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ASSEMBLY BILL NO. 46—COMMITTEE ON TAXATION

(ON BEHALF OF THE WASHOE COUNTY SCHOOL DISTRICT)

PREFILED DECEMBER 20, 2012

Referred to Committee on Taxation

SUMMARY—Revises the provisions governing the funding of capital projects by school districts in certain counties. (BDR 32-413)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: No.

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

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AN ACT relating to the funding of capital projects of school districts; providing for the imposition and administration of a new sales and use tax and ad valorem tax in certain counties for the capital projects of the school districts in those counties; exempting that ad valorem tax from the statutory limitation on the total ad valorem tax levy; authorizing those school districts to use the proceeds of those taxes and certain proceeds from the governmental services tax to finance capital projects; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 The board of trustees of each school district is required to establish a fund for  
2 capital projects. (NRS 387.328) **Sections 2 and 10** of this bill require the board of  
3 county commissioners of each county whose population is 100,000 or more but less  
4 than 700,000 (currently only Washoe County) to impose additional taxes for  
5 deposit in the county school district’s fund for capital projects. In particular,  
6 **section 2** requires the imposition in the county of a new sales and use tax at the rate  
7 of one-quarter of 1 percent of the gross receipts of retailers and **section 10** requires  
8 the imposition in the county of a new property tax at the rate of 5 cents on each  
9 \$100 of assessed valuation.  
10 **Sections 2-8** of this bill require the administration of the new sales and use tax  
11 in the same manner as the sales and use tax imposed by the Local School Support  
12 Tax Law, as set forth in chapter 374 of NRS.  
13 Existing law generally limits the total amount of property taxes which may be  
14 imposed to \$3.64 on each \$100 of assessed valuation. (NRS 361.453) **Sections 9**



15 **and 10** of this bill exempt the new property tax required by **section 10** from this  
16 limitation. Although existing law provides a partial abatement of the property taxes  
17 levied on property for which an assessed valuation has previously been established,  
18 a remainder parcel of real property, certain single-family residences and certain  
19 residential rental dwellings, this partial abatement does not apply to any new  
20 property taxes which the Legislature first requires a taxing entity to impose after  
21 April 6, 2005. (NRS 361.4722, 361.4723, 361.4724, 361.4726) The new property  
22 tax required by **section 10** is therefore not subject to this partial abatement.

23 **Section 11** of this bill authorizes the school district in each county where these  
24 new taxes are imposed to pledge the proceeds of these taxes, and the portion of the  
25 governmental services tax whose allocation to the school district is based on the  
26 amount of the property tax levy attributable to its debt service, to the payment of  
27 any bonds or other obligations the school district issues for capital projects.

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

1 **Section 1.** Title 32 of NRS is hereby amended by adding  
2 thereto a new chapter to consist of the provisions set forth as  
3 sections 2, 3 and 4 of this act.

4 **Sec. 2. 1.** *The board of county commissioners of each*  
5 *county whose population is 100,000 or more but less than 700,000*  
6 *shall enact an ordinance imposing a tax at the rate of one-quarter*  
7 *of 1 percent of the gross receipts of any retailer from the sale of all*  
8 *tangible personal property sold at retail, or stored, used or*  
9 *otherwise consumed in the county.*

10 *2. The tax imposed pursuant to this section applies*  
11 *throughout the county, including incorporated cities in the county.*

12 *3. An ordinance enacted pursuant to this section must*  
13 *include provisions in substance as follows:*

14 *(a) Provisions substantially identical to those contained in*  
15 *chapter 374 of NRS, insofar as applicable.*

16 *(b) A provision that all amendments to chapter 374 of NRS*  
17 *after the date of enactment of the ordinance, not inconsistent with*  
18 *this chapter, automatically become a part of the ordinance.*

19 *(c) A provision that the county shall contract before the*  
20 *effective date of the ordinance with the Department to perform all*  
21 *functions incident to the administration or operation of the tax in*  
22 *the county.*

23 *(d) A provision that a purchaser is entitled to a refund, in*  
24 *accordance with the provisions of NRS 374.635 to 374.720,*  
25 *inclusive, of the amount of the tax required to be paid that is*  
26 *attributable to the tax imposed upon the sale of, and the storage,*  
27 *use or other consumption in the county of, tangible personal*  
28 *property used for the performance of a written contract:*

