund of America	\$ 4,719,410	0.69%	0.00%	0.25%
Janus Forty	\$ 1,186,814	1.04%	0.00%	0.25%
MFS Mass Investors Growth	\$ 8,348,316	0.79%	0.00%	0.25%
Janus Perkins Mid Cap Value	\$ 1,242,613	1.05%	0.00%	0.25%
Vanguard MidCap Index*	\$ 2,630,991	0.34%	0.00%	0.25%
Morgan Stanley Mid Cap Growth	\$ 774,267	0.71%	0.00%	0.25%
Heartland Value	\$ 4,796,258	1.09%	0.00%	0.25%
Baron Small Cap	\$ 6,593,935	1.31%	0.00%	0.25%
Eagle Small Cap Growth	\$ 1,493,721	0.80%	0.00%	0.25%
William Blair International Growth	\$ 3,747,263	1.44%	0.00%	0.25%
Templeton World Fund	\$ 8,279,983	1.09%	0.00%	0.25%
Conservative Profile	\$ 1,803,654	0.83%	0.00%	0.25%
Moderately Conservative Profile	\$ 1,814,715	0.90%	0.00%	0.25%
Moderate Profile	\$ 6,322,329	0.98%	0.00%	0.25%
Moderately Aggressive Profile	\$ 8,393,528	1.12%	0.00%	0.25%
Aggressive Profile	\$ 5,012,274	1.22%	0.00%	0.25%
Total	\$ 198,622,394	0.63%	0.09%	0.16%

*Weighted Average

Note that one investment still generate revenue share, but have lower admin fees to off-set this revenue

Discussion: “Zero Revenue Share with an Explicit Fixed Dollar Fee”

- Investment are chosen that pay zero revenue share
- The Plan Sponsor has the TPA charge an explicit, per participant fee that will cover all Plan Administration costs; for example, \$100 / year
 - Everyone pays the same dollar amount
 - Admin Fees are no longer connected to investments
 - Fees appear plainly on statements

Example: Investment menu with the Zero Revenue Share Model, and a Fixed Dollar Fee

Fund Name	Balances as of 06/30/2013	Expense Ratio (%)	Per Participant \$100 Fee
Wells Fargo Advantage Gov't Sec	\$ 4,113,058	0.93%	
Pimco Total Return	\$ 1,820,659	0.71%	
Vanguard Total Bond Market Index Fund*	\$ 2,110,345	0.30%	
Mutual Shares	\$ 4,643,065	1.12%	
American Century Equity Growth	\$ 9,751,555	0.68%	
Vanguard Institutional Index*	\$ 17,321,547	0.14%	
American Funds Growth Fund of America	\$ 4,719,410	0.69%	
Janus Forty	\$ 1,186,814	1.04%	
MFS Mass Investors Growth	\$ 8,348,316	0.79%	
Janus Perkins Mid Cap Value	\$ 1,242,613	1.05%	
Vanguard MidCap Index*	\$ 2,630,991	0.34%	
Morgan Stanley Mid Cap Growth	\$ 774,267	0.71%	
Heartland Value	\$ 4,796,258	1.09%	
Baron Small Cap	\$ 6,593,935	1.31%	
Eagle Small Cap Growth	\$ 1,493,721	0.80%	
William Blair International Growth	\$ 3,747,263	1.44%	
Templeton World Fund	\$ 8,279,983	1.09%	
Conservative Profile	\$ 1,803,654	0.83%	
Moderately Conservative Profile	\$ 1,814,715	0.90%	
Moderate Profile	\$ 6,322,329	0.98%	
Moderately Aggressive Profile	\$ 8,393,528	1.12%	
Aggressive Profile	\$ 5,012,274	1.22%	
Total	\$ 198,622,394	0.63%	

Which Model?

Which Model: Percentage of Assets or Fixed Dollar?

- Asset-based fees impact small accounts less, big accounts more
- Dollar-based fees seem very high to new enrollees, but are attractive to high-balance participants
 - Consider; \$100 per year is 10% of your assets when you have a \$1,000 balance
 - But also; .20% per year is \$400 per year when you have a \$20,000 balance
- A Solution: “Percentage of Assets with Stop Limits”
 - Example: .25% per year asset-based fee, up to a cap of \$150 per year
 - Protects both low and high balance participants

Challenges for the Zero Revenue Share / Explicit Fee Model

- Fee Disclosure is not optional with this model!
- Not all investments are available in a “Zero Revenue Share” mode
 - More are becoming available, though
 - Comingled Investment Trust (CIT versions of funds often have no revenue sharing)
 - Solution: Most record-keepers can “put back” the revenue share in participant accounts, creating a “zero revenue share experience”

Advantages for the Zero Revenue Share / Explicit Fee Model

- Investment decisions are separated from fee and revenue decisions
- All participants can pay the same rate or dollar amount for admin services
- Full transparency and disclosure
- Revenue generated by the Plan is much more easily adjusted in the future

Questions



CHAPTER 333 - PURCHASING: STATE

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[NRS 333.020](#) Definitions.

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[NRS 333.100](#) Assistants: Number; qualifications.
[NRS 333.110](#) Offices of Purchasing Division.
[NRS 333.120](#) State Purchasing Fund: Creation; amount; use.
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GENERAL POWERS AND DUTIES OF ADMINISTRATOR OF PURCHASING DIVISION

[NRS 333.130](#) Supervision of administrative and technical activities of Purchasing Division; regulations.
[NRS 333.135](#) Regulations establishing procedures for awarding contracts.
[NRS 333.140](#) Policy of securing best value.
[NRS 333.150](#) Purchases or contracts for rental or lease for using agencies.
[NRS 333.155](#) Regulations concerning purchase of new equipment: Consideration of renting equipment and contracting for service to maintain equipment.
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[NRS 333.162](#) Methods of obtaining a contract; regulations.
[NRS 333.165](#) Contracts for services: Duty of Administrator to act on behalf of using agency; authority of using agency to contract; requests for assistance by using agency.
[NRS 333.175](#) Administrator may exempt purchases by Department of Corrections from Offenders' Store Fund from provisions of chapter.
[NRS 333.177](#) Duty of Purchasing Division to report to Office of Economic Development concerning local emerging small businesses. [Effective January 1, 2014.]
[NRS 333.180](#) Collection, classification and maintenance of information concerning commodities and suppliers.
[NRS 333.190](#) Inspection of purchased commodities; material or service found to be defective or not as specified; receiving reports.
[NRS 333.195](#) Donation of certain supplies, materials and equipment to certain organizations.
[NRS 333.200](#) Inventory of supplies and materials stored centrally: Duties; records.
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[NRS 333.225](#) Supplemental Food Program. [Repealed.]
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[NRS 333.250](#) Classification of commodities; schedules of purchases by classes.
[NRS 333.260](#) Estimates of requirements.
[NRS 333.270](#) Determination of quantity to be purchased of each commodity after receipt of estimate of requirements.
[NRS 333.280](#) Contract for furnishing supplies, materials and equipment: Period and form; extension. [Effective through December 31, 2013.]
[NRS 333.280](#) Contract for furnishing supplies, materials and equipment: Period and form; extension. [Effective January 1, 2014.]
[NRS 333.290](#) Use of materials, supplies or products of state institutions: Contents of advertisement for bids.
[NRS 333.300](#) Notices of proposed purchases; purchase by formal contract; preferences; emergency purchases. [Effective through December 31, 2013.]
[NRS 333.300](#) Notices of proposed purchases; purchase by formal contract; solicitation; preferences; emergency purchases. [Effective January 1, 2014.]
[NRS 333.310](#) Advertisements for bids or proposals: Contents and publication.
[NRS 333.311](#) Request for proposals to include minimum requirements for awarding contract; award of contract to noncomplying bidder prohibited.
[NRS 333.313](#) On-line bidding.
[NRS 333.315](#) Cost of providing service to be determined including all costs related to contract, including monitoring or reviewing private contractor.

NRS 333.320	Specification for bids for supplying state institutions: Requirements.
NRS 333.330	Bids: Itemization; requirements for submission; opening and reading.
NRS 333.333	Proprietary information regarding trade secret: Confidentiality; disclosure.
NRS 333.335	Proposals: Evaluation; factors to be considered before making an award; relative weight of factors; special procedures if contract is being awarded for Public Employees' Benefits Program; confidentiality.
NRS 333.3361	Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: Definitions.
NRS 333.3362	Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: "Business owned by a veteran with a service-connected disability" defined.
NRS 333.3363	Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: "Local business" defined.
NRS 333.3364	Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: "State purchasing contract" defined.
NRS 333.3365	Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: "Veteran with a service-connected disability" defined.
NRS 333.3366	Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: Amount of preference.
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NRS 333.3368	Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: Duty of Purchasing Division to report to Legislature.
NRS 333.3369	Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: Regulations.
NRS 333.337	Contracts entered into pursuant to this chapter must be in writing and signed by each party.
NRS 333.340	Award of contract or order for goods: Determination of lowest responsible bidder; written statement to be provided if contract or order is not awarded to lowest bidder.
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- [NRS 333.800](#) Prohibited acts by bidders before award of contract; penalty.
- [NRS 333.810](#) Purchases and contracts made contrary to provisions of chapter void; liability of state officers and employees; exception.
- [NRS 333.820](#) Purchase of information system or system of communication for use by response agency.

GENERAL PROVISIONS

NRS 333.010 Short title. This chapter shall be known and cited as the State Purchasing Act.
[1:333:1951]

NRS 333.020 Definitions. As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the Administrator of the Purchasing Division.
2. "Best value" means the greatest possible economy consistent with grades or qualities of supplies, materials, equipment and services that are adapted to the purposes to be served.
3. "Director" means the Director of the Department of Administration.
4. "Invitation to bid" means a written statement which sets forth the requirements and specifications of a contract to be awarded by competitive selection.
5. "Proprietary information" means:
 - (a) Any trade secret or confidential business information that is contained in a bid or proposal submitted on a particular contract; or
 - (b) Any other trade secret or confidential business information submitted in a bid or proposal and designated as proprietary by the Administrator.
 ↪ As used in this subsection, "confidential business information" means any information relating to the amount or source of any income, profits, losses or expenditures of a person, including data relating to cost or price submitted in support of a bid or proposal. The term does not include the amount of a bid or proposal.
6. "Purchasing Division" means the Purchasing Division of the Department of Administration.
7. "Purchasing officer" means a person who is authorized by the Administrator or a using agency to participate in:
 - (a) The evaluation of bids or proposals for a contract;
 - (b) Any negotiations concerning a contract; or
 - (c) The development, review or approval of a contract.
8. "Request for proposals" means a written statement which sets forth the requirements and specifications of a contract to be awarded by competitive selection.
9. "Trade secret" has the meaning ascribed to it in [NRS 600A.030](#).
10. "Using agencies" means all officers, departments, institutions, boards, commissions and other agencies in the Executive Department of the State Government which derive their support from public money in whole or in part, whether the money is provided by the State of Nevada, received from the Federal Government or any branch, bureau or agency thereof, or derived from private or other sources. The term does not include the Nevada Rural Housing Authority, the Housing Division of the Department of Business and Industry, local governments as defined in [NRS 354.474](#), conservation districts, irrigation districts and the Nevada System of Higher Education.
11. "Volunteer fire department" means a volunteer fire department which pays premiums for industrial insurance pursuant to the provisions of [chapters 616A to 616D](#), inclusive, or chapter [617](#) of NRS.
[2:333:1951]—(NRS A 1963, 48, 489, 1284; 1967, 202; 1969, 1429; 1973, 1465; 1975, 248; 1993, 390, 1564, 2267, 2877; 1995, 366, 728, 815, 1733, 2044, 2060; 1997, 547; 1999, 234, 1024, 1817; 2001, 2122; 2003, 547, 2194; 2005, 668; 2009, 650)

ADMINISTRATION

NRS 333.030 Administration of chapter. The Purchasing Division shall administer the provisions of this chapter, subject to administrative supervision of the Director.
[3:333:1951]—(NRS A 1963, 1051)

NRS 333.060 Qualifications of Administrator of Purchasing Division. The Administrator shall have:

1. A working knowledge of purchasing methods and procedures, including the techniques of specification writing.
2. The ability to obtain and interpret market prices and trends, and to apply such interpretations to procurement problems.
3. A minimum of 12 years of practical experience in purchasing, merchandising, stock control and methods of inventory management.

[6:333:1951]—(NRS A 1963, 1051)

NRS 333.100 Assistants: Number; qualifications.

1. The Administrator shall have such technical and clerical assistance as the execution of the Administrator's duties requires.
2. Technical assistants shall have a minimum of 6 years of practical experience in purchasing, merchandising, stock control and methods of inventory management.

[Part 7:333:1951]—(NRS A 1963, 1051)

NRS 333.110 Offices of Purchasing Division. Suitable office space shall be furnished to the Purchasing Division for the performance of the duties provided in this chapter.

[Part 7:333:1951]—(NRS A 1963, 1051)

NRS 333.120 State Purchasing Fund: Creation; amount; use.

1. The State Purchasing Fund, in the sum of \$1,250,000 is hereby created as an internal service fund for the use of the Administrator in purchasing supplies, materials and equipment and services.

2. Except as otherwise provided in subsection 3, the Administrator may withdraw from the State Purchasing Fund an amount not to exceed \$150,000 per year and is hereby authorized to expend that amount to pay the cost to the Purchasing Division of providing methods for purchasing or leasing pursuant to this chapter by the use of forms in electronic format through a computer system or network or through the Internet, or its successor, if any.

3. The Administrator shall not withdraw money pursuant to subsection 2 if the withdrawal would reduce the balance of the State Purchasing Fund below \$500,000.

4. If the Administrator makes a withdrawal pursuant to subsection 2, the maximum balance of the State Purchasing Fund is permanently reduced by the amount of the withdrawal.

[45:333:1951; A 1953, 585; 1955, 838]—(NRS A 1957, 345; 1960, 53; 1963, 1051; 1965, 1021; 1967, 155; 1973, 332; 1975, 225; 1977, 43; 1981, 348; 1983, 388; [1991, 1746](#); [1999, 1025](#); [2001, 1457](#))

NRS 333.124 Donated Commodities Account: Creation; use. Repealed. (See chapter 432, Statutes of Nevada 2013, at page 2495.)

NRS 333.125 Temporary transfers from State General Fund to State Purchasing Fund. Whenever claims payable and properly approved exceed the amount of the cash in the State Purchasing Fund, the State Controller may transfer temporarily from the State General Fund to the State Purchasing Fund such amount as may be required to pay the claims, but not to exceed the lesser of:

1. The amount receivable from using agencies and political subdivisions as certified by the Purchasing Division;
2. The maximum balance of the State Purchasing Fund, if reduced pursuant to subsection 4 of [NRS 333.120](#); or
3. Eight hundred and fifty thousand dollars.

(Added to NRS by 1965, 1022; A 1979, 1794; 1981, 348; [1987, 316](#); [2001, 1457](#))

GENERAL POWERS AND DUTIES OF ADMINISTRATOR OF PURCHASING DIVISION

NRS 333.130 Supervision of administrative and technical activities of Purchasing Division; regulations. The Administrator, as executive head of the Purchasing Division:

1. Shall direct and supervise all its administrative and technical activities.
2. May adopt regulations necessary for the administration of this chapter.

[Part 7:333:1951]—(NRS A 1963, 1052; [1991, 620](#))

NRS 333.135 Regulations establishing procedures for awarding contracts. The Administrator shall adopt regulations establishing procedures for awarding contracts pursuant to this chapter. The regulations must include, without limitation, provisions that set forth requirements relating to:

1. The establishment and membership of committees to evaluate proposals;
2. Notices that must be given to persons who submit proposals before and after a contract is awarded;
3. The confidentiality of information submitted in proposals and any communication between a person who submits a proposal and the chief of a using agency, the Administrator of the Purchasing Division or a member of a committee to evaluate proposals;
4. The submission of revised proposals; and

5. The awarding of contracts on a contingency basis.
(Added to NRS by [1999, 1024](#))

NRS 333.140 Policy of securing best value. The Administrator, in all his or her purchasing and property control activities, shall pursue a policy of securing the best value for supplies, materials, equipment and services.
[10:333:1951]—(NRS A 1963, 1052; [2003, 548](#))

NRS 333.150 Purchases or contracts for rental or lease for using agencies. The Administrator shall:

1. Purchase or contract for all supplies, materials and equipment; and
 2. Contract for the rental or lease of equipment,
- ↪ needed by any using agency, unless otherwise provided by law.
[11:333:1951]—(NRS A 1963, 1052; 1981, 367)

NRS 333.155 Regulations concerning purchase of new equipment: Consideration of renting equipment and contracting for service to maintain equipment. The Administrator shall adopt regulations which set forth standards to be used by using agencies when purchasing new equipment in order to determine:

1. Whether the equipment can be leased or rented at a cost that is equal to or less than the cost of purchasing the equipment; and
 2. If a service is required to maintain the equipment, whether the service would be performed more efficiently by the agency or a private contractor.
- (Added to NRS by [1993, 925](#))

NRS 333.160 Methods of supplying needs of using agencies. The Administrator may decide whether and to what extent the needs of any using agency may be supplied:

1. From stores of commodities on hand;
 2. By transfer of surplus items or stocks from other using agencies;
 3. By deliveries under contracts;
 4. By open market purchases through the Administrator; or
 5. Directly by the using agencies;
- ↪ but he or she shall have thorough discussions on such matters with authorized representatives of each using agency.
[12:333:1951]—(NRS A 1963, 1052; 1981, 1188)

NRS 333.162 Methods of obtaining a contract; regulations.

1. The Administrator may designate the method of obtaining a contract, including:
 - (a) An invitation to bid;
 - (b) A request for proposals;
 - (c) A request for a quotation; or
 - (d) Any other accepted method of purchasing that complies with the provisions of this chapter.
 2. The Administrator shall adopt regulations governing the methods of obtaining a contract.
- (Added to NRS by [1991, 619](#); A [1999, 1025](#))

NRS 333.165 Contracts for services: Duty of Administrator to act on behalf of using agency; authority of using agency to contract; requests for assistance by using agency.

1. Except as otherwise provided by specific statute, the Administrator shall contract for services whose estimated value is \$100,000 or more, and may authorize a using agency to contract for such services if he or she determines that to do so would be in the best interests of the State.
 2. A using agency may contract for services if the estimated value of the services is less than \$100,000. The Administrator may, upon the request of a using agency, contract for such services on behalf of the agency if he or she determines that to do so would be in the best interests of the State.
 3. The Administrator shall, upon the request of a using agency, provide assistance to the using agency for any contract for services whose estimated value is less than \$100,000.
 4. For the purposes of this section, a contract for goods and services whose estimated value:
 - (a) Is \$100,000 or more, shall be deemed a contract for services; or
 - (b) Is less than \$100,000, shall be deemed a contract for goods with respect to that part of the contract that represents goods. Those goods must be procured in a manner authorized by the Administrator.
- (Added to NRS by [1987, 150](#); A [1999, 1025](#))

NRS 333.175 Administrator may exempt purchases by Department of Corrections from Offenders' Store Fund from provisions of chapter. The Administrator may exempt from the provisions of this chapter purchases made by the Department of Corrections, with money from the Offenders' Store Fund, for the provision and maintenance of canteens for offenders.

(Added to NRS by [1987, 773](#); A [2001 Special Session, 236](#))

NRS 333.177 Duty of Purchasing Division to report to Office of Economic Development concerning local emerging small businesses. [Effective January 1, 2014.]

1. The Purchasing Division shall submit a report every 6 months to the Office. The report must include, without limitation, for the period since the last report:

- (a) The number of local emerging small businesses that the Purchasing Division solicited to submit a bid or proposal to the Purchasing Division on a state purchasing contract;
 - (b) The number of local emerging small businesses that submitted a bid or proposal on a state purchasing contract;
 - (c) The number of state purchasing contracts that were awarded by the Purchasing Division to local emerging small businesses;
 - (d) The total number of dollars' worth of state purchasing contracts that were awarded by the Purchasing Division to local emerging small businesses;
 - (e) Whether each goal established by the Office pursuant to [NRS 231.1407](#) has been achieved;
 - (f) For each goal established by the Office pursuant to [NRS 231.1407](#) that has not been achieved, information on all efforts undertaken by the Purchasing Division to achieve the goals in the current fiscal year and a proposed plan for achieving the goals in the subsequent fiscal year; and
 - (g) Any other information deemed relevant by the Office.
2. The report required pursuant to subsection 1 must be submitted within 30 days after:
- (a) The end of each fiscal year; and
 - (b) The end of each calendar year.
3. As used in this section:
- (a) "Local emerging small business" has the meaning ascribed to it in [NRS 231.1402](#).
 - (b) "Office" means the Office of Economic Development.
 - (c) "State purchasing contract" means a contract awarded pursuant to the provisions of subsection 3 of [NRS 333.300](#).
- (Added to NRS by [2013, 3689](#), effective January 1, 2014)

NRS 333.180 Collection, classification and maintenance of information concerning commodities and suppliers. The Administrator shall collect, classify and maintain accurate information concerning:

- 1. The sources, grades, qualities and costs of the various kinds of supplies, materials and equipment required by the State; and
 - 2. The names and addresses of the persons from whom commodities of the various classes are available.
- [31:333:1951]—(NRS A 1963, 1052; [1991, 620](#); [1997, 470](#))

NRS 333.190 Inspection of purchased commodities; material or service found to be defective or not as specified; receiving reports.

- 1. The Administrator shall provide for inspection of all commodities purchased.
 - 2. If, before final acceptance, any equipment, material, supply or service is found to be defective or not as specified, the Administrator may:
 - (a) Reject it and require the seller to correct the defect without charge; or
 - (b) Require delivery of the equipment, material, supply or service at a reduction in cost.
 - 3. A receiving report must be submitted by a using agency to certify the receipt of commodities and must show the quantity and quality delivered. A claim for payment for commodities must not be passed for payment without certification.
- [32:333:1951]—(NRS A 1963, 1053; [1991, 620](#))

NRS 333.195 Donation of certain supplies, materials and equipment to certain organizations. The Administrator may donate supplies, materials and equipment that he or she determines have reached the end of their useful lives to any organization described in [NRS 372.3261](#).

(Added to NRS by [1999, 1643](#); A [2013, 2494](#))

NRS 333.200 Inventory of supplies and materials stored centrally: Duties; records.

- 1. The Administrator shall cause to be maintained perpetual inventory records of all supplies and materials stored centrally.
- 2. The Administrator shall:
 - (a) Control the stocks of supplies and materials on hand, the storing and issuance of supplies and materials, and the distributing of the costs of supplies and materials used.
 - (b) Produce information, as and when required, respecting quantities on hand, quantities purchased over a specified period, quantities used over a specified period by each using agency, quantities supplied by vendors specified for specified periods, unit prices, average prices and experience with the vendors supplying the different classes of supplies.
 - (c) Price supplies and materials when purchased and when charged out of stock as used.
 - (d) Transfer surplus supplies and materials to points where they can be used advantageously.
 - (e) Direct and make test checks of physical inventories.
 - (f) Supervise the taking of annual inventories.
 - (g) Instruct storekeepers in the prescribed procedures for controlling stored materials.
- 3. The stores records must be so maintained as to show:
 - (a) The quantity of each commodity on hand.
 - (b) The average unit cost, including transportation charges.
 - (c) The total cost of the supply on hand.
 - (d) The minimum quantity that should be kept in stock.
 - (e) The maximum quantity that should be kept in stock at any one time.

[34:333:1951]—(NRS A 1963, 1053; 1967, 63; 1969, 1429; 1973, 1466; 1979, 1795; [1985, 465](#); [1993, 391](#), [1565](#); [1995, 579](#); [1997, 19, 471](#))

NRS 333.210 Standards and specifications.

1. Supplies, materials and equipment purchased for the various using agencies shall be reduced to the practicable minimum of types, styles and sizes. The Administrator shall be responsible for developing and executing a progressive program of establishing standards. The Administrator may call upon any department or officer having technical facilities available, for assistance in the formulation of such standards.

2. Standard specifications shall be developed and adopted after consultation with the heads of the various using agencies, who shall assist in formulating such specifications. Such specifications shall be sufficiently complete and precise:

- (a) To insure that all vendors bid on the same basis.
- (b) To make effective testing and inspection possible.
- (c) To attract the maximum competition practicable with due consideration of suitability of products.
- (d) To describe the methods of testing or inspection.

↪ A specification file containing all approved specifications shall be maintained by the Administrator.
[35:333:1951]—(NRS A 1963, 1054; 1979, 175)

NRS 333.220 Personal property of using agencies: Classification; identification; records; list of lost, excess, forfeited or donated property; transfers; inventories; condemnation and sale; determination of value; refurbishment.

1. The Administrator shall:

- (a) Provide for classification of the personal property of the State in the possession of the using agencies.
- (b) Establish a process for identification of all such property.
- (c) Maintain records of that property.

(d) Except as otherwise provided in this paragraph, determine which items of that property must be listed by each using agency pursuant to subsection 4. Any item which had an original cost of not less than the amount established by regulation of the State Board of Examiners and which has a useful life of more than 2 years must be included on the list.

2. Each using agency shall submit to the Purchasing Division a list on or before the last day of each month of all personal property for which it is responsible which was lost, stolen, exchanged or deemed excess. The list must include all forfeited personal property which was received by the using agency and all personal property which was donated to the using agency within the previous month. The list must be prepared by the officer entrusted with custody of the property and be approved by the officer's supervisor or the head of his or her department or agency. A monthly physical count is not required for the preparation of the list.

3. The Administrator may transfer any personal property or forfeited personal property in the possession of a using agency to another governmental agency within the State or to an entity that is eligible to acquire federal donable surplus property, if that property is not necessary for the use of the using agency.

4. The records of personal property of the State must be maintained at all times to show the officers entrusted with the custody thereof and transfers of that property between those officers. Each using agency shall conduct an annual physical count of all personal property charged to it and reconcile the results of the annual physical count with the records of inventory maintained by the Administrator. The Administrator shall maintain the current records of inventory for each state agency.

5. The Administrator shall adopt regulations which:

(a) Prescribe the procedure by which personal property may be condemned and disposed of, if of no further use to the State.

(b) Provide that condemned property which the Administrator has not transferred to another governmental agency or entity that is eligible to acquire federal donable surplus property and which has an appraised value over \$1,000 may be sold at a public auction. At least once within 15 days before the auction, the Administrator shall publish or cause to be published in a newspaper circulated in the area in which the sale is made a notice of the auction and a description of the property to be sold.

6. For the purposes of sale, the Administrator or a designated agent of the Administrator shall determine the value of personal property which is of no further use to the State. The Administrator may request the assistance of any department or officer having technical expertise regarding any such property to determine the value of the property.

7. The Administrator may elect to refurbish, in whole or in part, personal property which is of no further use to the State if the Administrator determines that refurbishment will increase the value of the property in an amount that exceeds the cost of the refurbishment. The Purchasing Division is entitled to reimbursement for the cost of refurbishment from the proceeds of the sale of the property.

[36:333:1951]—(NRS A 1963, 1054; 1967, 63; 1969, 252; 1971, 1205; 1979, 175; 1981, 367; 1983, 267; [1987, 101](#); [1989, 2143](#); [1991, 620](#); [1993, 1565](#); [1997, 1272](#); [2001, 689](#))

NRS 333.225 Supplemental Food Program. Repealed. (See chapter 432, Statutes of Nevada 2013, at page 2495.)

NRS 333.230 Central supply services. The Administrator may maintain and operate central supply services at any center, including a central warehouse or storeroom service.

[37:333:1951]—(NRS A 1963, 1055)

PROCEDURES FOR STATE PURCHASING

NRS 333.250 Classification of commodities; schedules of purchases by classes.

1. The Administrator shall classify for purchasing purposes all commodities for which there is sufficient demand to justify periodic purchasing in anticipation of needs. Commodities of the same nature, ordinarily secured from the same

sources of supply and which can advantageously be scheduled for purchase at the same time of year, according to favorable market conditions, shall be included in the same class.

2. The rules shall provide, so far as practicable, for the scheduling of purchases, by commodity classes, so as to distribute the volume of purchasing work as evenly as may be over the entire year and so as best to meet the requirements of the several spending agencies of the State, while taking advantage of favorable market conditions and avoiding unnecessary tying up of funds.

3. Copies of schedules of purchases to be made shall be supplied to the several using agencies and to interested vendors.

[14:333:1951]—(NRS A 1963, 1055)

NRS 333.260 Estimates of requirements.

1. The Administrator shall determine the requirements of supplies and materials of the using agencies according to records of past experience, and according to estimates of anticipated requirements furnished by the various using agencies. The Administrator shall set up and maintain current cumulative purchase records of all materials and supplies purchased for the using agencies.

2. Prior to the scheduled date for purchasing any class of commodities, the Administrator shall make estimates of requirements among all the using agencies using the commodities included in that class. The Administrator may make the estimates by summarizing the requisitions of materials and supplies submitted by the using agencies.

3. Using agencies requiring information such as prices, specifications, and the procurement of any supplies, materials and equipment for present or future needs shall obtain this information through the Administrator.

[15:333:1951]—(NRS A 1963, 1055; 1969, 641)

NRS 333.270 Determination of quantity to be purchased of each commodity after receipt of estimate of requirements. Upon receipt of the estimates of requirements from the using agencies, the Administrator shall cause them to be summarized by classes for all agencies. The Administrator shall then, with the consideration of the quantity of each commodity in stock, market conditions and probable future market conditions, determine or cause to be determined the quantity of each commodity to be purchased.

[16:333:1951]—(NRS A 1963, 1056)

NRS 333.280 Contract for furnishing supplies, materials and equipment: Period and form; extension. [Effective through December 31, 2013.]

1. Except as otherwise provided in this subsection, the Administrator may enter into a contract using a standard form of contract, by advertising in accordance with the provisions of [NRS 333.310](#), for the furnishing of supplies, materials and equipment for not more than 2 years. If an extended contractual period is necessary to promote the use of a manufacturing process which emphasizes the efficient use of energy or to promote the manufacture of products which use recycled materials, the Administrator may enter into such a contract for not more than 3 years.

2. The original terms of a contract may be extended annually thereafter if the conditions for extension are specified in the original solicitation, and the Administrator determines that an extension is in the best interest of the State.

[17:333:1951]—(NRS A 1963, 1056; 1969, 1058; [1985, 44](#); [1991, 622](#); [1993, 80](#); [1995, 367](#))

NRS 333.280 Contract for furnishing supplies, materials and equipment: Period and form; extension. [Effective January 1, 2014.]

1. Except as otherwise provided in this subsection, the Administrator may enter into a contract using a standard form of contract, by solicitation in accordance with the provisions of [NRS 333.300](#) or by advertising in accordance with the provisions of [NRS 333.310](#), for the furnishing of supplies, materials and equipment for not more than 2 years. If an extended contractual period is necessary to promote the use of a manufacturing process which emphasizes the efficient use of energy or to promote the manufacture of products which use recycled materials, the Administrator may enter into such a contract for not more than 3 years.

2. The original terms of a contract may be extended annually thereafter if the conditions for extension are specified in the original solicitation, and the Administrator determines that an extension is in the best interest of the State.

[17:333:1951]—(NRS A 1963, 1056; 1969, 1058; [1985, 44](#); [1991, 622](#); [1993, 80](#); [1995, 367](#); [2013, 3690](#), effective January 1, 2014)

NRS 333.290 Use of materials, supplies or products of state institutions: Contents of advertisement for bids.

1. Every advertisement for bids covering any class of materials or supplies that any charitable, reformatory or penal institution of the State is prepared to supply, in whole or in part, through the labor of inmates, shall carry a statement that the Administrator reserves the right to secure such materials or supplies from any such institution or institutions, to the extent that they can be secured of equal quality and at prices not higher than those of the lowest acceptable bid received in response to such advertisement.

2. All institutions' products meeting these conditions shall be utilized to the extent available, before orders are placed under contracts or otherwise.

[18:333:1951]—(NRS A 1963, 1056)

NRS 333.300 Notices of proposed purchases; purchase by formal contract; preferences; emergency purchases. [Effective through December 31, 2013.]

1. Except as otherwise provided in [NRS 333.375](#), the Administrator shall give reasonable notice, by advertising and by written notice provided to persons in a position to furnish the classes of commodities involved, as shown by its records,

of all proposed purchases of supplies, materials and equipment to be purchased in accordance with a schedule prepared in conformity with the provisions of [NRS 333.250](#).

2. All such materials, supplies and equipment, except as otherwise provided in this section, if the estimated cost thereof exceeds \$50,000 must be purchased by formal contract from the lowest responsible bidder after notice inviting the submission of sealed proposals to the Administrator of the Purchasing Division at the date, hour and location set forth in the proposal, and at that date, hour and location the proposals must be publicly opened. The Purchasing Division may reject any or all proposals, or may accept the proposal determined best for the interest of the State. The notice must be published as prescribed in [NRS 333.310](#).

3. In case of emergencies caused by acts of God or the national defense or other unforeseeable circumstances, the provisions for advertisements on competitive bids may be waived by the Administrator, but every effort must be made to secure the maximum competitive bidding under the circumstances. In no case may contracts be awarded until every possible effort has been made to secure at least three bona fide competitive bids.

4. In awarding contracts for the purchase of supplies, materials and equipment, if two or more lowest bids are identical, the Administrator shall:

(a) If the lowest bids are by bidders resident in the State of Nevada, accept the proposal which, in the discretion of the Administrator, is in the best interests of this State.

(b) If the lowest bids are by bidders resident outside the State of Nevada:

(1) Accept the proposal of the bidder who will furnish goods or commodities produced or manufactured in this State; or

(2) Accept the proposal of the bidder who will furnish goods or commodities supplied by a dealer resident in the State of Nevada.

[19:333:1951]—(NRS A 1959, 517; 1963, 1056; 1967, 1112; 1975, 11, 513; 1979, 71; [1987, 102, 1641](#); [1995, 367](#); [1997, 485](#); [2001, 690](#); [2013, 49](#))

NRS 333.300 Notices of proposed purchases; purchase by formal contract; solicitation; preferences; emergency purchases. [Effective January 1, 2014.]

1. Except as otherwise provided in [NRS 333.375](#), the Administrator shall give reasonable notice, by advertising and by written notice provided to persons in a position to furnish the classes of commodities involved, as shown by its records, of all proposed purchases of supplies, materials and equipment to be purchased in accordance with a schedule prepared in conformity with the provisions of [NRS 333.250](#).

2. All such materials, supplies and equipment, except as otherwise provided in this section, if the estimated cost thereof exceeds \$50,000, must be purchased by formal contract from the lowest responsible bidder after notice inviting the submission of sealed proposals to the Administrator of the Purchasing Division at the date, hour and location set forth in the proposal, and at that date, hour and location the proposals must be publicly opened. The Purchasing Division may reject any or all proposals, or may accept the proposal determined best for the interest of the State. The notice must be published as prescribed in [NRS 333.310](#).

3. The Administrator may solicit the purchase of materials, supplies and equipment, if the estimated cost thereof is \$50,000 or less, by written contract from the lowest responsible bidder if notice of the proposed purchase is provided to:

(a) At least three persons in a position to furnish the materials, supplies or equipment; and

(b) The Office of Economic Development.

4. In case of emergencies caused by acts of God or the national defense or other unforeseeable circumstances, the provisions for advertisements on competitive bids may be waived by the Administrator, but every effort must be made to secure the maximum competitive bidding under the circumstances. In no case may contracts be awarded until every possible effort has been made to secure at least three bona fide competitive bids.

5. In awarding contracts for the purchase of supplies, materials and equipment, if two or more lowest bids are identical, the Administrator shall:

(a) If the lowest bids are by bidders resident in the State of Nevada, accept the proposal which, in the discretion of the Administrator, is in the best interests of this State.

(b) If the lowest bids are by bidders resident outside the State of Nevada:

(1) Accept the proposal of the bidder who will furnish goods or commodities produced or manufactured in this State; or

(2) Accept the proposal of the bidder who will furnish goods or commodities supplied by a dealer resident in the State of Nevada.

[19:333:1951]—(NRS A 1959, 517; 1963, 1056; 1967, 1112; 1975, 11, 513; 1979, 71; [1987, 102, 1641](#); [1995, 367](#); [1997, 485](#); [2001, 690](#); [2013, 49, 3690](#), effective January 1, 2014)

NRS 333.310 Advertisements for bids or proposals: Contents and publication.

1. An advertisement must contain a general description of the classes of commodities or services for which a bid or proposal is wanted and must state:

(a) The name and location of the department, agency, local government, district or institution for which the purchase is to be made.

(b) Where and how specifications and quotation forms may be obtained.

(c) If the advertisement is for bids, whether the Administrator is authorized by the using agency to be supplied to consider a bid for an article that is an alternative to the article listed in the original request for bids if:

(1) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(2) The purchase of the alternative article results in a lower price; and

(3) The Administrator deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(d) Notice of the preference set forth in [NRS 333.3366](#).

(e) The date and time not later than which responses must be received by the Purchasing Division.

(f) The date and time when responses will be opened.

↪ The Administrator or a designated agent of the Administrator shall approve the copy for the advertisement.

2. Each advertisement must be published:

(a) In at least one newspaper of general circulation in the State. The selection of the newspaper to carry the advertisement must be made in the manner provided by this chapter for other purchases, on the basis of the lowest price to be secured in relation to the paid circulation; and

(b) On the Internet website of the Purchasing Division.

[20:333:1951; A 1955, 15]—(NRS A 1963, 506, 1281; 1967, 202; 1969, 1430; 1975, 248; 1981, 1188; [1991, 622](#); [1997, 1562](#); [2003, 1615](#); [2009, 2666](#); [2011, 1864](#))

NRS 333.311 Request for proposals to include minimum requirements for awarding contract; award of contract to noncomplying bidder prohibited. Each request for proposals must include minimum requirements that the successful bidder must meet for the awarding of a contract pursuant to the provisions of this chapter. A contract may not be awarded to a bidder who does not comply with the requirements set forth in the request for proposals.

(Added to NRS by [2001, 666](#))

NRS 333.313 On-line bidding.

1. The Administrator may use on-line bidding to receive proposals or bids in response to a request for proposals or invitation to bid.

2. A request for proposals or invitation to bid for which proposals or bids may be submitted pursuant to subsection 1 must designate a date and time at which proposals or bids may be submitted and may designate a date and time after which proposals or bids will no longer be received.

3. The Administrator may require bidders to:

(a) Register before the date and time at which proposals or bids may be submitted; and

(b) Agree to terms, conditions or requirements of the request for proposals or invitation to bid to facilitate on-line bidding.

4. The procedures established by the Administrator for the purposes of conducting on-line bidding must not conflict with the provisions of this chapter.

5. As used in this section, "on-line bidding" means a process by which bidders submit proposals or bids for a contract on a secure website on the Internet or its successor, if any, which is established and maintained for that purpose.

(Added to NRS by [2001, 1320](#))

NRS 333.315 Cost of providing service to be determined including all costs related to contract, including monitoring or reviewing private contractor. If a contract for the provision of a service furnished by a using agency is awarded through the process of competitive bidding, the bid or proposal of a using agency or the cost of furnishing the service through a using agency must be determined by including all costs related to the contract, including a reasonable estimate of any costs of a using agency for monitoring or reviewing a contract with a private contractor.

(Added to NRS by [1993, 875](#))

NRS 333.320 Specification for bids for supplying state institutions: Requirements. The specification for bids for the supplying of any commodity in quantity, to meet the combined requirements or estimated requirements of the institutions of the State, shall show the quantity thereof required or estimated to be required for each institution and shall stipulate that bids will be accepted for the whole quantity and for the quantity for each institution. Bids may be made on any item or items or quantity or quantities of any item or items.

[21:333:1951]

NRS 333.330 Bids: Itemization; requirements for submission; opening and reading.

1. All bids on more than one item on which bids are called for by the same notice must be itemized and give a price for each item.

2. All bids must:

(a) Except as otherwise provided in [NRS 333.313](#), be in writing and signed.

(b) Be sealed or, if the bid is submitted electronically, secured by an electronic equivalent of a seal, as approved by the Purchasing Division.

(c) Be opened and read publicly by the Administrator or a designated agent of the Administrator as they are opened.

[22:333:1951]—(NRS A 1963, 1057; [1997, 486](#); [2001, 1320](#))

NRS 333.333 Proprietary information regarding trade secret: Confidentiality; disclosure.

1. Except as otherwise provided in subsection 2 and [NRS 239.0115](#), proprietary information regarding a trade secret does not constitute public information and is confidential.

2. A person shall not disclose proprietary information regarding a trade secret unless the disclosure is made for the purpose of a civil, administrative or criminal investigation or proceeding, and the person receiving the information represents in writing that protections exist under applicable law to preserve the integrity, confidentiality and security of the information.

(Added to NRS by [1995, 1732](#); A [2007, 2088](#))

NRS 333.335 Proposals: Evaluation; factors to be considered before making an award; relative weight of factors; special procedures if contract is being awarded for Public Employees' Benefits Program; confidentiality.

1. Each proposal must be evaluated by:

(a) The chief of the using agency, or a committee appointed by the chief of the using agency in accordance with the regulations adopted pursuant to [NRS 333.135](#), if the proposal is for a using agency; or

(b) The Administrator of the Purchasing Division, or a committee appointed by the Administrator in accordance with the regulations adopted pursuant to [NRS 333.135](#), if the Administrator is responsible for administering the proposal.

2. A committee appointed pursuant to subsection 1 must consist of not less than two members. A majority of the members of the committee must be state officers or employees. The committee may include persons who are not state officers or employees and possess expert knowledge or special expertise that the chief of the using agency or the Administrator of the Purchasing Division determines is necessary to evaluate a proposal. The members of the committee are not entitled to compensation for their service on the committee, except that members of the committee who are state officers or employees are entitled to receive their salaries as state officers and employees. No member of the committee may have a financial interest in a proposal. If the contract is being awarded for the Public Employees' Benefits Program, the Executive Officer of the Program may observe the activities of the committee, but may not vote or otherwise participate in the evaluation.

3. In making an award, the chief of the using agency, the Administrator of the Purchasing Division or each member of the committee, if a committee is established, shall consider and assign a score for each of the following factors for determining whether the proposal is in the best interests of the State of Nevada:

(a) The experience and financial stability of the person submitting the proposal;

(b) Whether the proposal complies with the requirements of the request for proposals as prescribed in [NRS 333.311](#);

(c) The price of the proposal; and

(d) Any other factor disclosed in the request for proposals.

4. The chief of the using agency, the Administrator of the Purchasing Division or the committee, if a committee is established, shall determine the relative weight of each factor set forth in subsection 3 before a request for proposals is advertised. The weight of each factor must not be disclosed before the date proposals are required to be submitted.

5. Except as otherwise provided in this subsection, the chief of the using agency, the Administrator of the Purchasing Division or the committee, if a committee is established, shall award the contract based on the best interests of the State, as determined by the total scores assigned pursuant to subsection 3, and is not required to accept the lowest-priced proposal. If the contract is being awarded for the Public Employees' Benefits Program, the Administrator of the Purchasing Division or the committee, if a committee is established, shall submit recommendations for awarding the contract to the Board for the Public Employees' Benefits Program, which shall award the contract in accordance with [NRS 287.04345](#).

6. Except as otherwise provided in [NRS 239.0115](#), each proposal evaluated pursuant to the provisions of this section is confidential and may not be disclosed until the contract is awarded.

(Added to NRS by [1991, 619](#); A [1999, 1026](#); [2001, 666](#); [2003, 1616](#); [2007, 2088](#); [2009, 2666](#); [2011, 907](#))

NRS 333.3361 Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: Definitions. As used in [NRS 333.3361](#) to [333.3369](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 333.3362](#) to [333.3365](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by [2009, 2665](#))

NRS 333.3362 Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: "Business owned by a veteran with a service-connected disability" defined. "Business owned by a veteran with a service-connected disability" has the meaning ascribed to it in [NRS 338.13841](#).

(Added to NRS by [2009, 2665](#))

NRS 333.3363 Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: "Local business" defined. "Local business" means a business that:

1. Employs at least one person in this State; and

2. Has employed at least one person in this State for not fewer than 2 years.

(Added to NRS by [2009, 2665](#))

NRS 333.3364 Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: "State purchasing contract" defined. "State purchasing contract" means a contract awarded pursuant to the provisions of this chapter.

(Added to NRS by [2009, 2665](#))

NRS 333.3365 Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: "Veteran with a service-connected disability" defined. "Veteran with a service-connected disability" has the meaning ascribed to it in [NRS 338.13843](#).

(Added to NRS by [2009, 2665](#))

NRS 333.3366 Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: Amount of preference. For the purpose of awarding a formal contract solicited pursuant to subsection 2 of [NRS 333.300](#), if a local business owned by a veteran with a service-connected disability submits a bid or

proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.

(Added to NRS by [2009, 2665](#))

NRS 333.3367 Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: Fraudulent acts committed in applying for preference.

1. If the Purchasing Division determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in [NRS 333.3366](#), the business is thereafter permanently prohibited from:

- (a) Applying for or receiving the preference described in [NRS 333.3366](#); and
- (b) Bidding on a state purchasing contract.

2. If the Purchasing Division determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in [NRS 333.3366](#), the business may apply to the Administrator to review the decision pursuant to [chapter 233B](#) of NRS.

(Added to NRS by [2009, 2665](#))

NRS 333.3368 Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: Duty of Purchasing Division to report to Legislature. The Purchasing Division shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:

1. The number of state purchasing contracts that were subject to the provisions of [NRS 333.3361](#) to [333.3369](#), inclusive.

2. The total dollar amount of state purchasing contracts that were subject to the provisions of [NRS 333.3361](#) to [333.3369](#), inclusive.

3. The number of local businesses owned by veterans with service-connected disabilities that submitted a bid or proposal on a state purchasing contract.

4. The number of state purchasing contracts that were awarded to local businesses owned by veterans with service-connected disabilities.

5. The total number of dollars' worth of state purchasing contracts that were awarded to local businesses owned by veterans with service-connected disabilities.

6. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

(Added to NRS by [2009, 2665](#))

NRS 333.3369 Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: Regulations. The Purchasing Division may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of [NRS 333.3361](#) to [333.3369](#), inclusive. The regulations may include, without limitation, provisions setting forth:

1. The method by which a business may apply to receive a preference described in [NRS 333.3366](#);

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for a preference described in [NRS 333.3366](#); and

3. Such other matters as the Purchasing Division deems relevant.

↪ In carrying out the provisions of this section, the Purchasing Division shall, to the extent practicable, cooperate and coordinate with the State Public Works Division of the Department of Administration so that any regulations adopted pursuant to this section and [NRS 338.13847](#) are reasonably consistent.

(Added to NRS by [2009, 2665](#))

NRS 333.337 Contracts entered into pursuant to this chapter must be in writing and signed by each party. Each person who is authorized pursuant to the provisions of this chapter to enter into any contract on behalf of this state shall ensure that the contract is reduced to writing and signed by each party to the contract.

(Added to NRS by [1999, 42](#))

NRS 333.340 Award of contract or order for goods: Determination of lowest responsible bidder; written statement to be provided if contract or order is not awarded to lowest bidder.

1. Every contract or order for goods must be awarded to the lowest responsible bidder. To determine the lowest responsible bidder, the Administrator:

(a) Shall consider, if applicable:

(1) The granting of the preference described in [NRS 333.3366](#).

(2) The required standards adopted pursuant to [NRS 333.4611](#).

(b) May consider:

(1) The location of the using agency to be supplied.

(2) The qualities of the articles to be supplied.

(3) The total cost of ownership of the articles to be supplied.

(4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.

(5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:

(I) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(II) The purchase of the alternative article results in a lower price; and
 (III) The Administrator deems the purchase of the alternative article to be in the best interests of the State of Nevada.

- (6) The purposes for which the articles to be supplied are required.
 (7) The dates of delivery of the articles to be supplied.

2. If a contract or an order is not awarded to the lowest bidder, the Administrator shall provide the lowest bidder with a written statement which sets forth the specific reasons that the contract or order was not awarded to him or her.

3. As used in this section, "total cost of ownership" includes, but is not limited to:

- (a) The history of maintenance or repair of the articles;
 (b) The cost of routine maintenance and repair of the articles;
 (c) Any warranties provided in connection with the articles;
 (d) The cost of replacement parts for the articles; and
 (e) The value of the articles as used articles when given in trade on a subsequent purchase.

[23:333:1951]—(NRS A [1997, 486, 1562](#); [1999, 464, 465, 1027](#); [2003, 1616](#); [2009, 2667, 2754](#))

NRS 333.350 Contracts for separate items or portions or groups of items or for portions or groups of portions of project; rejection of all bids or proposals; necessary open market purchases; withdrawal of bid or proposal; records of bids and proposals.

1. A contract may be awarded for separate items or portions or groups of items, or for separate portions or groups of portions of a project, as the best interest of the State requires.

2. If, in the judgment of the Administrator, no satisfactory:

(a) Bid has been received, the Administrator may reject all bids and shall promptly advertise for new bids as provided in this chapter. Until a satisfactory contract is awarded, the Administrator may make as many open market purchases of the commodities involved as are urgently needed to meet the requirements.

(b) Proposal has been received, the Administrator may reject all proposals and may advertise for new proposals as provided in this chapter.

3. The Administrator may allow a person to withdraw his or her bid or proposal without penalty if:

(a) The Administrator believes that an obvious error has been made by the person which would cause him or her financial hardship; and

(b) The contract has not yet been awarded.

4. Each bid or proposal and the name of the person making the bid or proposal must be entered on a record. The record, with the name of the successful bidder or proposer indicated thereon, must, after the award of the contract, be open to public inspection.

[24:333:1951]—(NRS A 1963, 1057; [1985, 44](#); [1991, 622](#))

NRS 333.355 Administrator of Purchasing Division may request check or bond to accompany bid or proposal.

1. The Administrator may request that a certified check, cashier's check or bond, in an amount not to exceed 5 percent of the total value of the bid or proposal, accompany a bid or proposal, if the request applies to each person who submits a bid or proposal.

2. No division or department of the State is liable for any expense incurred by or loss of income sustained by any person because of a request made pursuant to subsection 1.

(Added to NRS by [1991, 619](#))

NRS 333.360 Performance bonds; Administrator of Purchasing Division may require check or bond before entering into contract.

1. A bond furnished by a surety company authorized to do business in this state may be required by the Administrator for the proper performance of the contract. The Administrator may request a certified check, cashier's check or bond, in an amount not to exceed the total amount of the contract, before entering into a contract with a person who submits a successful bid or proposal.

2. No division or department of the State is liable for any expense incurred by or loss of income sustained by any person because of a request made pursuant to subsection 1.

[25:333:1951]—(NRS A 1963, 1058; [1991, 623](#))

NRS 333.365 Breach of contract: Penalties.

1. A person who has entered into a contract with the Purchasing Division or another agency of this state and who does not perform according to the terms of the contract is liable for, in addition to any other applicable damages for breach of contract, a penalty of not more than 5 percent of the total value of the bid or contract. The penalty must be recovered in a civil action upon the complaint of the Administrator in any court of competent jurisdiction. In addition to recovering the penalty and any other applicable damages, the Administrator may refuse to accept a bid from the person or refuse to award a contract to the person, or both, for not more than 2 years.

2. If the Administrator does not bring an action to recover the penalty prescribed by subsection 1, he or she may:

(a) Refuse to accept a bid from the person, refuse to award a contract to the person, or both, for not more than 2 years; and

(b) Impose an administrative penalty, in an amount not to exceed 5 percent of the total value of the bid or contract. Such a penalty may be recovered only after notice is given to the person by mail.

3. A penalty imposed pursuant to subsection 1 or 2 may be deducted from any payment due the person or, if a bond has been issued or a check received, a claim may be made against the bond or check. If no payment is due and no bond

was issued or check received, the Administrator may issue a claim for payment of the penalty. The claim must be paid within 30 days.

(Added to NRS by [1991, 619](#); [A 1997, 487](#); [2003, 870](#))

NRS 333.370 Appeal by person making unsuccessful bid or proposal.

1. A person who makes an unsuccessful bid or proposal may file a notice of appeal with the Purchasing Division and with the Hearings Division of the Department of Administration within 10 days after:

(a) The date of award as entered on the bid record; and

(b) The notice of award has been posted in at least three public buildings, including the location of the using agency.

↪ The notice of appeal must include a written statement of the issues to be addressed on appeal.

2. A person filing a notice of appeal must post a bond with good and solvent surety authorized to do business in this state or submit other security, in a form approved by the Administrator by regulation, to the Purchasing Division, who shall hold the bond or other security until a determination is made on the appeal. Except as otherwise provided in subsection 3, a bond posted or other security submitted with a notice of appeal must be in an amount equal to 25 percent of the total value of the successful bid submitted.

3. If the total value of the successful bid cannot be determined because the total requirements for the contract are estimated as of the date of award, a bond posted or other security submitted with a notice of appeal must be in an amount equal to 25 percent of the estimated total value of the contract. Upon request, the Administrator shall provide:

(a) The estimated total value of the contract; or

(b) The method for determining the estimated total value of the contract,

↪ based on records of past experience and estimates of anticipated requirements furnished by the using agency.

4. Within 20 days after receipt of the notice of appeal, a hearing officer of the Hearings Division of the Department of Administration shall hold a contested hearing on the appeal in substantial compliance with the provisions of [NRS 233B.121](#) to [233B.1235](#), inclusive, [233B.125](#) and [233B.126](#). The successful bidder must be given notice of the hearing in the same manner as the person who filed the notice of appeal. The successful bidder may participate in the hearing.

5. The hearing officer may cancel the award for lack of compliance with the provisions of this chapter. A cancellation of the award requires readvertising for bids and a new award in accordance with the provisions of this chapter.

6. A notice of appeal filed in accordance with the provisions of this section operates as a stay of action in relation to any contract until a determination is made by the hearing officer on the appeal.

7. A person who makes an unsuccessful bid or proposal may not seek any type of judicial intervention until the hearing officer has made a determination on the appeal.

8. The Administrator may make as many open market purchases of the commodities or services as are urgently needed to meet the requirements of the Purchasing Division or the using agency until a determination is made on the appeal. With the approval of the Administrator, the using agency may make such purchases for the agency.

9. Neither the State of Nevada, nor any agency, contractor, department, division, employee or officer of the State is liable for any costs, expenses, attorney's fees, loss of income or other damages sustained by a person who makes an unsuccessful bid or proposal, whether or not the person files a notice of appeal pursuant to this section.

10. If the appeal is upheld and the award is cancelled, the bond posted or other security submitted with the notice of appeal must be returned to the person who posted the bond or submitted the security. If the appeal is rejected and the award is upheld, a claim may be made against the bond or other security by the Purchasing Division and the using agency to the Hearings Division of the Department of Administration in an amount equal to the expenses incurred and other monetary losses suffered by the Purchasing Division and the using agency because of the unsuccessful appeal. The hearing officer shall hold a hearing on the claim in the same manner as prescribed in subsection 4. Any money not awarded by the hearing officer must be returned to the person who posted the bond or submitted the security.

[26:333:1951]—(NRS A 1963, 1058; 1971, 14; [1985, 45](#); [1991, 623](#); [1995, 378](#); [1997, 487](#))

NRS 333.372 Regulations concerning forms of security to be submitted with notice of appeal. The Administrator shall adopt regulations specifying the forms of security which may be submitted with a notice of appeal filed pursuant of [NRS 333.370](#).

(Added to NRS by [1995, 378](#))

NRS 333.375 Award of contract to nonprofit organization or agency for training and employment of persons with mental or physical disabilities.

1. The provisions of [NRS 331.100](#) notwithstanding, and in accordance with the Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations established pursuant to [NRS 334.025](#), the Purchasing Division may award without accepting competitive bids a contract for services or the purchase of commodities to nonprofit organizations or agencies whose primary purpose is the training and employment of persons with a mental or physical disability, including, without limitation, a provider of jobs and day training services certified pursuant to [NRS 435.130](#) to [435.310](#), inclusive.

2. A nonprofit organization or agency that:

(a) Wishes to submit a bid for such a contract must:

(1) Register with the Rehabilitation Division of the Department of Employment, Training and Rehabilitation as required pursuant to [NRS 334.025](#); and

(2) Establish a fair-market price for those services or commodities by conducting a market survey and must include the survey with the bid submitted to the Purchasing Division.

(b) Is awarded such a contract must report quarterly to the Rehabilitation Division as required pursuant to [NRS 334.025](#).

3. As used in this section, "nonprofit organization or agency" means an organization or agency that is recognized as exempt pursuant to the provisions of 26 U.S.C. § 501(c)(3).
(Added to NRS by [1987, 1641](#); A [2001, 1536](#); [2007, 2494](#); [2009, 2237](#))

NRS 333.380 Rules of Administrator to provide procedure for unscheduled or emergency purchases and purchases with money from State Purchasing Fund. Rules of the Administrator must provide the procedure for:

1. The purchase of commodities not scheduled under this chapter.
2. Emergency purchases, defining emergencies and stating the conditions under which emergency purchases may be made, by an agency not specifically authorized by statute to establish its own procedure for emergency purchases.
3. Purchases made with money from the State Purchasing Fund.
[27:333:1951]—(NRS A 1963, 1058; 1983, 388; [1987, 1021](#))

NRS 333.390 Authorization for local purchasing: Individual orders not exceeding \$5,000; orders for heavy equipment; purchases of perishable articles.

1. Except as otherwise provided in [NRS 333.435](#), the Administrator may authorize local purchasing by using agencies, in accordance with the rules of procedure, of individual orders for items not scheduled for quantity purchasing, not to exceed \$5,000 for each order, except for the repair, replacement and installation of parts for heavy equipment, not to exceed \$15,000 for each order, at no higher prices than specified in the orders authorizing the local purchasing. The Administrator may authorize purchasing at higher prices if perishable articles are involved and to meet other emergency requirements.

2. The prices of the local purchases must be based on considerations of equal service and economy as compared with those in furnishing the same items of equal quality through the regular purchasing procedure.

3. Each authorization must:

- (a) Be revocable.
 - (b) Specify the limit of spending for individual orders not to exceed \$5,000, except for the repair, replacement and installation of parts referred to in subsection 1.
 - (c) Specify the articles to be purchased.
 - (d) Be operative for not longer than 1 year after the date of issue.
4. A using agency that receives an authorization shall keep a record of:
- (a) Its accounts and expenditures pursuant to that authority; and
 - (b) Evidence indicating that every effort has been made to secure competitive bidding to the extent practicable.
[28:333:1951]—(NRS A 1963, 1058; 1965, 225; 1975, 72; 1979, 176; [1985, 45](#); [1987, 102](#); [1991, 623](#); [2003, 548](#))

NRS 333.395 Contracts with certificated interstate or intrastate carriers of persons or property; informal quotations of rates.

1. Nothing in this chapter prohibits the Administrator or a using agency from contracting for interstate or intrastate carriage of persons or property with a certificated common or contract carrier at the rates set forth in the officially approved tariff of such carrier.

2. Nothing in this section prohibits the Administrator or a using agency from soliciting informal rate quotations.
(Added to NRS by 1969, 1057)

NRS 333.400 Purchase of commodities out of schedule: Quotations to be obtained; exceptions.

1. Every effort shall be made to obtain quotations from three or more vendors when commodities are to be purchased out of schedule, except when standard equipment parts for which prices are established must be obtained from the manufacturer of the equipment or his or her agent or when the article needed is a patented or proprietary one and therefore obtainable from only one source of supply.

2. Urgent requests for immediate purchasing shall be discouraged as much as is practicable.

3. When supplies, materials and equipment urgently are required and time does not permit the obtaining of written quotations, the Administrator may obtain quotations by telephone or otherwise, but such quotations shall be confirmed in writing, and records of all quotations so obtained shall be made on the relative purchase requisitions.

[29:333:1951]—(NRS A 1963, 1059)

NRS 333.410 Quotations to be secured from state institutions; preference to products. So far as practicable, quotations shall be secured from institutions of the State whenever commodities or services are to be secured of kinds that they are prepared to supply through the labor of inmates, and preference shall be given to the products of such institutions, price, quality and time of delivery being considered.

[30:333:1951]

NRS 333.420 Delivery of supplies, material and equipment: Memoranda of shipments and invoices to be transmitted by seller. Every person, firm or corporation making or causing to be made any delivery of supplies, materials or equipment to any using agency of the State pursuant to any contract or order, whether oral or written, and whether made by the Administrator or by any other officer or agency of the State, promptly shall:

1. Transmit to the agency to which such delivery is made a memorandum of shipment, showing the number of, or other identifying reference to, the contract or order number under which the delivery is made and containing a statement of the commodities shipped and the quantities thereof.

2. Submit an invoice to the Administrator on the form and in the number of copies prescribed by the Administrator or under the authority of the Administrator.

[33:333:1951]—(NRS A 1963, 1059)

NRS 333.430 Cooperation of two or more departments in securing supplies: Distribution of expense. Two or more departments may unite in cooperative work along lines germane to the functions of such departments and otherwise secure from each other supplies; and the heads thereof may agree among themselves on the distribution of the expense to be incurred, subject to the approval of the Administrator or a designated agent of the Administrator.
[38:333:1951]—(NRS A 1963, 1059)

NRS 333.435 Purchase of prescription drugs, pharmaceutical services or medical supplies by using agency.

1. Except as otherwise provided in subsection 2, a using agency shall purchase prescription drugs, pharmaceutical services, or medical supplies and related services, or any combination thereof, only through the Purchasing Division.

2. A using agency may, on its own behalf or in cooperation with one or more other using agencies or other governmental entities within or outside this State, purchase prescription drugs, pharmaceutical services, or medical supplies and related services from an entity other than the Purchasing Division if the using agency or using agencies or other governmental entities, as applicable, can obtain the best value for prescription drugs, pharmaceutical services, or medical supplies and related services from the other entity and the Purchasing Division is unable to match or exceed that best value in a timely manner.

3. If a using agency purchases prescription drugs, pharmaceutical services, or medical supplies and related services from an entity other than the Purchasing Division pursuant to subsection 2, the using agency shall report to the Purchasing Division, within 10 days after the initial purchase:

(a) The purchase price for the prescription drugs, pharmaceutical services, or medical supplies and related services; and

(b) The name, address and telephone number of the entity that sold the using agency the prescription drugs, pharmaceutical services, or medical supplies and related services.

(Added to NRS by [2003, 547](#); A [2005, 670](#))

NRS 333.450 Payment of claims for supplies, materials, equipment and services; annual assessment of fee for procurement and inventory services; regulations.

1. Except as otherwise provided in [NRS 227.185](#), claims for supplies, materials, equipment and services purchased pursuant to the provisions of this chapter must, when approved by the Administrator, be paid in the same manner as other claims against the State are required to be paid.

2. The Administrator shall annually assess each using agency a fee for the procurement and inventory services provided by the Purchasing Division to the using agency. The fee must be based on the using agency's use of the procurement and inventory services of the Purchasing Division during preceding years. The Administrator shall adjust the formula for calculating the fee each biennium.

3. If an agency is not a using agency, the Administrator shall assess a fee of not more than the cost to the Division to process the order for the agency.

4. The Administrator may adopt regulations to carry out the provisions of this section.

[44:333:1951; A 1953, 585]—(NRS A 1963, 1059; 1965, 1021; 1973, 628; 1983, 388; [1995, 368](#); [1999, 1415](#); [2003, 628](#); [2011, 457](#))

NRS 333.460 Payment by using agency by transfer or warrant. Within 5 working days after the receipt of supplies, materials and equipment, each state officer, department, institution, board, commission or agency shall authorize the State Controller to draw money by transfer or warrant from the using agency's account for payment of the claim.
[46:333:1951; A 1953, 585]—(NRS A 1963, 1060; 1965, 224, 1022; 1983, 388; [1991, 624](#); [1999, 1416](#))

RECYCLED PRODUCTS AND ENERGY EFFICIENT DEVICES

NRS 333.4603 Definitions. As used in this section and [NRS 333.4606](#) and [333.4609](#), unless the context otherwise requires:

1. "Postconsumer waste" means a finished material which would normally be disposed of as a solid waste having completed its life cycle as a consumer item.

2. "Recycled paper product" means all paper and wood-pulp products containing in some combination at least 50 percent of its total weight:

(a) Postconsumer waste; and

(b) Secondary waste,

→ but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls, wood slabs, chips, sawdust or other wood residue from a manufacturing process.

3. "Secondary waste" means fragments of products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value.

(Added to NRS by [1991, 1674](#))

NRS 333.4606 Administrator of Purchasing Division to revise specifications for procuring goods and products; preference to purchase recycled products; conditions under which bidder whose product contains postconsumer waste deemed lowest bidder.

1. The Administrator shall review and revise the specifications for procuring goods and products for the using agencies to eliminate discrimination against the procurement or purchase of recycled products whenever the quality of a recycled product is reasonably equal to the same product manufactured with virgin resources. Except for specifications

which have been established to preserve the public health and safety, all specifications for procurement must be established in a manner which results in the maximum procurement and purchase of recycled products.

2. When purchasing goods and products for the using agencies, the Administrator shall give preference to recycled products if:

- (a) The product meets the applicable standards;
- (b) The product can be substituted for a comparable nonrecycled product; and
- (c) The product costs no more than a comparable nonrecycled product.

3. When purchasing goods and products for the using agencies, the Administrator may give preference to recycled products if:

- (a) The product meets the applicable standards;
- (b) The product can be substituted for a comparable nonrecycled product; and
- (c) The product costs no more than 5 percent more than a comparable nonrecycled product.

4. To encourage the use of postconsumer waste, a bidder who manufactures a product in Nevada that contains postconsumer waste shall be deemed to be the lowest bidder if:

- (a) At least 50 percent of the product, by weight, contains postconsumer waste;
- (b) The product complies with the applicable standards; and
- (c) The amount of the bid is not more than 10 percent higher than the bid of any other bidder.

5. A bidder whose product contains postconsumer waste shall certify in writing:

- (a) That the product contains postconsumer waste; and
- (b) The percentage of postconsumer waste, by weight, that is contained in the product.

(Added to NRS by [1991, 1674](#))

NRS 333.4609 Regulations to give preference to purchase of recycled paper products; purchase of recycled paper products by Administrator of Purchasing Division.

1. After consultation with the State Department of Conservation and Natural Resources, the Administrator shall adopt regulations governing the bidding procedure and specifications for paper and paper products purchased by the Purchasing Division that encourage the maximum purchase of recycled paper products. The specifications must give preference to recycled paper products manufactured with the highest percentage of recycled material.

2. When purchasing any paper or paper products for use by a using agency, the Administrator shall purchase recycled paper products if the specific recycled paper product is:

- (a) Available at a price not more than that of paper products made from virgin material;
- (b) Of adequate quality; and
- (c) Available to the purchaser within a reasonable period.

3. When purchasing any paper or paper products for use by a using agency, the Administrator may purchase recycled paper products if the specific recycled paper product is:

- (a) Available at a price not more than 10 percent higher than that of paper products made from virgin material;
- (b) Of adequate quality; and
- (c) Available to the purchaser within a reasonable period.

(Added to NRS by [1991, 1675](#))

NRS 333.4611 Regulations establishing standards for devices that use electricity, natural gas, propane or oil; exceptions.

1. The Administrator shall adopt regulations which set forth standards to be used by using agencies when purchasing new appliances, equipment, lighting and other devices that use electricity, natural gas, propane or oil. Except as otherwise provided in subsection 2, the standards must require that such new appliances, equipment, lighting and other devices have received the Energy Star label pursuant to the program established pursuant to 42 U.S.C. § 6294a, or its successor, or meet the requirements established pursuant to 48 C.F.R. § 23.203.

2. The standards described in subsection 1 do not apply insofar as:

(a) No items in a given class of appliances, equipment, lighting or other devices have been evaluated to determine whether they are eligible to receive the Energy Star label or have been designated by the Federal Government to meet the requirements established pursuant to 48 C.F.R. § 23.203; or

(b) The purchase of new appliances, equipment, lighting or other devices that have received the Energy Star label would not be cost-effective in an individual instance, comparing the cost of the item to the cost of the amount of energy that will be saved over the useful life of the item.

(Added to NRS by [2009, 2754](#))

PURCHASING FOR LEGISLATIVE AND JUDICIAL DEPARTMENTS, COUNTIES, MUNICIPALITIES AND DISTRICTS; FEDERAL SURPLUS PROPERTY

NRS 333.469 Use of facilities of Purchasing Division by Legislative and Judicial Departments and Civil Air Patrol; duties of Administrator.

1. Any agency, bureau, commission or officer of the Legislative Department or the Judicial Department of the State Government or the Nevada Wing of the Civil Air Patrol or any squadron thereof may obtain supplies, materials and equipment on a voluntary basis through the facilities of the Purchasing Division.

2. From time to time the Administrator shall issue bulletins to all of such agencies, bureaus, commissions and officers indicating the supplies, materials and equipment available and the prices thereof.

(Added to NRS by 1963, 488; A 1975, 338; 1983, 1900)

NRS 333.470 Use of facilities of Purchasing Division by Nevada System of Higher Education, local governments and districts; duties of Administrator.

1. The Nevada System of Higher Education, local governments as defined in [NRS 354.474](#), conservation districts and irrigation districts in the State of Nevada may obtain supplies, materials and equipment on a voluntary basis through the facilities of the Purchasing Division.

2. The Administrator shall issue bulletins from time to time to:

- (a) Each state agency;
- (b) Each local governmental agency;
- (c) Each irrigation district;
- (d) Each conservation district; and
- (e) The Nevada System of Higher Education,

↪ indicating the supplies, materials and equipment available and the prices thereof.

3. The specifications for all bids for supplies, materials or equipment to be furnished pursuant to the provisions of subsection 1 must be so written that all suppliers of the market in the industry or business concerned are given an opportunity to bid pursuant to notice as provided for in this chapter.

[40:333:1951]—(NRS A 1963, 505, 1280; 1967, 203; 1969, 1430; 1975, 249; 1981, 1188; [1993, 392](#); [1995, 2044](#); [1999, 1818](#); [2003, 549](#); [2005, 670](#))

NRS 333.480 Purchase and acquisition of supplies, materials or equipment from vendor who has entered into agreement with General Services Administration or certain other governmental agencies; contractor's license required for agreement.

1. Except as otherwise provided in subsection 2, the Administrator may purchase or acquire on behalf of the State of Nevada, and all officers, departments, institutions, boards, commissions, schools and other agencies in the Executive Department of the State Government, volunteer fire departments, local governments as defined in [NRS 354.474](#), conservation districts or irrigation districts of the State of Nevada, any supplies, materials or equipment of any kind required or deemed advisable for the state officers, departments, institutions, boards, commissions, schools, volunteer fire departments and other agencies or local governments as defined in [NRS 354.474](#), conservation districts or irrigation districts that may be available pursuant to an agreement with a vendor who has entered into an agreement with the General Services Administration or another governmental agency dealing in supplies, materials, equipment or donable surplus material if:

(a) The prices for the supplies, materials or equipment negotiated in the agreement that the Administrator enters into with the vendor are substantially similar to the prices for those supplies, materials or equipment that the vendor had negotiated with the General Services Administration or other governmental agency; and

(b) The Administrator determines that such an agreement would be in the best interests of the State.

2. The Administrator shall not enter into an agreement pursuant to subsection 1 if a contractor's license issued pursuant to [chapter 624](#) of NRS is required for any portion of the agreement.

[42:333:1951; A 1953, 585]—(NRS A 1963, 49, 489, 1285; 1975, 249; [1989, 2145](#); [2001, 1320](#); [2013, 69](#))

NRS 333.490 Procurement and distribution of federal surplus property to eligible institutions and organizations; creation of Surplus Property Administration Account.

1. The Administrator shall secure, warehouse and distribute throughout the state federal donable surplus property to tax-supported or nonprofit schools and other health and educational institutions, to organizations for emergency management, to volunteer fire departments, and to such other institutions or activities as are eligible pursuant to federal law to acquire such property. The Administrator may make such certifications, develop and sign such plans of operation, take such action and enter into such contracts and undertakings for and in the name of the State as are authorized or required by federal law or regulations in connection with the receipt, warehousing and distribution of federal donable surplus property received by him or her. The Administrator may adopt regulations, prescribe requirements and take the necessary action to ensure maximum utilization by and benefit to eligible institutions and organizations from the federal donable surplus property. The Administrator shall charge the schools and institutions receiving donable surplus property secured through the Purchasing Division, the charge to be a percentage of the cost of acquisition or of the fair value of the item requested that is sufficient to repay part or all of the cost of transportation and other costs incurred in acquisition of the property.

2. All money received by the Administrator pursuant to this section must be deposited in the State Treasury for credit to the Surplus Property Administration Account, which is hereby created in the State Purchasing Fund. The interest and income earned on the money in the Account must be credited to the Account. All expenses for the distribution of federal surplus property must be paid from the Account as other claims against the State are paid.

3. The Administrator may discontinue temporarily or terminate entirely the operation of purchasing and distributing donable surplus property at any time if there is not a sufficient flow of property to make continued employment of personnel for this purpose beneficial to the State.

[43:333:1951; A 1953, 585]—(NRS A 1957, 151; 1963, 50, 1062; 1979, 105; 1983, 176; [1985, 46](#); [1991, 1766](#); [1995, 368](#); [2001, 691](#))

NRS 333.495 Authorizations to secure transfer of federal surplus property to state departments, agencies or political subdivisions.

1. Any provision of law to the contrary notwithstanding, the governing board or, if there be none, the executive head of any state department or agency or any local government as defined in [NRS 354.474](#), conservation district or irrigation district may, by order or resolution, confer upon any officer or employee thereof authority to secure the transfer to it of

federal donable surplus property under this chapter and agree on behalf of the State or local government as defined in [NRS 354.474](#), conservation district or irrigation district to comply with the terms and conditions of such transfers.

2. The authority conferred upon any such officer or employee by any such order or resolution shall remain in effect unless and until the order or resolution is revoked and written notice of such revocation has been received by the Administrator.

(Added to NRS by 1957, 151; A 1963, 1062; 1975, 250)

INDEPENDENT CONTRACTORS

NRS 333.700 Definition; contracts for services.

1. Except as otherwise provided in [NRS 333.705](#), a using agency may contract for the services of a person as an independent contractor. Except as otherwise provided by specific statute, each such contract must be awarded pursuant to this chapter.

2. An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his, her or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

3. For the purposes of this section:

(a) Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract. Those expenses must not be paid pursuant to the provisions of [NRS 281.160](#).

(b) There must be no:

(1) Withholding of income taxes by the State;

(2) Coverage for industrial insurance provided by the State;

(3) Participation in group insurance plans which may be available to employees of the State;

(4) Participation or contributions by either the independent contractor or the State to the Public Employees'

Retirement System;

(5) Accumulation of vacation leave or sick leave; or

(6) Coverage for unemployment compensation provided by the State if the requirements of [NRS 612.085](#) for independent contractors are met.

4. An independent contractor is not in the classified or unclassified service of the State and has none of the rights or privileges available to officers or employees of the State of Nevada.

5. If the contract is for services for which a license, certificate, registration, permit or other type of authorization is required by law, an independent contractor must hold the appropriate, current authorization that is required by law for the services.

6. Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of the contract must be first approved by the Attorney General, and except as otherwise provided in subsection 8, an executed copy of each contract must be filed with the Fiscal Analysis Division of the Legislative Counsel Bureau and the Clerk of the State Board of Examiners. The State Board of Examiners may waive the requirements of this subsection in the case of contracts which are for amounts less than \$2,000.

7. Except as otherwise provided in subsection 8, and except for contracts entered into by the Nevada System of Higher Education, each proposed contract with an independent contractor must be submitted to the State Board of Examiners. The contracts do not become effective without the prior approval of the State Board of Examiners, except that the State Board of Examiners may authorize its Clerk or a designee to approve contracts which are:

(a) For amounts less than \$50,000; or

(b) Entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license.

8. Copies of the following types of contracts need not be filed or approved as provided in subsections 6 and 7:

(a) Contracts executed by the Department of Transportation for any work of construction or reconstruction of highways.

(b) Contracts executed by the State Public Works Division of the Department of Administration or any other state department or agency for any work of construction or major repairs of state buildings, if the contracting process was controlled by the rules of open competitive bidding.

(c) Contracts executed by the Housing Division of the Department of Business and Industry.

(d) Contracts executed with business entities for any work of maintenance or repair of office machines and equipment.

9. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 7 to consider:

(a) Whether sufficient authority exists to expend the money required by the contract; and

(b) Whether the service which is the subject of the contract could be provided by a state agency in a more cost-effective manner.

↳ If the contract submitted for approval continues an existing contractual relationship, the State Board of Examiners shall ask each agency to ensure that the State is receiving the services that the contract purports to provide.

10. If the services of an independent contractor are contracted for to represent an agency of the State in any proceeding in any court, the contract must require that the independent contractor identify in all pleadings the specific state agency which he or she is representing.

11. Except as otherwise provided in this subsection, a contract for the services of an independent contractor may be performed in parts or phases. A contract for the services of an independent contractor must not be split into separate contracts for the purpose of avoiding any requirements for competitive bidding.

12. The State Board of Examiners may adopt regulations to carry out the provisions of this section.

(Added to NRS by [2009, 2229](#); A [2013, 49](#))

NRS 333.705 Contracts for services: Limitations and requirements; approval by State Board of Examiners; emergencies; reports to Interim Finance Committee; exceptions.

1. Except as otherwise provided in this section, a using agency shall not enter into a contract with a person to provide services for the using 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 2 years have expired since the termination of the person's employment with the State; or

(c) The person is employed by the Department of Transportation for a transportation project that is entirely funded by federal money and the term of the contract is for more than 4 years,

↳ unless the using agency submits a written disclosure to the State Board of Examiners indicating the services to be provided pursuant to the contract and the person who will be providing those services and, after reviewing the disclosure, the State Board of Examiners approves entering into a contract with 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 using agency 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 using agency shall provide the using agency with the names of the employees to be provided to the agency. The State Board of Examiners shall not approve a contract pursuant to paragraph (b) of subsection 1 unless the 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 using agency or for which a critical labor shortage exists; or

(b) A short-term need or unusual economic circumstance exists for the using agency to contract with the person.

3. The approval by the State Board of Examiners to contract with a person pursuant to subsection 1:

(a) May occur at the same time and in the same manner as the approval by the State Board of Examiners of a proposed contract pursuant to subsection 7 of [NRS 333.700](#); and

(b) Must occur before the date on which the contract becomes binding on the using agency.

4. A using agency may contract with a person pursuant to paragraph (a) or (b) of subsection 1 without obtaining the approval of the State Board of Examiners if the term of the contract is for less than 4 months and the head of the using agency determines that an emergency exists which necessitates the contract. If a using agency contracts with a person pursuant to this subsection, the using agency shall 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 using agency whether the State Board of Examiners would have approved the contract if it had not been entered into pursuant to this subsection.

5. Except as otherwise provided in subsection 9, a using agency shall, not later than 10 days after the end of each fiscal quarter, report to the Interim Finance Committee concerning all contracts to provide services for the using agency that were entered into by the using 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.

6. Except as otherwise provided in subsection 9, a using agency shall not contract with a temporary employment service unless the contracting process is controlled by rules of open competitive bidding.

7. Each board or commission of 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 or institution;

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

(c) The amount of money or other remuneration received by each consultant from the board, commission or institution; and

(d) The length of time each consultant has been employed by the board, commission or institution.

8. A using agency, board or commission of this State and each institution of the Nevada System of Higher Education:

(a) Shall make every effort to limit the number of contracts it enters into with persons to provide services which have a term of more than 2 years and which are in the amount of less than \$1,000,000; and

(b) 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.

9. The provisions of subsections 1 to 6, inclusive, do not apply to:

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

(b) The employment of professional engineers by the Department of Transportation if those engineers are employed for a transportation project that is entirely funded by federal money.

(c) Contracts in the amount of \$1,000,000 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.

(Added to NRS by [2013, 47](#))

NRS 333.710 Contracts for security services when personnel of Capitol Police Division not available; use of independent contractors by Supreme Court.

1. If personnel of the Capitol Police Division of the Department of Public Safety are not available to provide security services for a building, office or other facility of a using agency, the using agency may, pursuant to [NRS 333.700](#), contract with one or more independent contractors to provide such services.

2. If the Chief Justice of the Supreme Court determines that additional security is needed for the safe operation of any facility or building that is owned by or leased to the Supreme Court and occupied by its employees, the Supreme Court may contract with one or more independent contractors to provide security services for the facility or building. Any contractor with whom the Supreme Court contracts for these services is subject to the oversight of a peace officer who provides security services for the Supreme Court and who is designated and directed by the Chief Justice.

3. An independent contractor with whom a using agency contracts pursuant to subsection 1 must:

(a) Be licensed as a private patrol officer pursuant to [chapter 648](#) of NRS or employed by a person so licensed; and
 (b) Possess the skills required of and meet the same physical requirements as law enforcement personnel certified by the Peace Officers' Standards and Training Commission created pursuant to [NRS 289.500](#).

4. An independent contractor with whom the Supreme Court contracts pursuant to subsection 2 must be licensed as a private patrol officer pursuant to [chapter 648](#) of NRS or employed by a person so licensed.

(Added to NRS by [2009, 2231](#); A [2011, 80](#))

PROHIBITIONS AND PENALTIES

NRS 333.800 Prohibited acts by bidders before award of contract; penalty.

1. Before a contract is awarded, a person who has provided a bid or proposal on the contract or an officer, employee, representative, agent or consultant of such a person shall not:

(a) Make an offer or promise of future employment or business opportunity to, or engage in a discussion of future employment or business opportunity with, the Administrator, a purchasing officer or an employee of the using agency for which the contract is being offered;

(b) Offer, give or promise to offer or give money, a gratuity or any other thing of value to the Administrator, a purchasing officer or an employee of the using agency for which the contract is being offered; or

(c) Solicit or obtain from the Administrator, a purchasing officer or an employee of the using agency for which the contract is being offered:

(1) Any proprietary information regarding the contract; or

(2) Any information regarding a bid or proposal on the contract submitted by another person, unless such information is available to the general public.

2. A person who violates any of the provisions of subsection 1 is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 364 days, or by a fine of not less than \$2,000 nor more than \$50,000, or by both fine and imprisonment.

(Added to NRS by [1995, 1732](#); A [2007, 2469](#); [2013, 982](#))

NRS 333.810 Purchases and contracts made contrary to provisions of chapter void; liability of state officers and employees; exception.

1. Except as otherwise provided in subsection 3, any purchase and any contract for the purchase of any service, supplies, materials or equipment, made or entered into by any state officer, department, institution, board, commission or agency contrary to the provisions of this chapter and the rules and regulations of the Administrator promulgated pursuant thereto, shall be void; but the head of the using agency and the employee who actually made such purchase or entered into such contract shall be personally liable for the costs of any service, supplies, materials or equipment delivered pursuant to such purchase or contract.

2. Any contract made with any person, firm or corporation shall be void if any member, officer or employee of any using agency taking part in the making of such contract is also an officer or employee or owner of a substantial part or interest in such firm or corporation.

3. The provisions of this section do not apply to a contract for the purchase of any service, supplies, materials or equipment for a public work that is awarded in compliance with [chapter 338](#) of NRS.

4. As used in this section, "public work" has the meaning ascribed to it in [NRS 338.010](#).

[48:333:1951]—(NRS A 1963, 1062; [2013, 51](#))—(Substituted in revision for NRS 333.500)

NRS 333.820 Purchase of information system or system of communication for use by response agency.

1. On and after October 1, 2005, the Administrator, the Purchasing Division or a using agency shall not purchase an information system or system of communication for use by a response agency unless the system complies with the plan established pursuant to subsection 6 of [NRS 239C.160](#).

2. On and after October 1, 2005, any grant or other money received by the Administrator, the Purchasing Division or a using agency from the Federal Government for the purchase of an information system or system of communication for use by a response agency must not be used to purchase such a system unless the system complies with the plan established pursuant to subsection 6 of [NRS 239C.160](#).

3. As used in this section:

(a) "Information system" has the meaning ascribed to it in [NRS 239C.060](#).

(b) "Response agency" has the meaning ascribed to it in [NRS 239C.080](#).

(c) "System of communication" has the meaning ascribed to it in [NRS 239C.100](#).

(Added to NRS by [2003, 2463](#); A [2005, 932](#); [2011, 2886](#))

Fees

1. Describe the fees associated with the services requested.

As an independent consulting firm, we have no affiliation with brokerage organizations and investment management firms. We receive no brokerage commissions from and we do not sell services to investment management firms. All of our revenues are generated by our consulting services to client funds. We believe that this philosophy avoids any possible conflicts of interest.

Many investment performance advisors have agreements with brokerage houses to have portions of the commissions on stock trades rebated to them to pay for their investment performance consulting services. The rebates are known as “soft dollars”. In keeping with our philosophy to have no affiliations with brokerage organizations or investment management firms, Segal Rogerscasey has no “soft dollar” arrangement. We are compensated solely on a “hard dollar” basis.

Our fee for the services described in this proposal have been based upon our hourly time charges for similarly related projects along with the assignment of related staff members that will be assigned to the engagement at their appropriate billing levels.

Investment Consulting Services

Our annual fee to provide the ongoing monitoring services described in the RFP is **\$82,500** per year. This fee includes conducting fund searches as maybe required over the course of the contract, investment policy maintenance, Committee education training to assist in their oversight of the Program. Our fee includes all travel related costs and expenses to attend required meeting.

This fee is guaranteed for a two- year contract period beginning April 1, 2013 and ending March 31, 2015. Once the transition to a sole source service provider is accomplished our fees will be reduced to account for the reduction in work associated with two investment platforms and dual administrative reporting.

Compliance Audit Services

The fee to provide a comprehensive compliance audit is **\$28,000 per audit**. The Compliance Audit includes a review of the plan documents, administration forms, procedures, all types of benefit distributions, Hardship and /QDRO administration. In addition, our services will reconcile the administration process of both service providers to ensure that both organizations are providing accurate services per regulatory and plan design requirements.

Vendor Search Services

Our cost to perform a vendor search and analysis project for the Program is **\$65,000**. This fee includes all transition support and the finalization of the Program’s investment structure and final fund selections.

Our professional fees to conduct a vendor search is as follows:

	Professional Fees
PHASE I: Preliminary Work	
PHASE II: Development of Request for Proposal	
PHASE III: Evaluation of Vendors	
<ul style="list-style-type: none"> ▪ Develop vendor comparison matrix and selection criteria ▪ Evaluate up to ten proposals for both administrative and investment management services ▪ Fee to evaluate additional vendors in excess of ten: per vendor \$8,000. 	
PHASE IV: Selection of Finalist	
<ul style="list-style-type: none"> ▪ Interview, negotiate and participate in finalists presentations ▪ Vendor site visits (Optional) 	Time & Expenses
PHASE V: Contract Negotiations	
<ul style="list-style-type: none"> ▪ Review service contracts, service standards and final fee negotiations 	
Phase VI: Implementation/Conversion Project Management	
<ul style="list-style-type: none"> ▪ Final fund design to support Program changes 	
TOTAL VENDOR SEARCH SERVICES	\$65,000

2. Describe any relationship with mutual fund vendors and any revenue reimbursements received from the mutual fund vendors.

We have **no such relationships**. Segal Rogerscasey is not affiliated with any financial organization. We have no involvement in brokerage commission, revenue sharing arrangements, we do not enter into soft dollar arrangements with any organization for payment. All of our fees are payable in hard dollars directly from plan sponsors.

EVALUATION OF PRESENTATION

Vendor: _____

	Ratings				
	1	2	3	4	5
Client Service, Staff Experience	1	2	3	4	5
Communication and Education Services	1	2	3	4	5
Conversion and Implementation Services	1	2	3	4	5
Administration/Technology/Internet Services	1	2	3	4	5
Investment Services	1	2	3	4	5
Other	1	2	3	4	5
Overall Rating of Presentation	1	2	3	4	5

Comments: _____

4.1 **Loans.** A Participant who is an Employee may apply for and receive a loan from his or her Account Balance as provided in amount less than the minimum amount specified by the Administrator. If not specified by the Administrator, the minimum loan

4.2 **Maximum Loan Amount.** No loan to a Participant hereunder may exceed the lesser of:

(a) \$50,000, reduced by the greater of (i) the outstanding balance on any loan from the Plan to the Participant on the date the loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the made during such one-year period), or

(b) one half of the value of the Participant's vested Account Balance (as of the Valuation Date immediately preceding the date

For purposes of this Section 4.2, any loan from any other plan maintained by a participating employer shall be treated as if it w vested interest under any such other plan shall be considered a vested interest under this Plan; provided, however, that the pr allow the amount of a loan under this Section 4.2 to exceed the amount that would otherwise be permitted in the absence of th

4.3 **Terms of Loan.** The terms of the loan shall:

(a) require level amortization with payments not less frequently than quarterly throughout the repayment period, except that at event that the borrower is on an *bona fide* unpaid leave of absence for a period not to exceed one year for leaves other than a 414(u) of the Code or for the duration of a leave which is due to qualified military service;

(b) require that the loan be repaid within five years unless the Participant certifies in writing to the Administrator that the loan is reasonable time is to be used (determined at the time the loan is made) as a principal residence of the Participant; and

(c) provide for interest at a rate equal to one percentage point above the prime rate as published in the *[Insert name of a natio rate daily]* on the first business day of the month in which the loan is approved by the Administrator.

4.4 **Security for Loan; Default.**

(a) **Security.** Any loan to a Participant under the Plan shall be secured by the pledge of the portion of the Participant's interest

(b) **Default.** In the event that a Participant fails to make a loan payment under this Section 4 within 90 days after the date such the event of such default, (i) all remaining payments on the loan shall be immediately due and payable, (ii) effective as of the in which any such loan default occurs, the interest rate for such loan shall be (if higher than the rate otherwise applicable) the approved by the Administrator in the month in which such default occurs, (iii) no contributions shall be made on such Participa 12 calendar months the date of repayment in full of such loan, and (iv) the Participant shall be permanently ineligible for any fu

In the case of any default on a loan to a Participant, the Administrator shall apply the portion of the Participant's interest in the loan on the date of Severance from Employment. In addition, the Administrator shall take any legal action it shall consider nec loan, with the costs of any legal proceeding or collection to be charged to the Account Balance of the Participant.

Notwithstanding anything elsewhere in the Plan to the contrary, in the event a loan is outstanding hereunder on the date of a f Beneficiary as to the portion of his or her interest in the Plan invested in such loan (with the Beneficiary or Beneficiaries as to t determined in accordance with otherwise applicable provisions of the Plan).

ITSPC IT Project Ranking Criteria for FY2014 - 2015	Max Points
Section I: Project Proposal	
<p>A. Enterprise project scope:</p> <ul style="list-style-type: none"> ▪ 0-5 points if benefit for only single division/agency ▪ 6- 10 points if benefit for more than one division/agency ▪ 11- 15 points if statewide benefit 	15
<p>B. Customer Service improvement:</p> <ul style="list-style-type: none"> ▪ 0-3 points if minimal customer service improvement ▪ 4-6 points if moderate customer service improvement ▪ 7-10 points if significant customer service improvement <p>Customer Base</p> <ul style="list-style-type: none"> ▪ 0-3 points if small customer base ▪ 4-6 points if medium customer base ▪ 7-10 points if large customer base 	20
<p>C. Financial Impact to agency/state :</p> <ul style="list-style-type: none"> ▪ 0-5 points if minimal impact on expense avoidance/revenue ▪ 6-10 points if moderate impact on expense avoidance/revenue ▪ 10-15 points if significant impact on expense avoidance/revenue 	15
<p>D. Operational Necessity or Mandate:</p> <ul style="list-style-type: none"> ▪ 0-3 points if minimally important to continue agency operations ▪ 4-6 points if moderately important to continue agency operations ▪ 7-10 points if critical to business operations or mandated 	10
<p>E. Risk of not taking action:</p> <ul style="list-style-type: none"> ▪ 0-3 points if minimal risk for not taking action ▪ 4-6 points if moderate risk ▪ 7-10 points if there is a high level of risk if no action is taken 	10
<p>F. Internal Efficiencies other than financial or customer service improvement:</p> <ul style="list-style-type: none"> ▪ 0-3 points if low improvement ▪ 4-6 points if moderate improvement ▪ 7-10 points if large improvement 	10
<p>G. Project Risk (related to technology, available expertise, funding or other risks):</p> <ul style="list-style-type: none"> ▪ 0-3 points if high risk ▪ 4-6 points if moderate risk ▪ 7-10 points if low risk 	10
<p>H. Strategic Alignment with Governor's goals:</p> <ul style="list-style-type: none"> ▪ 0-10 points to the degree it meets the Governor's goals as defined in the FY14 budget: 	10
Section II: Notes	

1. MINIMUM QUALIFICATIONS

The following is the criteria for a bundled provider to be considered as an eligible candidate to bid on the requested services described in this RFP. If you are unable to accommodate any one of the minimum qualifications, do not respond to this RFP.

- A. Proposers must offer bundled administrative services (i.e., recordkeeping/administration, communication/education, custodial trustee services, and investment advisory services), as well as investment management services with an open architecture of “best-in-class” investment options.
- B. Proposers must comply with all RFP specifications. Unless specifically outlined in the proposer’s cover letter, the submission of a response implies the proposer’s intent to wholly conform to the specifications of the RFP.
- C. Proposers must provide a representative who shall serve in the capacity of a single point of contact who is responsible for seamless administration and accountability. This representative shall attend regular Deferred Compensation Committee meetings when requested by the Chair.
- D. Proposers must demonstrate an ability to work with the Committee, the Chairperson or designated representative and the Director in implementation, communication, and administration of the program.
- E. Proposers must have at least ten **(10)** years' experience in providing the proposed services and products to the public sponsor 457 Deferred Compensation marketplace and must be administering a minimum of 20 (20) Deferred Compensation Plans.
- F. Proposers must have a minimum of **\$3** billion under management for public sector plans.
- G. Proposers must provide certification as a qualified firm to provide administrative services and investment products pursuant to Section 457 of the Internal Revenue Code, including all rules and regulations of the State of , Nevada.
- H. Proposers must provide dedicated resources to support the on-going consultation to the State and all plan participants located throughout the State of Nevada. This would also include the availability of customer service representatives to support employee meetings, new employee orientation programs and a minimum of **four (4) per calendar year on-site enrollment opportunities to employees at work sites supporting 24 hours per day operations.**
- I. Proposer’s field service representatives that provide enrollment and education may not have commission-based compensation or any financial incentives to promote any investment product or service. A salary-based compensation structure is required for all field service representatives allocated to this relationship and to political sub divisions.
- J. The selected proposer is to reimburse the State for annual Plan expenses that are expected to total \$.

Plan expenses are expected to include:

- 1. Investment consultant performance reviews
- 2. Annual financial audit
- 3. Plan administrative expenses incurred by the State
 - Program Director
 - RFP advisory services
 - Legal counsel

- - Plan transition/implementation
- Committee education including travel expenses
- One compliance audit during the term of the contract

- K. It is the Committee's expectation that the Service Provider reimburse the State for the cost of any internal programming cost associated with the implementation of any service feature to enhance the Plan's administration, such as online enrollment.
- L. The firm must accurately and fully disclose all fund expense and revenue sharing arrangements associated with all funds available to the State , including Stable Value products.
- M. Proposers must offer a comprehensive education and communication program that can be coordinated with the dual vendor service configuration.
- N. Proposers must accommodate a January 1, 2015 implementation date with a post re-enrollment solicitation process.
- O. Proposers must be willing to sign a contract for a period of 5 years beginning January 1, 2015 through December 31, 2019 with favorable fee negotiations at the discretion of the Committee. It is the State's expectation that as the size of the plan assets increase during the term of the contract, that the vendor will be willing to guarantee or negotiate appropriate fee reductions and related credit allowances allocated for plan level expenses.
- P. Proposers must be liable and solely responsible for any processing errors of the provider or its agents. In the event of a participant's loss of interest, and/or dividend, and/or principal due to an error by the successful respondent(s) or its agent(s) in processing transactions on behalf of the participant, the successful respondent(s) agrees to adjust the participant's account to the same position as if the processing error had not occurred.
- Q. Proposers must provide a diverse array of investment options along with a series of lifestyle/lifecycle funds, with the ability to record keep outside investment options and offer self-directed brokerage services.
- R. Proposers must be able to deal directly with approximately XX eligible employees located within and around Nevada, with 24-hour shifts in some operations. Language on political subdivisions
- S. Proposers are to accept a 90-day notification on the part of the State to discontinue service relationship with no penalties. The State will not enter into a contract with any penalty or liquidation charges for terminating the relationship. This applies to the entire contract and all investment funds including Stable Value and Fixed Income products.
- T. Proposers must provide necessary changes to the Plan as needed resulting from State and/or Federal legislation without additional cost to participants under the terms of the proposed contract.
- U. Proposers must have the capability to handle multiple payroll locations and transmittal methods for both the State y and its political sub divisions.
- V. Subject to a final unforeseeable emergency withdrawal appeal process established by the State the selected Provider(s) must provide complete review, approval, and administrative services related to unforeseeable emergency distributions and Qualified Domestic Relations Orders (QDRO). On an annual basis, the proposer must certify that all unforeseeable emergency withdrawals have been processed in accordance with Internal Revenue Service guidelines and regulations.
- W. Proposers that provide a financial service organization to provide participant advisory services, must have an established relationship with the service provider for a minimum of 5 years with similar size programs.

- X. Any contract entered into by the State must stipulate that there will be no front-end charges, and no back-end charges or market value adjustments (MVA) of any kind. In addition, there will be no liquidity restrictions or penalties on participant transfers or withdrawals, with the possible exception of stable value equity wash provisions and/or mutual fund specific short-term trading fees.
- Y. The selected Provider(s) must be able to administer a fund line-up of investment options that are in compliance with the Plan's Investment Policy Statement for the length of the contract.
- Z. The selected Provider(s) must be able to meet with the Committee on a quarterly basis.
- AA. The selected Provider(s) must have knowledge of and comply with all applicable Nevada State and federal regulations regarding governmental retirement plans and investment options. All laws of the State of Nevada, whether substantive or procedural, shall apply to this contract, and all statutory, charter, and ordinance provisions that are applicable to public contracts in the County shall be adhered to with respect to this contract.
- BB. If the selected Provider contracts with third parties for investment advisory, self directed brokerage, or custodial trustee services, such third parties must follow the laws and regulations of the State state of , Nevada

Complete the attached Certification of Compliance with Minimum Requirements of RFP (Attachment A) attesting to the adherence of these requirements. The Certificate of Compliance with Minimum Qualifications should be submitted . Purchasing Analyst, Department of Finance Purchasing and Contracts, State of Nevada and, simultaneously to Frank Picarelli at Segal Rogerscasey via e-mail at fpicarelli@segalrc.com. Any responses not meeting these specifications may be considered, at the sole discretion of the Committee, as non-responsive.

Evaluation Matrix – Criteria Scores

	Weight	Company A		Company B		Company C		Company D		Company E	
		Value (0-5)	Wtd Avg								
Organization & History	5	5.0	25	4.0	20	4.0	20	1.0	5	3.5	17.5
Client Service/Quality Assurance, Recordkeeping/Administration, Reporting, Custodial Trustee Services, Plan Implementation & Systems Capabilities and Hardware	15	3.5	52.5	3.5	52.5	3.5	52.5	3.5	52.5	3.5	52.5
Participant Services: Communication and Education, Automated Voice Response System (VRS), Customer Service Call Center, Internet Services & Investment Advisory Services	15	3.0	45	3.0	45	3.0	45	3.0	45	3.0	45
Field Service Representatives	20	2.0	40	3.0	60	4.0	80	3.0	60	5.0	100
Stable Value	30	3.5	105	4.0	120	3.5	105	2.0	60	4.0	120
Cost Structure Vendor Fee	10	3.0	30	4.0	40	3.0	30	2.0	20	5.0	50
Overall responses & compliance with RFP	5	3.0	15	4.0	20	4.0	20	4.0	20	4.0	20
TOTAL	100		312.5		357.5		352.5		262.5		405.0

Brian Sandoval
Governor



COMMITTEE

Rex Reed, Chair
NDOC

Brian L. Davie
LCB

Karen Oliver
GCB

Scott Sisco
NDOT

Carrie L. Parker
Deputy Attorney General

Tara Hagan
Executive Officer

MEMO

To: Committee Members
From: Tara Hagan
CC: Jake O'Shaughnessy, Arnerich Massena
Carrie L. Parker, Deputy Attorney General
Robert Trenerry, Hartford
Cameron Vandenberg, Deputy Attorney General
Date: 2/22/2012
Re: Hartford Requested Contract Amendments for Nevada Guaranty Coverage

Background

Assembly Bill 74 (AB 74), specifically sections 33.1 through 33.7, was passed during the 2011 Legislature and signed by Governor Sandoval. Provisions of this bill affect NDC participants in the Hartford General Account and during session the Committee provided informational testimony and remained neutral on the passage of the bill.

The Hartford General Account is a guaranteed investment contract (GIC) managed by Hartford; in addition, both the crediting rate and principal are insured by Hartford. The participant assets (\$262 million as of 12.31.11) are owned by the Hartford and subject to general creditors should the Hartford become insolvent. Prior to the passage of AB 74, if Hartford became insolvent, participant assets were not insured under the Nevada Life and Health Guaranty Association (NLHGA).

The passage of AB 74 does allow for coverage of assets (up to \$100,000) in group annuity contracts, should Hartford become insolvent. NLHGA also places a limit on coverage when the account is crediting interest rates above 'average rates'. Staff's due diligence indicates if Hartford became insolvent today, using the current contract's historical crediting rates and appropriate benchmarks utilized by NLHGA, participants would not receive 100% coverage but rather be limited to the amount which does not exceed the benchmark.

Please note the Hartford General Account is the only investment option in NDC (Hartford and ING) which is subject to a firm's financial health and credit ratings. All other assets in NDC (Hartford and ING) are held in separate accounts (mainly mutual funds) which are separate and distinct legal entities and therefore insulated from the financial health of the two firms.

As of the publication of this memo, Staff was unsuccessful in reaching representatives at the Division of Insurance for confirmation that Hartford has filed the proper endorsement to seek NLHGA coverage. As of February 2, Hartford had not submitted the necessary paperwork. Staff will provide an update at the meeting.

Group Funding Contract vs. Group Annuity Contract

Hartford has provided Staff and legal with contract amendment requirements. NDC's current contract would need to be changed from a 'group funding' contract to a 'group annuity' contract in order to extend coverage under NLHGA to NDC participants invested in the Hartford General Account.

In 2003, NDC changed from a group annuity contract to a group funding contract with both Hartford and ING (its initial contract with NDC). Both contracts allow for a participant to choose an annuity as a distribution option (also known as annuitize). An annuity is a financial contract which provides income for a lifetime (or more than one lifetime).

A group annuity contract places the fiduciary responsibility of annuity oversight on the Plan. A group annuity requires:

- Fiduciaries make certain the insurer remains credit worthy and the annuity yield and expenses are competitive for the life of the annuity
- Participants who choose to annuitize their accounts at retirement remain the responsibility of plan fiduciaries (monitor financial health and credit ratings) but these participant assets are owned by the insurer and cannot be transferred if/when total plan assets are transferred to another provider through a bid process.
- Annuities are paid for the life of a participant and potentially longer which requires fiduciary oversight of the financial health of the insurer for 20 or more years.

A group funding contract does not allow participants to annuitize his/her assets under the plan's contract. Consistent with NDC's current contract with both Hartford and ING, participants who wish to annuitize their account must enter into an individual contract with the firm which removes the assets from the Plan. The Committee no longer has a fiduciary responsibility for these assets and does not need to make certain the product is competitive and the insurer is financial viable. Group funding contracts are considered best practice in the industry as it limits the fiduciary liability versus group annuity contracts.

Current Oversight of Hartford General Account

The Committee utilizes certain tools to analyze and evaluate investment options in the Plan. The Plan wants to ensure participants are fairly compensated for their investment risk and returns. The types of data generally used to assess an investment option are:

- Manager tenure and track record
- Consistency of fund's investment style and philosophy
- Size of Fund
- Risk Return Characteristics versus peers and benchmark
- Comparison of performance after fees against peers and benchmark

Although data similar to that listed above is contained in the investment consultant reports for the Hartford General Account, it's important to note this information is a proxy. These exhibits provide an estimate of the holdings and performance of the general account assets but do not fully capture all the exposures and risks.

In absence of this type of specific information, embedded as a fail-safe are credit ratings from third-party rating agencies (Moody's, Fitch and Standard and Poor's). Credit ratings provide an industry standard which can be benchmarked against other financial institutions and help assess the risks associated with the financial institution providing the guarantee.

The credit worthiness of Hartford assists the Committee in gauging the Hartford's ability to meet the guaranteed crediting rate for the General Account. A credit rating decline can impair Hartford's ability to credit the contractual amount each year, or, in the worst case, compromise principal. In 2009, the Hartford's credit ratings declined and the Committee established a credit-rating floor for each credit rating agency (see Attachment A) and a system to allow for the removal of this option or early provider request for proposal, if applicable.

Participants invested in the Hartford General Account want a low risk, secure investment with principal protection. General accounts are designed to deliver objectives of principal stability and relatively steady yields and participants rely on the Committee for the oversight of this option within that context.

Staff Recommendations

Given the Plan's decision to create a system to remove the option in the event of further credit deterioration, the current Hartford contract ends in 10 months, and the return to a group annuity contract would create greater liability for the Plan, Staff is recommending the Plan not amend its contract to a group annuity.

Current Administrator Credit Ratings and Committee's Established Trigger Points

Attachment A

Hartford

AM Best	Fitch	Moody's	S&P
A++	AAA	Aaa	AAA
A+	AA+	Aa1	AA+
A	AA	Aa2	AA
A-	AA-	Aa3	AA-
B++	A+	A1	A+
B+	A	A2	A
B	A-	A3	A-
B-	BBB+	Baa1	BBB+
C++	BBB	Baa2	BBB
C	BBB-	Baa3	BBB-

Key

Current Hartford Rating

Red = Possible Action Trigger (Early RFP, Fund Removal, etc.)

ING

AM Best	Fitch	Moody's	S&P
A++	AAA	Aaa	AAA
A+	AA+	Aa1	AA+
A	AA	Aa2	AA
A-	AA-	Aa3	AA-
B++	A+	A1	A+
B+	A	A2	A
B	A-	A3	A-
B-	BBB+	Baa1	BBB+
C++	BBB	Baa2	BBB
C	BBB-	Baa3	BBB-

Key

Current ING Rating

Red = Possible Action Trigger (RFP, Fund Removal, etc)

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CHAPTER 686C - NEVADA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

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GENERAL PROVISIONS

NRS 686C.010 Short title. This chapter may be cited as the Nevada Life and Health Insurance Guaranty Association Act.
(Added to NRS by 1973, 302)

NRS 686C.020 Purpose of chapter. The purpose of this chapter is to protect, within certain limits, the persons specified in subsections 1 and 2 of [NRS 686C.030](#) against failure in the performance of contractual obligations under life and health insurance policies and contracts, and annuities, specified in subsection 4 of [NRS 686C.030](#) because of the impairment or insolvency of a member insurer issuing such policies or contracts.
(Added to NRS by 1973, 302; A [1991, 869](#); [2001, 1030](#))

NRS 686C.030 Scope of chapter: Coverage provided.

1. This chapter provides coverage for the policies or contracts described in subsection 4 to persons who are:
 - (a) Owners of or certificate holders under such policies or contracts, other than structured settlement annuities, and who:
 - (1) Are residents of this state; or
 - (2) Are not residents, but only if:
 - (I) The insurer that issued the policies or contracts is domiciled in this state;
 - (II) The states in which the persons reside have associations similar to the Association created by this chapter;
 - and
 - (III) The persons are not eligible for coverage by an association in another state because the insurer was not authorized in the other state at the time specified in that state's law governing guaranty associations; and
 - (b) Beneficiaries, assignees or payees of the persons covered under paragraph (a), wherever they reside, except for nonresident certificate holders under group policies or contracts.
2. For structured settlement annuities, except as otherwise provided in subsection 3, this chapter provides coverage to a payee under the annuity, or beneficiary of a payee if the payee is deceased, if the payee or beneficiary:
 - (a) Is a resident of this state, regardless of the residence of the owner of the annuity; or
 - (b) Is not a resident of this state, but:
 - (1) The owner of the annuity is a resident of this state, or the issuer of the annuity is domiciled in this state and the state in which the owner resides has an association similar to the Association created by this chapter; and
 - (2) Neither the payee or beneficiary nor the owner of the annuity is eligible for coverage by the association of the state in which the payee, beneficiary or owner resides.
3. This chapter does not provide coverage for a payee or beneficiary of a structured settlement annuity if the owner of the annuity is a resident of this state and the payee or beneficiary is afforded any coverage by the association of another state. In determining the application of the provisions of this chapter to a situation where a person could be covered by the association of more than one state, this chapter must be construed in conjunction with the laws of other states to result in coverage by only one association.
4. This chapter provides coverage to the persons described in subsections 1 and 2 for direct, nongroup life, health and supplemental policies or contracts, and annuities, and certificates under direct group policies and contracts, and annuities, except as limited by this chapter.

(Added to NRS by 1973, 302; A [1991, 869](#); [2001, 1030](#))

NRS 686C.035 Scope of chapter: Coverage not provided.

1. This chapter does not provide coverage for:

(a) A portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the owner of the policy or contract.

(b) A policy or contract of reinsurance unless assumption certificates have been issued pursuant to that policy or contract.

(c) A portion of a policy or contract to the extent that the rate of interest on which it is based, or the interest rate, crediting rate or similar factor determined by the use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

(1) Averaged over the period of 4 years before the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting 2 percentage points from Moody's Corporate Bond Yield Average averaged for the same period, or for the period between the date of issuance of the policy or contract and the date the association became obligated, whichever period is less; and

(2) On or after the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting 3 percentage points from Moody's Corporate Bond Yield Average as most recently available.

(d) A portion of a policy or contract issued to a plan or program of an employer, association or other person to provide life, health or annuity benefits to its employees, members or other persons to the extent that the plan or program is self-funded or uninsured, including, but not limited to, benefits payable by an employer, association or other person under:

(1) A multiple employer welfare arrangement described in 29 U.S.C. § 1002(40);

(2) A minimum-premium group insurance plan;

(3) A stop-loss group insurance plan; or

(4) A contract for administrative services only.

(e) A portion of a policy or contract to the extent that it provides for dividends, credits for experience, voting rights or the payment of any fee or allowance to any person, including the owner of a policy or contract, for services or administration connected with the policy or contract.

(f) A policy or contract issued in this state by a member insurer at a time when the member insurer was not authorized to issue the policy or contract in this state.

(g) A portion of a policy or contract to the extent that the assessments required by [NRS 686C.230](#) with respect to the policy or contract are preempted by federal law.

(h) An obligation that does not arise under the express written terms of the policy or contract issued by the insurer, including:

(1) Claims based on marketing materials;

(2) Claims based on side letters or other documents that were issued by the insurer without satisfying applicable requirements for filing or approval of policy forms;

(3) Misrepresentations of or regarding policy benefits;

(4) Extra-contractual claims; or

(5) A claim for penalties or consequential or incidental damages.

(i) A contractual agreement that establishes the member insurer's obligation to provide a guarantee based on accounting at book value for participants in a defined-contribution benefit plan by reference to a portfolio of assets owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer.

(j) A portion of a policy or contract to the extent that it provides for interest or other changes in value which are determined by the use of an index or other external reference stated in the policy or contract, but which have not been credited to the policy or contract, or as to which the rights of the owner of the policy or contract are subject to forfeiture, determined on the date the member insurer becomes an impaired or insolvent insurer, whichever occurs first. If the interest or changes in value of a policy or contract are credited less frequently than annually, for the purpose of determining the values that have been credited and are not subject to forfeiture, the interest or change in value determined by using procedures stated in the policy or contract must be credited as if the contractual date for crediting interest or changing values was the date of the impairment or insolvency of the insured member, whichever occurs first and is not subject to forfeiture.

(k) An unallocated annuity contract other than an annuity owned by a governmental retirement plan established under section 401, 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401, 403(b) and 457, respectively, or the trustees of such a plan.

(l) A policy or contract providing any hospital, medical, prescription drug or other health care benefits pursuant to 42 U.S.C. §§ 1395w-21 et seq. and 1395w-101 et seq., and any regulations adopted pursuant thereto.

2. As used in this section, "Moody's Corporate Bond Yield Average" means the monthly average for corporate bonds published by Moody's Investors Service, Inc., or any successor average.

(Added to NRS by [1991, 864](#); A [1995, 1623](#); [1999, 2800](#); [2001, 1031](#); [2011, 3369](#); [2013, 3354](#))

NRS 686C.040 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in [NRS 686C.045](#) to [686C.127](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1973, 302; A [1991, 870](#); [2001, 1033](#); [2011, 3370](#))

NRS 686C.045 "Account" defined. "Account" means one of the accounts maintained pursuant to [NRS 686C.130](#).

(Added to NRS by [1991, 863](#))

NRS 686C.048 “Annuity” defined. “Annuity” includes an agreement for allocated funding, a structured settlement annuity and an immediate or deferred annuity.
(Added to NRS by [2001, 1026](#))

NRS 686C.050 “Association” defined. “Association” means the Nevada Life and Health Insurance Guaranty Association.
(Added to NRS by 1973, 303)

NRS 686C.055 “Authorized assessment” defined. “Authorized assessment” or “authorized” as used in the context of assessments means or describes an assessment authorized by a resolution of the Board of Directors of the Association to be imposed immediately or later on member insurers in a specified amount.
(Added to NRS by [2001, 1026](#))

NRS 686C.061 “Benefit plan” defined. “Benefit plan” means a benefit plan for a specific employee, union or association of natural persons.
(Added to NRS by [2001, 1026](#))

NRS 686C.065 “Called assessment” defined. “Called assessment” or “called” as used in the context of assessments means or describes an authorized assessment required by a notice mailed by the Association to member insurers to be paid within the time set forth in the notice.
(Added to NRS by [2001, 1026](#))

NRS 686C.070 “Contractual obligation” defined. “Contractual obligation” means any obligation under a policy or contract or a certificate under a group policy or contract, or portion thereof, for which coverage is provided under [NRS 686C.030](#).
(Added to NRS by 1973, 303; A [1989, 565](#); [1991, 870](#); [2001, 1033](#))

NRS 686C.080 “Covered policy” defined. “Covered policy” means any policy or contract included within the scope of this chapter, as expressed in [NRS 686C.030](#) and [686C.035](#).
(Added to NRS by 1973, 303; A [1991, 870](#))

NRS 686C.084 “Extra-contractual claim” defined. “Extra-contractual claim” includes a claim relating to bad faith in the payment of claims and a claim for punitive or exemplary damages or for costs and attorney’s fees.
(Added to NRS by [2001, 1026](#))

NRS 686C.090 “Impaired insurer” defined. “Impaired insurer” means an insurer which is not an insolvent insurer and is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.
(Added to NRS by 1973, 303; A [1991, 870](#); [2001, 1033](#))

NRS 686C.095 “Insolvent insurer” defined. “Insolvent insurer” means an insurer which is ordered to liquidate by a court of competent jurisdiction after a finding of insolvency.
(Added to NRS by [1991, 863](#))

NRS 686C.100 “Member insurer” defined. “Member insurer” means an insurer which is licensed or holds a certificate of authority to transact in this state any kind of insurance for which coverage is provided in this chapter and includes an insurer whose license or certificate of authority in this state has been suspended, revoked, not renewed or voluntarily withdrawn. The term does not include:

1. A hospital or medical organization, whether or not for profit;
 2. A health maintenance organization;
 3. A fraternal benefit society;
 4. A mandatory state pooling plan;
 5. A mutual assessment company or other person that operates on the basis of assessments;
 6. An insurance exchange;
 7. An organization that is authorized only to issue charitable gift annuities under [NRS 688A.281](#) to [688A.285](#), inclusive; or
 8. An organization similar to any of those listed in subsections 1 to 7, inclusive.
- (Added to NRS by 1973, 303; A [1991, 870](#); [2001, 1033](#))

NRS 686C.104 “Owner” defined. “Owner” of a policy or contract means the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on the books of the issuer.
(Added to NRS by [2001, 1026](#))

NRS 686C.108 “Person” defined. “Person” includes a government, governmental agency or political subdivision of a government.
(Added to NRS by [2001, 1026](#))

NRS 686C.110 “Premiums” defined. “Premiums” means amounts received in any calendar year on covered policies or contracts less premiums, considerations and deposits returned thereon, and less dividends and credits for experience thereon. The term does not include:

1. Any amounts received for policies or contracts or for the portions of policies or contracts for which coverage is not provided under [NRS 686C.030](#) except that the assessable premium is not reduced on account of paragraph (c) of subsection 1 of [NRS 686C.035](#) relating to limitations on interest and subsection 2 or paragraph (b) of subsection 1 of [NRS 686C.210](#) relating to limitations with respect to any one life.

2. Premiums for an unallocated annuity contract.

3. Premiums that exceed \$5,000,000 for several nongroup policies of life insurance owned by one owner, regardless of:

(a) Whether the owner is a natural person, firm, corporation or other person;

(b) Whether any person insured under the policies is an officer, manager, employee or other person; or

(c) The number of policies or contracts held by the owner.

(Added to NRS by 1973, 303; A [1991, 870](#); [2001, 1033](#))

NRS 686C.115 “Principal place of business” defined.

1. “Principal place of business” of an organization means the single state in which the natural persons who establish policy for the direction, control and coordination of the operations of the organization as a whole primarily perform that function, determined by the Association in its reasonable judgment by considering:

(a) The state in which the primary executive and administrative headquarters of the organization is located;

(b) The state in which the principal office of the chief executive officer of the organization is located;

(c) The state in which the board of directors, or similar governing authority, of the organization conducts the majority of its meetings;

(d) The state in which the executive or managerial committee of the board of directors, or similar governing authority, of the organization conducts the majority of its meetings; and

(e) The state from which the management of the overall operations of the organization is directed.

2. “Principal place of business” of the sponsor of a benefit plan means the principal place of business of the association, committee, joint board of trustees or similar group of representatives of the parties who establish or maintain the plan or, if that cannot be ascertained, of the employer or the employee organization that has the largest investment in the plan, except that in either case if more than half of the participants of the plan are employed in one state, it means that state. In the case of a benefit plan sponsored by affiliated companies comprising a consolidated corporation, it means the state in which the holding company or controlling affiliate has its principal place of business as determined by using the factors set forth in subsection 1.

(Added to NRS by [2001, 1026](#))

NRS 686C.120 “Resident” defined. “Resident” means any person to whom a contractual obligation is owed and who resides in this state on the date of entry of a court order that determines a member insurer to be impaired or insolvent, whichever determination is first made. A person may be a resident of but one state, which in the case of a person other than a natural person is its principal place of business. A citizen of the United States who is a resident of a foreign country or of a territory or insular possession subject to the jurisdiction of the United States which does not have an association similar to the Association created by this chapter shall be deemed to be a resident of the state of domicile of the insurer that issued the policy or contract.

(Added to NRS by 1973, 303; A [1991, 871](#); [2001, 1034](#))

NRS 686C.123 “State” defined. “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(Added to NRS by [2001, 1027](#))

NRS 686C.124 “Structured settlement annuity” defined. “Structured settlement annuity” means an annuity purchased to fund periodic payments to a plaintiff or other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant.

(Added to NRS by [2001, 1027](#))

NRS 686C.125 “Supplemental contract” defined. “Supplemental contract” means a written agreement for the distribution of proceeds from a life or health insurance policy or an annuity.

(Added to NRS by [1991, 864](#); A [2001, 1034](#))

NRS 686C.127 “Unallocated annuity contract” defined. “Unallocated annuity contract” means an annuity contract or group annuity certificate which is not issued to and owned by a natural person except to the extent such an annuity contract or group annuity certificate is guaranteed to a natural person by an insurer under such contract or certificate.

(Added to NRS by [2011, 3368](#))

NRS 686C.128 Document describing general purposes and current limitations of chapter: Preparation; distribution and revision; disclaimer.

1. The Association shall prepare, and submit to the Commissioner for approval, a summary document describing the general purposes and current limitations of this chapter. After the expiration of 60 days after the approval of the summary document by the Commissioner, an insurer may not deliver a policy or contract to the owner of the policy or contract

unless the summary document is delivered to the owner at the time of delivery of the policy or contract. The document must also be available upon request by the owner of a policy. The distribution, delivery, contents or interpretation of this document does not guarantee that the policy or the contract or its owner is covered in the event of the impairment or insolvency of a member insurer. The descriptive document must be revised by the Association as amendments to this chapter may require. Failure to receive this document does not give the owner of a policy or contract, or an insured, any greater rights than those stated in this chapter.

2. The document prepared pursuant to subsection 1 must contain a clear and conspicuous disclaimer on its face. The Commissioner shall establish the form and content of the disclaimer. The disclaimer must:

- (a) State the name and address of the Association and of the Division;
- (b) Prominently warn the owner of the policy or contract that the Association may not cover the policy or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in this State;
- (c) State the types of policies for which guaranty funds will provide coverage;
- (d) State that the insurer and its agents are prohibited by law from using the existence of the Association for the purpose of sales, solicitation or inducement to purchase any form of insurance;
- (e) State that the owner of a policy or contract should not rely on coverage under the Association when selecting an insurer;
- (f) Explain the rights and procedures for filing a complaint to allege a violation of any provision of this chapter; and
- (g) Provide other information as directed by the Commissioner, including sources of information about the financial condition of insurers, if the information is not proprietary and is subject to disclosure under the law of the state in which the insurer is domiciled.

3. A member insurer shall retain evidence of compliance with subsection 1 while the policy or contract for which the notice is given remains in effect.

(Added to NRS by [1991, 868](#); A [2001, 1034](#))

ORGANIZATION; POWERS AND DUTIES

NRS 686C.130 Creation; membership; operation; accounts; supervision by Commissioner.

1. There is hereby created a nonprofit legal entity to be known as the Nevada Life and Health Insurance Guaranty Association. All member insurers shall be and remain members of the Association as a condition of their authority to transact insurance in this state. The Association shall perform its functions under the plan of operation established and approved pursuant to [NRS 686C.290](#) and shall exercise its powers through a Board of Directors established pursuant to [NRS 686C.140](#).

2. For purposes of administration and assessment, the Association shall maintain two accounts:

- (a) The Account for Health Insurance; and
- (b) The Account for Life Insurance and Annuities, which consists of:
 - (1) The Subaccount for Life Insurance; and
 - (2) The Subaccount for Annuities, including annuities owned by a governmental retirement plan, or its trustees, established under section 401, 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401, 403(b) and 457.

3. The Association is under the immediate supervision of the Commissioner and is subject to the applicable provisions of the Nevada Insurance Code. Meetings or records of the Association may be opened to the public by majority vote of the Board of Directors.

(Added to NRS by 1973, 303; A [1991, 871](#); [2001, 1035](#))

NRS 686C.140 Board of Directors.

1. The Board of Directors of the Association consists of not less than five nor more than nine members, serving terms as established in the plan of operation.

2. The members of the Board who represent insurers must be selected by member insurers subject to the approval of the Commissioner. If practicable, one of the members of the Board must be an officer of a domestic insurer.

3. Two public representatives must be appointed to the Board by the Commissioner. A public representative may not be an officer, director or employee of an insurer or engaged in the business of insurance.

4. Vacancies on the Board must be filled for the remaining period of the term by majority vote of the members of the Board, subject to the approval of the Commissioner, for members who represent insurers, and by the Commissioner for public representatives.

5. To select the initial Board of Directors, and initially organize the Association, the Commissioner shall give notice to all member insurers of the time and place of the organizational meeting. In determining voting rights at the organizational meeting, each member insurer is entitled to one vote in person or by proxy. If the Board of Directors is not selected within 60 days after notice of the organizational meeting, the Commissioner may appoint the initial members to represent insurers in addition to the public representatives.

6. In approving selections or in appointing members to the Board, the Commissioner shall consider, among other things, whether all member insurers are fairly represented.

7. Members of the Board may be reimbursed from the assets of the Association for expenses incurred by them as members of the Board of Directors, but members of the Board may not otherwise be compensated by the Association for their services.

(Added to NRS by 1973, 303; A [2001, 1035](#); [2003, 2805](#))

NRS 686C.150 Powers regarding impaired insurers. If a member insurer is an impaired insurer, the Association may, subject to any conditions it may impose which do not impair the contractual obligations of the impaired insurer and which are approved by the Commissioner:

1. Guarantee, assume or reinsure, or cause to be guaranteed, assumed or reinsured, any or all of the covered policies or contracts of the impaired insurer.
2. Provide such money, pledges, loans, notes, guarantees or other means as are proper to effectuate subsection 1, and assure payment of the contractual obligations of the impaired insurer pending action under subsection 1.

(Added to NRS by 1973, 304; A [1991, 871](#); [2001, 1036](#))

NRS 686C.152 Duties regarding insolvent insurers. If a member insurer is an insolvent insurer, the Association shall:

1. Guarantee, assume or reinsure, or cause to be guaranteed, assumed or reinsured, the policies or contracts of the insolvent insurer; or
2. Ensure payment of the contractual obligations of the insolvent insurer and:
 - (a) Provide such money, pledges, loans, notes, guarantees or other means as are reasonably necessary to discharge its duties; or
 - (b) Provide benefits and coverages in accordance with [NRS 686C.153](#) and [686C.154](#).

(Added to NRS by [1991, 865](#); A [2001, 1036](#))

NRS 686C.153 Provision of substitute benefits and coverage with respect to life and health insurance policies and annuities. When proceeding pursuant to paragraph (b) of subsection 2 of [NRS 686C.152](#), the Association shall:

1. With respect to life and health insurance policies and annuities, ensure payment of benefits for premiums identical to the premiums and benefits, except for terms of conversion and renewability, which would have been payable under policies or contracts of the insolvent insurer, for claims incurred with respect to:

(a) A group policy or contract, not later than the earlier of the next renewal date under the policy or contract or 45 days, but in no event less than 30 days, after the date when the Association becomes obligated with respect to that policy or contract.

(b) A nongroup policy, contract or annuity, not later than the earlier of the next renewal date, if any, under the policy, contract or annuity or 1 year, but in no event less than 30 days, after the date when the Association becomes obligated with respect to that policy, contract or annuity.

2. Make diligent efforts to provide all known insureds or owners with respect to group policies or contracts, or annuitants with respect to annuities, 30 days' notice of termination of the benefits provided pursuant to subsection 1.

3. With respect to nongroup life and health insurance policies and annuities, make available substitute coverage on an individual basis, in accordance with the provisions of subsection 4, to each known insured or annuitant, or owner if other than the insured or annuitant, and to each natural person formerly insured, or formerly an annuitant, under a group policy who is not eligible for replacement group coverage, if the insured or annuitant had a right under law or the terminated policy or annuity to convert coverage to individual coverage or to continue an individual policy or annuity in force until a specified age or for a specified period, during which the insurer had no right unilaterally to make changes in any provision of the policy or annuity or had a right only to make changes in premium by class.

4. In providing the substitute coverage required under subsection 3, the Association may offer to reissue the terminated coverage or to issue an alternative policy that must be offered without requiring evidence of insurability or a waiting period or exclusion that would not have applied under the terminated policy, and may reinsure any alternative or reinsured policy.

(Added to NRS by [1991, 865](#); A [2001, 1036](#))

NRS 686C.154 Alternative policies: Adoption; approval; contents; premium; coverage.

1. Alternative policies adopted by the Association are subject to the approval of the Commissioner and the court in the insolvent or impaired insurer's state which has jurisdiction over the conservation, rehabilitation or liquidation of the insurer. The Association may adopt alternative policies of various types for future issuance without regard to any particular impairment or insolvency.

2. An alternative policy must contain at least the minimum statutory provisions required in this state and provide benefits that are not unreasonable in relation to the premium charged. The Association shall set the premium in accordance with a table of rates which it shall adopt. The premium must reflect the amount of insurance to be provided and the age and class of risk of each insured, but must not reflect any changes in the health of the insured after the original policy was last underwritten.

3. An alternative policy issued by the Association must provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the Association.

4. If the Association elects to reissue terminated coverage at a rate of premium different from that charged under the terminated policy, the premium must be set by the Association in accordance with the amount of insurance provided and the age and class of risk, subject to approval by the Commissioner and the court described in subsection 1.

(Added to NRS by [1991, 866](#); A [2001, 1037](#))

NRS 686C.155 Ensuring of payment or credit of guaranteed minimum interest rate. When proceeding pursuant to paragraph (b) of subsection 2 of [NRS 686C.152](#) with respect to any policy or contract carrying guaranteed minimum interest rates, the Association shall ensure the payment or crediting of a rate of interest consistent with paragraph (c) of subsection 1 of [NRS 686C.035](#).

(Added to NRS by [1991, 866](#); A [2001, 1038](#))

NRS 686C.156 Issuance of substitute coverage for policy or contract that uses external reference for calculating returns or changes in value. In carrying out its duties in connection with guaranteeing, assuming or reinsuring a policy or contract under [NRS 686C.150](#) and [686C.152](#), the Association, subject to the approval of the court in the insolvent or impaired insurer's state which has jurisdiction over the conservation, rehabilitation or liquidation of the insurer, may issue substitute coverage for a policy or contract that provides an interest rate, crediting rate or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value by issuing an alternative policy or contract if:

1. In lieu of the index or other external reference stated in the original policy or contract, the alternative policy or contract provides for a fixed interest rate, payment of dividends guaranteed as to minimum amount, or a different method of calculating interest or changes in value;
2. There is no requirement for evidence of insurability, waiting period or other exclusion that would not have applied under the replaced policy or contract; and
3. The alternative policy or contract is substantially similar to the replaced policy or contract in all other material terms.

(Added to NRS by [2001, 1029](#))

NRS 686C.158 Payment of premiums; liability for unearned premiums. Premiums due for coverage after entry of an order of liquidation of an insolvent insurer belong to and are payable at the direction of the Association, and the Association is liable for unearned premiums due to owners of policies or contracts arising after the entry of such an order.

(Added to NRS by [2001, 1027](#))

NRS 686C.160 Imposition of restraints on insurers. In carrying out its responsibilities under [NRS 686C.152](#), the Association may, subject to approval by a court of this state:

1. Impose permanent liens on policies and contracts in connection with any guarantee, assumption or reinsurance if the Association finds that the amounts which can be assessed under this chapter are less than the amounts needed to ensure full and prompt performance of the Association's duties or that the economic or financial conditions as they affect member insurers are sufficiently adverse that the imposition of such permanent liens is in the public interest.

2. Impose temporary moratoriums or liens on payments of cash values and policy loans or any right to withdraw money held in conjunction with policies or contracts, in addition to any contractual provisions for deferral of paying cash value or lending against the policy. In addition, in the event of a temporary moratorium or charge imposed by the court in the insolvent or impaired insurer's state which has jurisdiction over the conservation, rehabilitation or liquidation of the insurer on such payment or lending, or on any other right to withdraw money held in conjunction with policies or contracts, the Association may defer such payment, lending or withdrawal for the period of the moratorium or charge, except for claims covered by the Association to be paid in accordance with a procedure for cases of hardship established by the liquidator or rehabilitator and approved by the court.

(Added to NRS by 1973, 305; A [1991, 872](#); [2001, 1038](#))

NRS 686C.170 Liability for guaranty provided by laws of another state or jurisdiction. The Association is not liable under [NRS 686C.152](#) where a guaranty is provided to residents of this state by the laws of the domiciliary state or jurisdiction of the impaired or insolvent insurer other than this state.

(Added to NRS by 1973, 305; A [1991, 873](#); [2001, 1038](#))

NRS 686C.175 Receipt and disposition of deposit held pursuant to law or required by Commissioner for benefit of creditors. A deposit in this state, held pursuant to law or required by the Commissioner for the benefit of creditors, including owners of policies, not turned over to the domiciliary receiver upon the entry of a final order of liquidation or order approving a plan of rehabilitation of an insurer domiciled in this state or a reciprocal state pursuant to [NRS 696B.290](#) or [696B.300](#) must be promptly paid to the Association. The Association is entitled to retain a portion of an amount so paid to it that is equal to the percentage determined by dividing the aggregate amount of policy owners' claims related to that insolvency for which the Association has provided statutory benefits by the aggregate amount of all policy owners' claims in this state related to that insolvency, and shall remit the remainder to the domiciliary receiver. The amount so remitted is a distribution of the assets of the insurer for the purposes of [chapter 696B](#) of NRS.

(Added to NRS by [2001, 1027](#))

NRS 686C.180 Provision of assistance to Commissioner. The Association may render assistance and advice to the Commissioner upon request by the Commissioner, concerning rehabilitation, payment of claims, continuation of coverage or the performance of other contractual obligations of an impaired or insolvent insurer.

(Added to NRS by 1973, 305; A [2001, 1038](#))

NRS 686C.190 Legal standing. The Association has standing:

1. To appear or intervene before a court or agency in this state which has jurisdiction over an impaired or insolvent insurer concerning which the Association is or may become obligated under this chapter or over any person or property against whom or which the Association may have rights through subrogation or otherwise. Its standing extends to all matters germane to the powers and duties of the Association, including proposals for reinsuring, modifying or guaranteeing the policies or contracts of the impaired or insolvent insurer and the determination of the policies or contracts and contractual obligations.

2. To appear or intervene before a court or agency in another state which has jurisdiction over an impaired or insolvent insurer for which the Association is or may become obligated, or over any person or property against whom or which the Association may have rights through subrogation or otherwise.

(Added to NRS by 1973, 305; A [1991, 873](#); [2001, 1038](#))

NRS 686C.200 Subrogation.

1. A person receiving benefits under this chapter shall be deemed to have assigned his or her rights under, and any causes of action against any person for losses arising under, resulting from or otherwise relating to, the covered policy or contract to the Association to the extent of the benefits received because of this chapter, whether the benefits are payments of or on account of contractual obligations, continuation of coverage or provision of substitute or alternative coverages. The Association may require an assignment to it of those rights and causes of action by any payee, owner of a policy or contract, beneficiary, insured or annuitant as a condition precedent to the receipt of any rights or benefits conferred by this chapter upon that person.

2. The rights of the Association to subrogation under this subsection have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this chapter.

3. In addition to the rights provided under subsections 1 and 2, the Association has all rights of subrogation at common law and any other equitable or legal remedy which would have been available to the impaired or insolvent insurer or the owner, beneficiary or payee of a policy or contract with respect to the policy or contract, including, in the case of a structured settlement annuity, any rights of the owner, beneficiary or payee of the annuity, to the extent of benefits received under this chapter, against a person originally or by succession responsible for the losses arising from the personal injury relating to the annuity or payment for it, except any such person responsible solely by reason of serving as an assignee under section 130 of the Internal Revenue Code, 26 U.S.C. § 130.

4. If the provisions of subsections 1, 2 and 3 are invalid or ineffective with respect to any person or any claim for any reason, the amount payable to the Association with respect to the related covered obligations is reduced by the amount realized by any other person with respect to the person or claim which is attributable to the policies or portions thereof covered by the Association.

5. If the Association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the Association has rights under subsections 1 to 4, inclusive, the person shall pay to the Association the portion of the recovery attributable to the policies or portions thereof covered by the Association.

(Added to NRS by 1973, 305; A [1991, 873](#); [2001, 1039](#))

NRS 686C.210 Limitations on obligations.

1. The benefits that the Association may become obligated to cover may not exceed the lesser of:

(a) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer;

(b) With respect to one life, regardless of the number of policies or contracts:

(1) Three hundred thousand dollars in death benefits from life insurance, but not more than \$100,000 in net cash for surrender and withdrawal for life insurance; or

(2) Two hundred fifty thousand dollars in the present value of benefits from annuities, including net cash for surrender and withdrawal;

(c) With respect to health insurance for any one life:

(1) One hundred thousand dollars for coverages other than disability insurance, long-term care insurance, basic hospital, medical and surgical insurance or major medical insurance, including any net cash for surrender or withdrawal;

(2) Three hundred thousand dollars for disability insurance or long-term care insurance; or

(3) Five hundred thousand dollars for basic hospital, medical and surgical insurance or major medical insurance;

(d) With respect to each payee of a structured settlement annuity, or beneficiary or beneficiaries of the payee if deceased, \$250,000 in present value of benefits from the annuity in the aggregate, including any net cash for surrender or withdrawal; or

(e) With respect to each participant in a governmental retirement plan covered by an unallocated annuity contract which is owned by a governmental retirement plan established under section 401, 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401, 403(b) and 457, respectively, or the trustees of such a plan, and which is approved by the Commissioner, an aggregate of \$250,000 in present-value annuity benefits, including the value of net cash for surrender and net cash for withdrawal, regardless of the number of contracts.

2. In no event is the Association obligated to cover more than:

(a) With respect to any one life or person under paragraphs (b) to (e), inclusive, of subsection 1:

(1) An aggregate of \$300,000 in benefits, excluding benefits for basic hospital, medical and surgical insurance or major medical insurance; or

(2) An aggregate of \$500,000 in benefits, including benefits for basic hospital, medical and surgical insurance or major medical insurance.

(b) With respect to one owner of several nongroup policies of life insurance, whether the owner is a natural person or an organization and whether the persons insured are officers, managers, employees or other persons, more than \$5,000,000 in benefits, regardless of the number of policies and contracts held by the owner.

3. The limitations set forth in this section are limitations on the benefits for which the Association is obligated before taking into account its rights to subrogation or assignment or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The cost of the Association's obligations under this chapter may be met by the use of assets attributable to covered policies, or reimbursed to the Association pursuant to its rights to subrogation or assignment.

4. In performing its obligation to provide coverage under [NRS 686C.150](#) and [686C.152](#), the Association need not guarantee, assume, reinsure or perform, or cause to be guaranteed, assumed, reinsured or performed, the contractual obligations of the impaired or insolvent insurer under a covered policy or contract which do not materially affect the economic value or economic benefits of the covered policy or contract.

(Added to NRS by 1973, 306; A 1979, 767; [1991, 874](#); [2001, 1039](#); [2011, 3370](#); [2013, 3356](#))

NRS 686C.220 General powers. The Association may:

1. Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this chapter.
2. Sue or be sued, including the taking of any legal action necessary or proper for recovery of any unpaid assessments under [NRS 686C.230](#) or to settle claims or potential claims against it.
3. Borrow money to effect the purposes of this chapter. Any notes or other evidence of indebtedness of the Association not in default are legal investments for domestic insurers and may be carried as admitted assets.
4. Employ or retain such persons as are necessary or appropriate to handle the financial transactions of the Association, and to perform such other functions as become necessary or proper under this chapter.
5. Take such legal action as may be necessary or appropriate to avoid or recover payment of improper claims.
6. Exercise, for the purposes of this chapter and to the extent approved by the Commissioner, the powers of a domestic life or health insurer, but in no case may the Association issue insurance policies or annuities other than those issued to perform its contractual obligations under this chapter.
7. Join an organization of one or more other state associations having similar purposes, to further the purposes and administer the powers and duties of the Association.
8. Organize itself as a corporation or in other legal form permitted by the laws of this state.
9. Request information from a person seeking coverage from the Association to aid the Association in determining its obligations under this chapter with respect to the person, and the person shall promptly comply with the request.
10. Take other necessary or appropriate action to perform its duties and discharge its obligations under this chapter or to exercise its power under this chapter.

(Added to NRS by 1973, 306; A [1991, 874](#); [2001, 1040](#))

NRS 686C.221 Determination of means to provide benefits; limitation on entitlement to benefits.

1. The Board of Directors of the Association may exercise reasonable business judgment to determine the means by which the Association is to provide the benefits of this chapter in an economical and efficient manner.
2. Where the Association has arranged or offered to provide the benefits of this chapter to a covered person under a plan or arrangement that satisfies the obligations of the Association under this chapter, the covered person is not entitled to benefits from the Association in addition to or other than those provided under the plan or arrangement.

(Added to NRS by [2001, 1029](#))

NRS 686C.222 Requests for information from member insurers. The Association may request information from member insurers to aid in the exercise of its powers under this chapter, and each member shall promptly comply with such a request.

(Added to NRS by [2001, 1030](#))

NRS 686C.223 Election to succeed to rights and obligations of member insurer; transfer of obligations to another insurer.

1. As used in this section, "coverage date" means the date on which the Association becomes liable for the obligations of a member insurer.

2. At any time after the coverage date, the Association may elect to succeed to the rights and obligations of the member insurer which accrue on or after the coverage date and relate to contracts covered, in whole or in part, by the Association under any one or more agreements for indemnity reinsurance entered into by the member insurer as ceding insurer and selected by the Association. However, the Association may not exercise its right of election with respect to an agreement for reinsurance if the receiver, rehabilitator or liquidator of the member insurer has previously expressly disaffirmed the agreement. The election must be effected by a notice to the receiver, rehabilitator or liquidator and the affected reinsurers. If the Association makes such an election:

(a) The Association is responsible for all unpaid premiums due under each agreement for periods both before and after the coverage date, and for the performance of all other obligations to be performed after the coverage date, in each case which relates to a contract covered in whole or in part by the Association. The Association may charge a contract covered in part by it, through reasonable methods of allocation, for the costs of reinsurance in excess of the obligations of the Association.

(b) The Association is entitled to any amount payable by the reinsurer under each agreement with respect to losses or events that occur in periods after the coverage date and relate to contracts covered in whole or in part by the Association, but upon receipt of any such amount, the Association is obligated to pay, to the beneficiary under the contract on account of which the amount was paid, that portion of the amount received by the Association that exceeds the benefits paid by the Association on account of the contract less the retention by the impaired or insolvent member insurer applicable to the loss or event.

(c) The Association and each reinsurer shall, within 30 days after the election, calculate the net balance due to or from the Association under each agreement as of the date of the election, giving full credit for all items paid by the member insurer or its receiver, rehabilitator or liquidator, or the reinsurer, between the coverage date and the date of the election. The Association or the reinsurer shall pay the net balance within 5 days after the completion of the calculation. If a receiver, rehabilitator or liquidator has received any amount due the Association pursuant to paragraph (b), the recipient shall remit the amount to the Association as promptly as practicable.

(d) The reinsurer may not terminate an agreement for reinsurance insofar as it relates to contracts covered by the Association in whole or in part, or set off any unpaid premium due for a period before the coverage date against the amount due the Association, if the Association, within 60 days after the election, pays the premiums due for periods both before and after the coverage date which relate to such contracts.

3. If the Association transfers its obligation to another insurer, and the Association and the other insurer so agree, the other insurer succeeds to the rights and obligations of the Association under subsection 2 effective as of the agreed date, whether or not the Association has made the election described in subsection 2, except that:

(a) An agreement for indemnity reinsurance automatically terminates as to new reinsurance unless the reinsurer and the other insurer agree to the contrary;

(b) The obligation of the Association to the beneficiary under paragraph (b) of subsection 2 ceases on the date of the transfer to the other insurer; and

(c) This subsection does not apply if the Association has previously expressly determined in writing that it will not exercise its right of election under subsection 2.

4. The provisions of this section supersede an affected agreement for reinsurance which provides for or requires payment of proceeds of reinsurance, on account of a loss or event that occurs after the coverage date, to the receiver, rehabilitator or liquidator of the insolvent member insurer. The receiver, rehabilitator or liquidator remains entitled to any amounts payable by the reinsurer under the agreement with respect to losses or events that occur before the coverage date, subject to any applicable setoff.

5. Except as otherwise expressly provided, this section does not alter or modify the terms or conditions of any agreement of the insolvent insurer for reinsurance, abrogate or limit any right of a reinsurer to rescind an agreement for reinsurance, or give an owner or beneficiary of a policy an independent cause of action against a reinsurer under an agreement for indemnity reinsurance that is not otherwise set forth in the agreement.

(Added to NRS by [2001, 1027](#))

NRS 686C.225 Termination of obligations: Replacement of coverage or policy. The Association's obligations with respect to coverage under any policy of the impaired or insolvent insurer or under any reissued or alternative policy ceases on the date the coverage or policy is replaced by another similar policy by the policyholder, the insured or the Association.

(Added to NRS by [1991, 866](#))

NRS 686C.226 Termination of obligations: Failure to pay premiums. Failure to pay premiums within 31 days after the date required pursuant to the terms of any guaranteed, assumed, alternative or reissued policy or contract or substitute coverage terminates the Association's obligations under the policy, contract or coverage, except with respect to any claims incurred or any net cash surrender value which may be due in accordance with the provisions of this chapter.

(Added to NRS by [1991, 866](#))

ASSESSMENTS

NRS 686C.230 Imposition; classes.

1. To provide the money necessary to carry out the powers and duties of the Association, the Board of Directors shall assess the member insurers, separately for each account, at such times and for such amounts as the Board finds necessary. An assessment is due upon at least 30 days' written notice to the member insurer and accrues interest after it is due at the rate provided in [NRS 99.040](#).

2. There are two classes of assessments, as follows:

(a) Assessments in Class A must be authorized and called for the purpose of meeting administrative and legal costs and other expenses. An assessment in Class A need not be related to a particular impaired or insolvent insurer.

(b) Assessments in Class B must be authorized and called to the extent necessary to carry out the powers and duties of the Association under [NRS 686C.150](#) to [686C.220](#), inclusive, with regard to an impaired or insolvent insurer.

(Added to NRS by 1973, 306; A [1991, 875](#); [2001, 1041](#))

NRS 686C.240 Computation; necessity; notification.

1. The Board of Directors of the Association shall determine the amount of each assessment in Class A and may, but need not, prorate it. If an assessment is prorated, the Board may provide that any surplus be credited against future assessments in Class B. An assessment which is not prorated must not exceed \$300 for each member insurer for any 1 calendar year.

2. The Board may allocate any assessment in Class B among the accounts according to the premiums or reserves of the impaired or insolvent insurer or any other standard which it considers fair and reasonable under the circumstances.

3. Assessments in Class B against member insurers for each account and subaccount must be in the proportion that the premiums received on business in this State by each assessed member insurer on policies or contracts covered by each account or subaccount for the 3 most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent bears to premiums received on business in this State for those calendar years by all assessed member insurers.

4. Assessments for money to meet the requirements of the Association with respect to an impaired or insolvent insurer must not be authorized or called until necessary to carry out the purposes of this chapter. Classification of assessments under subsection 2 of [NRS 686C.230](#) and computation of assessments under this section must be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The Association shall notify each member insurer of its anticipated prorated share of an assessment authorized but not yet called within 180 days after it is authorized.

(Added to NRS by 1973, 307; A 1979, 767; 1981, 579; [1991, 875](#); [1995, 1070](#); [2001, 1041](#); [2007, 3322](#))

NRS 686C.250 Abatement or deferment; maximum amount; effect of insufficiency; allocation of funds among claims.

1. The Association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the Board of Directors, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. If an assessment against a member insurer is abated or deferred in whole or in part, the amount by which that assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. As soon as the conditions that caused a deferral have been removed or rectified, the member insurer shall pay all assessments that were deferred pursuant to a plan of repayment approved by the Association.

2. Except as otherwise provided in subsection 3, the total of all assessments authorized by the Association with respect to a member insurer for:

- (a) The Account for Life Insurance and Annuities and each of its subaccounts; and
- (b) The Account for Health Insurance,

↪ respectively must not in any 1 calendar year exceed 2 percent of the insurer's average annual premiums received in this state on the policies and contracts covered by the subaccount or account during the 3 calendar years preceding the year in which the insurer became impaired or insolvent.

3. If two or more assessments are authorized in 1 calendar year with respect to insurers that became impaired or insolvent in different calendar years, the average annual premiums received for the purposes of the limitation provided in subsection 2 are equal and limited to the higher of the 3-year annual premiums for the applicable account or subaccount as calculated pursuant to this section.

4. If the maximum assessment, together with the other assets of the Association in an account, does not provide in any 1 year in either account an amount sufficient to carry out the responsibilities of the Association, the necessary additional money must be assessed as soon thereafter as permitted by this chapter.

5. If the maximum assessment for a subaccount of the Account for Life Insurance and Annuities in any 1 year does not provide an amount sufficient to carry out the responsibilities of the Association, then pursuant to subsection 3 of [NRS 686C.240](#), the Board shall assess the other subaccount for the necessary additional amount, subject to the maximum stated in subsection 2.

6. The Board may provide in the plan of operation a method of allocating funds among claims, whether relating to one or more impaired or insolvent insurers, when the maximum assessment is insufficient to cover anticipated claims.

(Added to NRS by 1973, 307; A [1991, 876](#); [2001, 1042](#))

NRS 686C.260 Refund to member insurers. The Board of Directors may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the Board finds is necessary to carry out during the coming year the obligations of the Association with regard to that account, including assets accruing from assignment, subrogation, net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the Association and for future claims.

(Added to NRS by 1973, 307; A [1991, 877](#); [2001, 1043](#))

NRS 686C.270 Rates and dividends may reflect assessments. It is proper for any member insurer, in determining its rates of premium and dividends to owners of policies as to any kind of insurance within the scope of this chapter, to consider the amount reasonably necessary to meet its obligations for assessment under this chapter.

(Added to NRS by 1973, 308; A [1991, 877](#))

NRS 686C.280 Issuance, effect and use of certificate of contribution; offset against liability for premium tax.

1. The Association shall issue to each insurer paying an assessment under this chapter, other than an assessment in Class A, a certificate of contribution, in a form prescribed by the Commissioner, for the amount of the assessment so paid. All outstanding certificates are of equal dignity and priority without reference to amounts or dates of issue. A member insurer may show a certificate of contribution as an asset in its financial statement in such form, for such amount, if any, and for such period as the Commissioner may approve.

2. A member insurer may offset against its liability for premium tax to this state, accrued with respect to business transacted in a calendar year, an amount equal to 20 percent of the amount certified pursuant to subsection 1 in each of the 5 calendar years following the year in which the assessment was paid. If an insurer ceases to transact business, it may offset all uncredited assessments against its liability for premium tax for the year in which it so ceases.

3. Any sum acquired by refund from the Association pursuant to [NRS 686C.260](#) which previously had been written off by the contributing insurer and offset against premium taxes as provided in subsection 2 must be paid to the Department of Taxation and deposited by it with the State Treasurer for credit to the State General Fund. The Association shall notify the Commissioner and the Department of Taxation of each refund made.

(Added to NRS by 1973, 308; A [1991, 877](#); [1995, 1103](#); [2001, 1043](#))

NRS 686C.285 Protest by member insurer.

1. A member insurer that wishes to protest all or part of an assessment shall pay the full amount of the assessment when due, as set forth in the notice from the Association. The payment may be used to meet obligations of the Association during the pendency of the assessment and any subsequent appeal. Payment must be accompanied by a statement in writing that the payment is made under protest and setting forth briefly the grounds for the protest.

2. Within 60 days after the payment of an assessment under protest, the Association shall notify the member insurer in writing of the determination of the Association with respect to the protest, unless the Association notifies the member insurer that additional time is required to resolve the issues raised by the protest.

3. Within 30 days after a final decision is made, the Association shall notify the protesting member insurer in writing of the final decision. Within 60 days after receipt of that notice, the protesting member insurer may appeal the decision to the Commissioner.

4. As an alternative to making a final decision with respect to a protest concerning the basis of assessment, the Association may refer the protest to the Commissioner for a final decision, with or without a recommendation from the Association.

5. If a protest or appeal is upheld, the amount paid in error or excess must be returned to the member insurer. Interest must be paid on the refund at the rate actually earned by the Association.

(Added to NRS by [2001, 1029](#))

OPERATION

NRS 686C.290 Plan of operation.

1. The Association shall submit to the Commissioner a plan of operation and any amendments thereto necessary or suitable to ensure the fair, reasonable and equitable administration of the Association. The plan of operation and any amendments thereto become effective upon approval in writing by the Commissioner, or 30 days after submission if the Commissioner has not disapproved them. All member insurers shall comply with the plan of operation.

2. If at any time the Association fails to submit suitable amendments to the plan, the Commissioner shall adopt, after notice and hearing, such reasonable regulations as are necessary or advisable to effectuate the provisions of this chapter. The regulations continue in force until modified by the Commissioner or superseded by a plan submitted by the Association and approved by the Commissioner.

3. In addition to satisfying the other requirements of this chapter, the plan of operation must:

(a) Establish procedures for handling the assets of the Association.

(b) Establish the amount and method of reimbursing members of the Board of Directors under [NRS 686C.140](#).

(c) Establish regular places and times for meetings of the Board.

(d) Establish procedures for records to be kept of all financial transactions of the Association, its agents and the Board.

(e) Establish the procedures whereby selections for the Board will be made and submitted to the Commissioner.

(f) Establish any additional procedures for assessments under [NRS 686C.230](#) to [686C.270](#), inclusive.

(g) Contain additional provisions necessary or proper for the execution of the powers and duties of the Association.

4. The plan of operation may provide that any or all powers and duties of the Association, except those under subsection 3 of [NRS 686C.220](#) and [NRS 686C.230](#) to [686C.285](#), inclusive, are delegated to a corporation, Association or other organization which performs or will perform functions similar to those of this Association, or its equivalent, in two or more states. Such an organization must be reimbursed for any payments made on behalf of the Association and paid for its performance of any function of the Association. A delegation under this subsection takes effect only with the approval of the Board of directors and the Commissioner, and may be made only to an organization that extends protection not substantially less favorable and effective than that provided by this chapter.

(Added to NRS by 1973, 308; A 1981, 105; [1991, 878](#); [2001, 1043](#))

NRS 686C.300 Powers and duties of Commissioner; appeals to Commissioner; notification of effect of chapter.

1. In addition to the duties and powers otherwise provided in this chapter, the Commissioner:

(a) Shall, upon request of the Board of Directors, provide the Association with a statement of the premiums in this and any other appropriate states for each member insurer.

(b) Shall, when an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the insurer is notice to its stockholders, if any. The failure of the insurer to comply with such demand promptly does not excuse the Association from the performance of its powers and duties under this chapter.

(c) Must, in any liquidation or rehabilitation involving a domestic insurer, be appointed as the liquidator or rehabilitator.

2. The Commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the Commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. The forfeiture may not exceed 5 percent of the unpaid assessment per month, but no forfeiture may be less than \$100 per month.

3. A final action of the Board of Directors or the Association may be appealed to the Commissioner by any member insurer if the appeal is taken within 60 days after the insurer receives notice of the final action. A final action or order of the Commissioner is subject to judicial review in a court of competent jurisdiction pursuant to the procedure provided in [chapter 233B](#) of NRS for contested cases.

4. The liquidator, rehabilitator or conservator of any impaired insurer may notify all interested persons of the effect of this chapter.

(Added to NRS by 1973, 309; A [1991, 879](#); [2001, 1044](#))

NRS 686C.303 Action by Commissioner upon default of Association. If the Association fails to act within a reasonable time with respect to an insolvent insurer, as provided in [NRS 686C.150](#) to [686C.155](#), inclusive, the

Commissioner may exercise the powers and perform the duties of the Association under this chapter with respect to the insolvent insurer.

(Added to NRS by [1991, 867](#); A [2001, 1045](#))

NRS 686C.306 Notice of certain actions by Commissioner; reports by Commissioner of certain information to Board of Directors.

1. The Commissioner shall notify the commissioners of insurance of all the other states within 30 days after the Commissioner takes any of the following actions against a member insurer:

- (a) Revokes a member insurer's license;
- (b) Suspends a member insurer's license; or

(c) Makes any formal order that a member insurer is to restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of the owners of its policies or its creditors.

2. The Commissioner shall report to the Board of Directors when the Commissioner has taken any of the actions set forth in subsection 1, or has received a report from any other commissioner indicating that any such action has been taken in another state. The report to the Board must contain all significant details of the action taken or the report received from another commissioner.

3. The Commissioner shall report to the Board of Directors when the Commissioner has reasonable cause to believe from an examination of a member insurer, whether completed or in process, that the insurer may be impaired or insolvent.

4. The Commissioner shall furnish to the Board the ratios of the "Insurance Regulatory Information System" developed by the National Association of Insurance Commissioners and listings of companies not included in those ratios, and the Board may use the information contained therein in carrying out its duties and responsibilities under this chapter. Such reports and the information contained therein must be kept confidential by the Board until such time as made public by the Commissioner or other lawful authority.

(Added to NRS by [1991, 867](#); A [2001, 1045](#))

NRS 686C.310 Provision of information and advice relating to financial condition of insurers.

1. The Board of Directors may, upon majority vote, notify the Commissioner of any information indicating any member insurer may be impaired or insolvent.

2. The Board may, upon majority vote, make reports and recommendations to the Commissioner upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer or germane to the solvency of any person seeking admission to transact insurance in this state. These reports and recommendations are not open to public inspection.

3. The Commissioner may seek the advice and recommendations of the Board concerning any matter affecting the duties and responsibilities of the Commissioner regarding the financial condition of member insurers and of persons seeking admission to transact insurance in this state.

4. The Board may, upon majority vote, make recommendations to the Commissioner for the detection and prevention of the insolvency of insurers.

(Added to NRS by 1973, 310; A [1991, 880](#); [2001, 1046](#))

NRS 686C.330 Impaired or insolvent insurers: Liability for unpaid assessments of insureds; maintenance and disclosure of records of Association; status of Association as creditor; distribution of ownership by court.

1. This chapter does not reduce the liability for unpaid assessments of the insureds of an impaired insurer operating under a plan with liability for assessments.

2. Records must be kept of all meetings of the Board of Directors to discuss the activities of the Association in carrying out its powers and duties under [NRS 686C.150](#) to [686C.220](#), inclusive. The records of the Association with respect to an impaired or insolvent insurer may not be disclosed before the termination of a proceeding for liquidation, rehabilitation or conservation involving the impaired or insolvent insurer or the termination of the impairment or insolvency of the insurer, except upon the order of a court of competent jurisdiction. This subsection does not limit the duty of the Association to render a report of its activities under [NRS 686C.350](#).

3. For the purpose of carrying out its obligations under this chapter, the Association shall be deemed to be a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies reduced by any amounts to which the Association is entitled as subrogee pursuant to [NRS 686C.200](#). Assets of the impaired or insolvent insurer attributable to covered policies must be used to continue all covered policies and pay all contractual obligations of the impaired or insolvent insurer as required by this chapter. Assets attributable to covered policies, as used in this subsection, are that proportion of the assets which the reserves that should have been established for covered policies bear to the reserves that should have been established for all policies of insurance written by the impaired or insolvent insurer.

4. As a creditor of the impaired or insolvent insurer under subsection 3 and consistent with [NRS 696B.415](#), the Association and other similar associations are entitled to receive a disbursement out of the marshaled assets, from time to time as the assets become available to reimburse it, as a credit against contractual obligations under this chapter. If the liquidator has not, within 120 days after a final determination of insolvency of an insurer by the court in the insolvent or impaired insurer's state which has jurisdiction over the conservation, rehabilitation or liquidation of the insurer, made an application to the court for the approval of a proposal to disburse assets out of marshaled assets to guaranty associations having obligations because of the insolvency, the Association is entitled to make application to the court for approval of its own proposal to disburse those assets.

5. Before the termination of any proceeding for liquidation, rehabilitation or conservation, the court may take into consideration the contributions of the respective parties, including the Association, the shareholders and owners of policies and contracts of the impaired or insolvent insurer, and any other party with a bona fide interest, in making an equitable

distribution of the ownership of the impaired or insolvent insurer. In making such a determination, consideration must be given to the welfare of the owners of policies issued by the continuing or successor insurer. No distribution to stockholders, if any, of an impaired or insolvent insurer may be made until the total amount of valid claims of the Association, with interest thereon, for money expended in exercising its powers and performing its duties under [NRS 686C.150](#) to [686C.155](#), inclusive, with respect to that insurer have been fully recovered by the Association.

(Added to NRS by 1973, 310; A [1991, 881](#); [2001, 1047](#))

NRS 686C.333 Recovery of distributions made before petition for liquidation or rehabilitation of insurer.

1. If an order for liquidation or rehabilitation of an insurer domiciled in this state has been entered, the receiver appointed under such order is entitled to recover on behalf of the insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the 5 years preceding the petition for liquidation or rehabilitation, subject to the limitations of subsections 2, 3 and 4.

2. No distribution is recoverable if the insurer shows that when paid the distribution was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

3. Any person who was an affiliate that controlled the insurer at the time the distributions were paid is liable up to the amount of distributions the person received. Any person who was an affiliate that controlled the insurer at the time the distributions were declared, is liable up to the amount of distributions the person would have received if they had been paid immediately. If two or more persons are liable with respect to the same distributions, they are jointly and severally liable.

4. The maximum amount recoverable pursuant to this subsection is the amount needed in excess of all other available assets of the impaired or insolvent insurer to pay the contractual obligations of the impaired or insolvent insurer.

5. If any person liable under subsection 3 is insolvent, all its affiliates that controlled it at the time the dividend was paid are jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

(Added to NRS by [1991, 868](#))

NRS 686C.340 Impaired or insolvent insurers: Stay of proceedings; reopening of default judgments. All proceedings in which the impaired or insolvent insurer is a party in any court in this state must be stayed for 60 days from the date an order of liquidation, rehabilitation or conservation is final to permit proper legal action by the Association on any matters germane to its powers or duties. If a judgment has been entered under any decision, order, verdict or finding based on default, the Association may apply to have the judgment set aside by the same court that entered the judgment and is entitled to defend against the suit on the merits.

(Added to NRS by 1973, 312; A [1991, 882](#))

NRS 686C.350 Examination of Association; annual financial report. The Association is subject to examination and regulation by the Commissioner. The Board of Directors shall submit to the Commissioner, not later than 120 days after the end of its fiscal year, a financial report in a form approved by the Commissioner and a report of its activities during the preceding fiscal year. Upon the request of a member insurer, the Association shall provide the insurer with a copy of the report.

(Added to NRS by 1973, 312; A [1991, 882](#); [2001, 1048](#))

NRS 686C.360 Association tax exempt; exception. The Association is exempt from payment of all fees and all taxes levied by this state or any of its political subdivisions, except taxes on property.

(Added to NRS by 1973, 312)

NRS 686C.370 Immunity from liability. There is no liability on the part of and no cause of action of any nature arises against any member insurer or its agents or employees, the Association or its agents or employees, members of the Board or the Commissioner or the representatives of the Commissioner for any act or omission by them in the performance of their powers and duties under this chapter. This immunity extends to participation in any organization of other state associations whose purposes are similar, and to any such organization and its agents or employees.

(Added to NRS by 1973, 312; A [1991, 882](#))

NRS 686C.380 Actions arising under chapter: Venue; appeal bond. Venue in an action against the Association arising under this chapter lies in Washoe County. No appeal bond may be required of the Association in an appeal that relates to a cause of action arising under this chapter.

(Added to NRS by [2001, 1029](#))

NRS 686C.390 Unlawful advertisement regarding existence of Association. It is unlawful for an insurer, agent or affiliate of an insurer, or other person to make, publish, circulate or place before the public, or cause any other person to do so, in any publication, notice, circular, letter or poster, or over any radio or television station, any advertisement or statement, written or oral, which uses the existence of the Association for the sale, solicitation or inducement to purchase any form of insurance covered by the Association. This section does not apply to the association or any other person that does not sell or solicit insurance.

(Added to NRS by [2001, 1030](#))

**STATE OF NEVADA DEFERRED COMPENSATION 457 PLAN
PROJECT SCHEDULE
ASSIGNMENT OF RESPONSIBILITIES AND DUTIES
VENDOR SEARCH**

Phase I – Preliminary Work

	SEGAL	STATE	SERVICE PROVIDER	TARGET DATE	COMPLETION DATE
Initial planning meeting <ul style="list-style-type: none"> ▪ Determine processing requirements and establish objectives and goals 	✓	✓			
Develop a timeline of scheduled events and assign responsibilities	✓	✓			
Establish RFP Sub-Committee		✓			
Plan and structure review	✓	✓			
Identify best practices and potential plan enhancements	✓	✓		Jan 16 17	
Committee sign off and approval to evaluation matrix		✓			
Identify procurement requirements for bid solicitations	✓	✓		Jan 16 17	
Address minimum qualification requirements of service providers	✓	✓		Jan 16 17	
Discuss investment structure, number and types of investments, identify funds to retain new asset classes	✓	✓		Jan 16 17	
Review of data requirements for RFP preparation	✓	✓		Jan 16 17	
Establish deadline for mailing and receiving of the RFP responses	✓	✓		Jan 16 17	
Update/revise project schedule as outcome of discovery meeting	✓			Week of Jan 27	
Finalize investment offerings and retained funds	✓	✓		Week of Feb	
Obtain all Plan documents and participant demographic data as of MM/DD/YY	✓	✓			

**STATE OF NEVADA DEFERRED COMPENSATION 457 PLAN
PROJECT SCHEDULE
ASSIGNMENT OF RESPONSIBILITIES AND DUTIES
VENDOR SEARCH**

Phase II – Development of RFP

	SEGAL	STATE	SERVICE PROVIDER	TARGET DATE	COMPLETION DATE
Develop first draft of RFP for Committee review	✓				
Receive Committee comments to RFP		✓			
Preparation of announcement to solicit RFPs (if applicable)					
RFP available for service providers	✓				
Receive pre-bid service providers questions regarding RFP	✓	✓	✓		
Provide responses to service providers pre-bid questions	✓	✓			
Receive RFP's from service providers	✓	✓	✓		

Phase III – Evaluation of Proposals

	SEGAL	STATE	SERVICE PROVIDER	TARGET DATE	COMPLETION DATE
Evaluate and summarize provider's responses and submit to Committee	✓				
Meet to discuss results and recommendations	✓	✓			

Phase IV – Selection of Finalists

	SEGAL	STATE	SERVICE PROVIDER	TARGET DATE	COMPLETION DATE
Contact finalists, schedule dates and locations for presentation	✓				
Conduct finals interviews	✓	✓	✓		
Conduct vendor on site visits (if applicable)	✓	✓			
Select vendor pending approval of final service contracts and fees		✓			
Review service contracts, service agreements, and final fee negotiations	✓	✓			
Approval of all contracts/service agreements		✓		July	
Commence Plan Transition		✓	✓	July	
Transfer/reconciliation of participant records/assets/fund changes			✓	January 1, 2015	
Complete Implementation Conversion Process/or fund changes	✓	✓	✓	January 1, 2015	

Sample Pricing Sheet

Total Required Revenue to Admin. Plan (basis points) assume no revenue sharing offset
Total Revenue to Fund \$ XX Annual Allowance (basis points) Based on assets
FICA Alternative Plan with XX accounts
Participant on-site services confirm if included or additional in bps
Total Revenue Requirement for All Services
Number of Field Reps
Net Stable Value Rate
Participant Services:
Advisory
Managed Accounts
Implementation
Managed Account Services & Cost
Check Distribution Processing
Loan Iniation
Loan Maintenance
Unforseeable Hardship Withdrawal
QDRO Determination
Wire
Number of included initial enrollment meetings
Number if included ongoing enrollment meetings
Postage/Mailings
Other

Brian Sandoval
Governor



Rob Boehmer
Program Coordinator

**Nevada Public Employees'
Deferred Compensation Program**

COMMITTEE
Scott Sisco, Chair
NDOC
Carlos Romo, Vice Chair
Retired
Brian L. Davie
LCB
Karen Oliver
GCB
Steve C. Woodbury
GOED

Shane Chesney
Senior Deputy Attorney General

Operating Procedure for Adding New Alliance Partners

NDC encourages local governments, general improvement districts, libraries, fire districts, and other similar entities to join the state deferred compensation plan. Potential alliance partners can be contacted through outreach by either recordkeepers or NDC staff to determine interest in participating in the plan. The Committee at its discretion may allow local government entities to join the program and any Interlocal Contracts entered into between the entity and the NDC must be approved by the Committee at a regularly scheduled meeting. Contributions by the potential alliance partner to PERS are not a requirement to participate in the NDC plan.

1. After initial communication of interest, NDC staff will send the potential alliance partner an NDC cover letter, Interlocal Contract Agreement, Contact Information Form, Program Certification, and provide copies (either hard copies, electronic copies on a CD-ROM, or links to the NDC website) of the
 - a. Plan Document
 - b. Summary Plan Document
 - c. Investment Policy
 - d. Administrative Manual

(The Program Certification document is an acknowledgment of receipt of the foregoing and by signing, the potential alliance partner agrees to be bound by the rules and regulations of those documents.)

2. After all documents have been returned to the NDC office, an agenda item will be added to the next regularly scheduled meeting to approve addition of the potential alliance partner by the Committee.
3. The Interlocal Contract Agreement must be signed by the potential alliance partner, by their attorney (optional), the NDC Program Coordinator, NDC Committee Chairman, and the NDC DAG. The contract is not required to be approved by the Board of Examiners.
4. Once admitted to the plan, information will be provided to the alliance partner of the procedure by which electronic contributions will be made to either or both recordkeepers. The recordkeepers will institute those procedures and be in direct communication with the alliance partner.
5. The date and official name and contact information of the alliance partner should be added to the master address matrix with the date the contract expires noted.

INTERLOCAL CONTRACT BETWEEN PUBLIC AGENCIES

A Contract Between the State of Nevada
Acting By and Through Its

State of Nevada Employees' Deferred Compensation Committee
(Committee)
100 North Stewart Street, Suite 210
Carson City, NV 89701

and

(Political Subdivision)

WHEREAS, NRS 277.180 authorizes any one or more public agencies to contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform;

WHEREAS, NRS 287.250 to 287.370, inclusive, authorize the Committee to create a program for deferred compensation, and whereas NRS 287.381 to 287.480, inclusive, authorize the political subdivision to create a program for deferred compensation;

WHEREAS, The Committee has created a deferred compensation program and pursuant to that program has entered into contracts with two investment providers, MassMutual and ING, with whom participants in the program may invest their deferred compensation;

WHEREAS, The investment options and fee and rate structure of the two investment providers in their contracts with the Committee are considered by the Political Subdivision to be generally more favorable than that which would be available to the Political Subdivision if the Political Subdivision were to independently contract with the investment providers;

WHEREAS, the Political Subdivision desires to join the program created by the Committee in order to obtain the more favorable investment options, fees and rates;

WHEREAS, the Committee desires to have the Political Subdivision participate in the Committee's program subject to the same terms and conditions as apply to state employee participants, except for limitations expressly provided below;

WHEREAS, the Committee has secured the consent of the investment providers to enroll the Political Subdivision's employees as participants in the Committee's program subject to the same terms and conditions as apply to state employee participants, except for limitations expressly provided below;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. REQUIRED APPROVAL. This Contract shall not become effective until and unless approved by appropriate official action of the governing body of each party.
2. DEFINITIONS. "State" means the State of Nevada and any state agency identified herein (the Committee), its officers, employees and immune contractors as defined in NRS 41.0307. Unless the context otherwise requires, "program" is synonymous with "plan" and "state of Nevada deferred compensation committee plan".

3. CONTRACT TERM. This Contract shall be effective upon approval through December 31, 2014, unless sooner terminated by either party as set forth in this Contract.

4. TERMINATION. This Contract may be terminated without cause by either party prior to the date set forth in paragraph (3), provided that a termination shall not be effective until 30 days after a party has served written notice upon the other party. This Contract may be terminated by mutual consent of both parties or unilaterally by either party without consent of the other. The parties expressly agree that this Contract shall be terminated immediately if for any reason federal and/or State Legislature funding ability to satisfy this Contract is withdrawn, limited, or impaired. Benefits accrued by participating employees of the Political Subdivision upon termination of participation in the plan shall remain in the plan until such are otherwise eligible for distribution under the terms of the plan.

5. NOTICE. All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth above.

6. INCORPORATED DOCUMENTS. The parties agree that the services to be performed shall be specifically described; this Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT A: Independent contract between the State of Nevada Employees' Deferred Compensation Committee and Hartford Life Insurance Company, effective January 1, 2008 through December 31, 2014. As of January 1, 2013, Massachusetts Mutual Life Insurance Company (MassMutual) acquired the Hartford's Retirement Plans Group. The Administrator Contract is still under the name of The Hartford Life Insurance Company, but the assets and all other financial transactions will be managed by MassMutual until the Administrator Contract expires on December 31, 2014.

ATTACHMENT B: Independent contract between the State of Nevada Employees' Deferred Compensation Committee and ING Life Insurance and Annuity Company, effective January 1, 2008 through December 31, 2014.

ATTACHMENT C: The State of Nevada Deferred Compensation Committee Plan Document.

7. ASSENT.

a. The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations expressly provided.

b. Except as agreed otherwise in paragraphs 3 and 4, the Political Subdivision agrees:

1) To participate in the Committee's deferred compensation program subject to all contract terms and conditions as set forth between the State of Nevada Employees' Deferred Compensation Committee and Hartford Life Insurance Company, 200 Hopmeadow Street, Simsbury, Connecticut 06089, effective January 1, 2008 through December 31, 2014, and as set forth between the State of Nevada Employees' Deferred Compensation Committee and ING Life Insurance and Annuity Company, One Orange Way, Windsor, Connecticut 06096-4774, effective January 1, 2008 through December 31, 2014;

- 2) To be bound by all current and any future State of Nevada Employees' Deferred Compensation Committee "Plan Documents" and "Investment Policies and Procedures";
 - 3) To cooperate with the investment providers and to provide all necessary and appropriate administrative services to enable Political Subdivision employees to participate in the Committee's deferred compensation program; and
 - 4) To provide an appeal process to Political Subdivision employees for denials of requests by Political Subdivision employees to make unforeseen emergency withdrawals from the program and to abide by any guidelines established by the Committee for this purpose.
- c. The Political subdivision agrees that it has made its decision to participate in the program based on its own independent analysis and that neither the State of Nevada nor the Committee are fiduciaries with regard to its decision to participate in the program.
 - d. The Committee agrees to authorize the two investment providers to enroll employees of the Political Subdivision on terms and conditions consistent with this agreement. Execution of this agreement by the Committee constitutes such authorization.

8. INSPECTION & AUDIT.

- a. Books and Records. Each party agrees to keep and maintain under general accepted accounting principles full, true and complete records, agreements, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.
- b. Inspection & Audit. Each party agrees that the relevant books, records (written, electronic, computer related or otherwise), including but not limited to relevant accounting procedures and practices of the party, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location where such records may be found, with or without notice by the State Auditor, Employment Security, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.
- c. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three years and for five years if any federal funds are used in this Contract. The retention period runs from the date of termination of this Contract. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

9. BREACH; REMEDIES. Failure of either party to perform any obligation of this Contract shall be deemed a breach. Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation \$125 per hour for State-employed attorneys.

10. LIMITED LIABILITY. The parties will not waive and intend to assert available NRS chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Actual damages for any State breach shall never exceed the amount of funds which have been appropriated for payment under this Contract, but not yet paid, for the fiscal year budget in existence at the time of the breach.

11. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.

12. INDEMNIFICATION.

- a. To the fullest extent of limited liability as set forth in paragraph (10) of this Contract, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of the party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.
- b. The indemnification obligation under this paragraph is conditioned upon receipt of written notice by the indemnifying party within 30 days of the indemnified party's actual notice of any actual or pending claim or cause of action. The indemnifying party shall not be liable to hold harmless any attorneys' fees and costs for the indemnified party's chosen right to participate with legal counsel.

13. INDEPENDENT PUBLIC AGENCIES. The parties are associated with each other only for the purposes and to the extent set forth in this Contract, and in respect to performance of services pursuant to this Contract, each party is and shall be a public agency separate and distinct from the other party and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.

14. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

15. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

16. ASSIGNMENT. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Contract without the prior written consent of the other party.

17. OWNERSHIP OF PROPRIETARY INFORMATION. Unless otherwise provided by law any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Contract shall be the joint property of both parties.

18. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.

19. CONFIDENTIALITY. Each party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that party to the extent that such information is confidential by law or otherwise required by this Contract.

20. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract and that the parties are authorized by law to perform the services set forth in paragraph 6.

21. GOVERNING LAW; JURISDICTION. This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the jurisdiction of the Nevada district courts for enforcement of this Contract.

22. ENTIRE AGREEMENT AND MODIFICATION. This Contract and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto, approved by the Office of the Attorney General.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

(Political Subdivision)

By: _____

_____ Date

Title

Attorney for (Political Subdivision) (optional) Date

State of Nevada Employees' Deferred Compensation
Program Coordinator

Date

Scott K. Sisco, Chairman
Nevada Deferred Compensation Program

Date

Approved as to form by:

Deputy Attorney General for Attorney General

Date

Amended 10/2013



Today's Date: _____

**DESIGNATED REPRESENTATIVE(S)
FOR INTERLOCAL AGREEMENTS WITH THE NEVADA DEFERRED
COMPENSATION PROGRAM**

Responsible Official (authorized signer)

Name: _____

Title: _____

Governing Body/Entity: _____

Official Mailing Address: _____

Email: _____

Phone: _____

Designated Representative(s)

Name: _____

Title: _____

Email: _____

Phone: _____

Name: _____

Title: _____

Email: _____

Phone: _____

Please complete and return to:

**Nevada State Library and Archives Building
100 N. Stewart Street, Suite 210, Carson City, NV 89701
775.684.3397 Fax 775.684.3399**

Brian Sandoval
Governor



COMMITTEE
Scott Sisco, Chair
DOC
Carlos Romo, Vice Chair
Retired
Brian L. Davie
LCB
Karen Oliver
GCB
Steve C. Woodbury
GOED

Rob Boehmer
Program Coordinator

Shane Chesney
Senior Deputy Attorney General

**Nevada Public Employees'
Deferred Compensation Program**

October 3, 2013

Loretta Ponton
Executive Director
Board of Occupational Therapy
PO Box 34779
Reno, NV 89533

DRAFT

Dear Loretta:

Thank you for your recent interest in becoming an alliance partner with the Nevada Public Employees' Deferred Compensation Program (NDC). In order to be able to offer deferred compensation benefits to your employees, we are requesting that you complete and return the following enclosed documents:

1. Interlocal Contract Between Public Agencies (3 copies of signature page);
2. Program Certification; and
3. Contact information form.

Copies of the program's Plan Document, Summary Plan Document, Investment Policy, and Administrative Manual are contained on the enclosed CD-ROM and are for your information.

Once you have signed the Interlocal Contract and returned it to our office along with the certification and contact information, your application will be added to the NDC Committee's next regularly scheduled meeting agenda for November 14, 2013 for approval. Thereafter, we will provide you with contact information for both recordkeepers, ING and MassMutual so that procedures can be put into place for electronic transfer of your employees' contributions to either or both companies of their choice. Also, a fully executed copy of the Interlocal Contract will be returned to you for your files.

In the meantime, please visit our website at <http://defcomp.nv.gov> which contains a great deal of information about the program, the investment options, cost to participants, and other information and news that you will find beneficial.

If you have questions about any of the above, please do not hesitate to contact our office.

Regards,

Robert R. Boehmer
Program Coordinator
Email: rboehmer@defcomp.nv.gov

Brian Sandoval
Governor



COMMITTEE
Scott Sisco, Chair
DOC
Carlos Romo, Vice Chair
Retired
Brian L. Davie
LCB
Karen Oliver
GCB
Steve C. Woodbury
GOED

Rob Boehmer
Program Coordinator

Shane Chesney
Senior Deputy Attorney General

**Nevada Public Employees'
Deferred Compensation Program**

Program Certification

Eligible Employer: (Political Subdivision)

Date Entered Plan: _____
To be completed by NDC Staff

I hereby certify I have read the required documents for the Nevada Public Employees' Deferred Compensation Program and will administer the Program to the best of my abilities within the rules and regulations set forth in the following documents:

- Interlocal Contract Agreement
- Plan Document
- Investment Policy
- Administrative Manual
- Plan Summary

Responsible Official: _____
(Signature)

(Print name and title)

Date: _____

<p>For NDC Staff Only</p> <p>Accepted for the Program by: _____</p> <p>Date: _____</p> <p>Meeting Approval Date: _____</p>



Today's Date: _____

**DESIGNATED REPRESENTATIVE(S)
FOR INTERLOCAL AGREEMENTS WITH THE NEVADA DEFERRED
COMPENSATION PROGRAM**

Responsible Official (authorized signer)

Name: _____

Title: _____

Governing Body/Entity: _____

Official Mailing Address: _____

Email: _____

Phone: _____

Designated Representative(s)

Name: _____

Title: _____

Email: _____

Phone: _____

Name: _____

Title: _____

Email: _____

Phone: _____

Please complete and return to:

**Nevada State Library and Archives Building
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REQUEST FOR CHANGES TO THE STATE ADMINISTRATIVE MANUAL (SAM)

Agency Code: 920

Department: Administration

Division (if applicable): Nevada Public Employees' Deferred Compensation Program

Appointing authority: Chairman, Nevada Public Employees' Deferred Compensation Committee

Agency contact (name, phone and e-mail): Robert R. Boehmer, Program Coordinator,
(775)-684-3397, rboehmer@defcomp.nv.gov

Proposed BOE date: March 11, 2014

1. Reason/purpose for requested change:

To bring the State Administrative Manual in line with changes made in the Nevada Administrative Code (NAC).

2. Existing and recommended language in SAM (*blue bold italics* is new language being proposed and ~~red strikethrough~~ is deleted language being proposed).

3804 Deferred Compensation Committee

The Governor is authorized to appoint a committee to administer the Deferred Compensation Program. The committee's responsibilities include:

1. Creation of an appropriate fund for administration of money and other assets resulting from compensation deferred under the program;
2. With the approval of the Governor, delegation to one or more State agencies or institutions of the Nevada System of Higher Education, the responsibility for administering the program for their respective employees including:
 - a. Collection of deferred compensation;
 - b. Transmittal of money collected to depositories within the State designated by the Committee;
 - c. Payment of deferred compensation to participating employees;
3. Contracting with a private person, incorporation, institution or other entity directly or through a State agency or institution of the Nevada System of Higher Education, for services necessary to the administration of the plan including without limitation:
 - a. Consolidated billing;
 - b. The keeping of records for each participating employee in the program;
 - c. The purchase, control and safeguarding of assets;
 - d. Programs for communication with employees; and
 - e. Administration coordination for the program.

The Committee and individual members are not liable for any decision relating to investments if the Committee has:

1. Obtained the advice of qualified counsel in investments;
2. Established proper objectives and policies relating to investments; and

3. Discharged its duties regarding the decision:
 - a. Solely in the interest of the participants in the program; and
 - b. With the care, skill, prudence and diligence test that, under the circumstances existing at the time of the decision, a prudent person who is familiar with similar investments would use while acting in a similar capacity in conducting an enterprise of similar character and purpose.
4. Selected at least ~~two~~ *one Record Keeper that will provide record keeping services for the program plans from separate and distinct providers from which the participants in the program may choose.*
5. Solicited proposals from qualified ~~providers of plans in~~ *Record Keepers* at least once every five years.

3806 Deferrals of Compensation; Deductions from Payroll; Limitations

Compensation may be withheld or deducted from payroll in accordance with the agreement between the employer and participating employee. The amount of compensation set aside by the employer under the program during any calendar year may not exceed the amount authorized by 26 U.S.C. 401(a), 401(k), 403(b) or 457.192

3808 Federal Requirements

No program becomes effective and no deferral may be made until the program meets the requirements of 26 U.S.C 401(a) and 457 for eligibility. Income deferred during a period in which no income tax is imposed by the State or political subdivision may not be taxed when paid to the employee.

3810 Program in Addition to Retirement or Pension Program

The Deferred Compensation Program must be established in addition to other retirement, pension or benefit systems established by the State or Nevada System of Higher Education and does not supersede, make inoperative, or reduce benefits provided by the Public Employees' Retirement System or by any other retirement, pension or benefit program established by law.

3811 FICA Alternative Plan

All State of Nevada employees hired after December 31, 2003 who are ineligible for participation in the Public Employees' Retirement System must participate in the plan sponsored FICA Alternative Plan. Each affected employee upon employment must select a ~~provider~~ *Record Keeper* to administer his sponsored FICA Alternative Plan *if the program contracts with more than one Record Keeper.*

All State of Nevada employees hired before January 1, 2004 who are ineligible for participation in the Public Employees' Retirement System may participate in the plan sponsored FICA Alternative Plan. Each affected employee must select a ~~provider~~ *Record Keeper* to administer his sponsored FICA Alternative Plan prior to participation *if the program contracts with more than one Record Keeper.*

3812 Use of Appropriated Money Forbidden

No State money may be spent on the administration of the program except as compensation for employees who participated in the administration as part of their regular duties, including without limitation:

1. Members and staff of the Committee; and
2. Employees of the State agency or institution of the Nevada System of Higher Education selected to administer the program.

3814 Administration

The Committee on Deferred Compensation has selected ~~contract administrators~~ *Record Keepers* for the program. Further information can be obtained from each payroll center.

3. Explain how the recommended change(s) will benefit agencies or create consistencies or efficiencies, etc. (provide examples if applicable):

The changes will correct inconsistencies that we previously had between Nevada Administrative Code (NAC), Nevada Revised Statute (NRS), State Administrative Manual (SAM), and to bring in-line with changes already made to NAC.

4. Will recommended change have a fiscal impact (if yes, explain): NO

5. Proposed effective date: Upon BOE Approval.

BOARD OF EXAMINERS APPROVAL DATE: _____
(for BOE use only)

Public Notice Website Coming Soon!

About the Public Notice Website

Assembly Bill 445 of the 2013 Legislative session calls for the establishment of a location on the official website of the State (NV.GOV) for a directory of all public bodies and for the posting of meeting notices as required by the Open Meeting Law. The posting location is to include the following:

- A place for posting links to each public body's website and/or
- An e-mail address from which a person may request information and supporting materials
- The capability for public bodies to post public meeting notices no later than 9:00 a.m. of the third working day before the meeting is to be held.

Public Notice Website to Launch February 1st

The Nevada State Department of Administration Enterprise IT Services Division is currently working on the Public Notice Website with a scheduled launch date of February 1, 2014. This website will be available from the main page of NV.GOV (the official website of the State) and will initially be used by State public bodies and a variety of other public bodies.

Public bodies will need to register for initial access to the site by contacting the Nevada State Department of Administration at 775-684-0222 or deptadmin@admin.nv.gov. Once the account is created, public bodies will maintain their own account "owners" and "posters". More information on this process will be available closer to the website launch date.

Public Bodies of Local Governments

Public bodies of local governments will be required to post notices on the Public Notice Website beginning July 1, 2014. The Nevada State Department of Administration will be notifying local government public bodies in May 2014 to arrange account set-up.

Questions

Any questions related to the Public Notice Website can be addressed to the Nevada State Department of Administration at 775-684-0222 or deptadmin@admin.nv.gov.

NRS 241.035 Public meetings: Minutes; aural and visual reproduction; transcripts.

1. Each public body shall keep written minutes of each of its meetings, including:
 - (a) The date, time and place of the meeting.
 - (b) Those members of the public body who were present, whether in person or by means of electronic communication, and those who were absent.
 - (c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record of each member's vote on any matter decided by vote.
 - (d) The substance of remarks made by any member of the general public who addresses the public body if the member of the general public requests that the minutes reflect those remarks or, if the member of the general public has prepared written remarks, a copy of the prepared remarks if the member of the general public submits a copy for inclusion.
 - (e) Any other information which any member of the public body requests to be included or reflected in the minutes.
2. Minutes of public meetings are public records. Minutes or audiotape recordings of the meetings must be made available for inspection by the public, and a copy of the minutes or audio recordings must be made available to a member of the public upon request at no charge, within 30 working days after the adjournment of the meeting at which taken. The minutes shall be deemed to have permanent value and must be retained by the public body for at least 5 years. Thereafter, the minutes may be transferred for archival preservation in accordance with [NRS 239.080](#) to [239.125](#), inclusive. Minutes of meetings closed pursuant to:
 - (a) Paragraph (a) of subsection 1 of [NRS 241.030](#) become public records when the public body determines that the matters discussed no longer require confidentiality and the person whose character, conduct, competence or health was considered has consented to their disclosure. That person is entitled to a copy of the minutes upon request whether or not they become public records.
 - (b) Paragraph (b) of subsection 1 of [NRS 241.030](#) become public records when the public body determines that the matters discussed no longer require confidentiality.
 - (c) Paragraph (c) of subsection 1 of [NRS 241.030](#) become public records when the public body determines that the matters considered no longer require confidentiality and the person who appealed the results of the examination has consented to their disclosure, except that the public body shall remove from the minutes any references to the real name of the person who appealed the results of the examination. That person is entitled to a copy of the minutes upon request whether or not they become public records.
3. All or part of any meeting of a public body may be recorded on audiotape or any other means of sound or video reproduction by a member of the general public if it is a public meeting so long as this in no way interferes with the conduct of the meeting.
4. Except as otherwise provided in subsection 7, a public body shall, for each of its meetings, whether public or closed, record the meeting on audiotape or another means of sound reproduction or cause the meeting to be transcribed by a court reporter who is certified pursuant to [chapter 656](#) of NRS. If a public body makes an audio recording of a meeting or causes a meeting to be transcribed pursuant to this subsection, the audio recording or transcript:
 - (a) Must be retained by the public body for at least 1 year after the adjournment of the meeting at which it was recorded or transcribed;
 - (b) Except as otherwise provided in this section, is a public record and must be made available for inspection by the public during the time the recording or transcript is retained; and
 - (c) Must be made available to the Attorney General upon request.
5. The requirement set forth in subsection 2 that a public body make available a copy of the minutes or audio recording of a meeting to a member of the public upon request at no charge does not:
 - (a) Prohibit a court reporter who is certified pursuant to [chapter 656](#) of NRS from charging a fee to the public body for any services relating to the transcription of a meeting; or
 - (b) Require a court reporter who transcribes a meeting to provide a copy of any transcript, minutes or audio recording of the meeting prepared by the court reporter to a member of the public at no charge.
6. Except as otherwise provided in subsection 7, any portion of a public meeting which is closed must also be recorded or transcribed and the recording or transcript must be retained and made available for inspection pursuant to the provisions of subsection 2 relating to records of closed meetings. Any recording or transcript made pursuant to this subsection must be made available to the Attorney General upon request.
7. If a public body makes a good faith effort to comply with the provisions of subsections 4 and 6 but is prevented from doing so because of factors beyond the public body's reasonable control, including, without limitation, a power outage, a mechanical failure or other unforeseen event, such failure does not constitute a violation of the provisions of this chapter.

(Added to NRS by 1977, 1099; A [1989, 571](#); [1993, 449, 2638](#); [2005, 978, 1404](#); [2013, 323, 733](#))