29 *(1) Entered into on or before the effective date of the tax;*  
30 *or*



1           (2) *For the construction of an improvement to real property*  
2 *for which a binding bid was submitted before the effective date of*  
3 *the tax if the bid was afterward accepted,*

4           ↳ *if, under the terms of the contract or bid, the contract price or*  
5 *bid amount cannot be adjusted to reflect the imposition of the tax.*

6           (e) *A provision that specifies the date on which the tax must*  
7 *first be imposed, which must be the first day of the first calendar*  
8 *quarter that begins at least 120 days after the effective date of the*  
9 *ordinance.*

10          **Sec. 3.** 1. *All fees, taxes, interest and penalties imposed and*  
11 *all amounts of tax required to be paid pursuant to this chapter*  
12 *must be paid to the Department in the form of remittances payable*  
13 *to the Department.*

14          2. *The Department shall deposit the payments in the State*  
15 *Treasury to the credit of the Sales and Use Tax Account in the*  
16 *State General Fund.*

17          3. *The State Controller, acting upon the collection data*  
18 *furnished by the Department, shall monthly:*

19           (a) *Transfer from the Sales and Use Tax Account 1.75 percent*  
20 *of all fees, taxes, interest and penalties collected pursuant to this*  
21 *chapter during the preceding month to the appropriate account in*  
22 *the State General Fund as compensation to the State for the cost*  
23 *of collecting the tax.*

24           (b) *Determine for each county an amount of money equal to*  
25 *any fees, taxes, interest and penalties collected in or for that*  
26 *county pursuant to this chapter during the preceding month, less*  
27 *the amount transferred to the State General Fund pursuant to*  
28 *paragraph (a).*

29           (c) *Transfer the amount determined for each county to the*  
30 *Intergovernmental Fund and remit the money to the county*  
31 *treasurer for deposit in the county school district's fund for capital*  
32 *projects established pursuant to NRS 387.328, to be held and*  
33 *expended in the same manner as other money deposited in that*  
34 *fund.*

35          **Sec. 4.** *The Department may redistribute any proceeds from*  
36 *the tax, interest or penalty collected pursuant to this chapter which*  
37 *is determined to be improperly distributed, but no such*  
38 *redistribution may be made as to amounts originally distributed*  
39 *more than 6 months before the date on which the Department*  
40 *obtains knowledge of the improper distribution.*

41          **Sec. 5.** NRS 360.2937 is hereby amended to read as follows:

42          360.2937 1. Except as otherwise provided in this section,  
43 NRS 360.320 or any other specific statute, and notwithstanding the  
44 provisions of NRS 360.2935, interest must be paid upon an  
45 overpayment of any tax provided for in chapter 362, 363A, 363B,



1 369, 370, 372, 374, 377 or 377A of NRS, *or sections 2, 3 and 4 of*  
2 *this act*, any fee provided for in NRS 444A.090 or 482.313, or any  
3 assessment provided for in NRS 585.497, at the rate of 0.25 percent  
4 per month from the last day of the calendar month following the  
5 period for which the overpayment was made.

6 2. No refund or credit may be made of any interest imposed on  
7 the person making the overpayment with respect to the amount  
8 being refunded or credited.

9 3. The interest must be paid:

10 (a) In the case of a refund, to the last day of the calendar month  
11 following the date upon which the person making the overpayment,  
12 if the person has not already filed a claim, is notified by the  
13 Department that a claim may be filed or the date upon which the  
14 claim is certified to the State Board of Examiners, whichever is  
15 earlier.

16 (b) In the case of a credit, to the same date as that to which  
17 interest is computed on the tax or the amount against which the  
18 credit is applied.

19 **Sec. 6.** NRS 360.300 is hereby amended to read as follows:

20 360.300 1. If a person fails to file a return or the Department  
21 is not satisfied with the return or returns of any tax, contribution or  
22 premium or amount of tax, contribution or premium required to be  
23 paid to the State by any person, in accordance with the applicable  
24 provisions of this chapter, chapter 360B, 362, 363A, 363B, 369,  
25 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or  
26 chapter 585 or 680B of NRS *or sections 2, 3 and 4 of this act*, as  
27 administered or audited by the Department, it may compute and  
28 determine the amount required to be paid upon the basis of:

29 (a) The facts contained in the return;

30 (b) Any information within its possession or that may come into  
31 its possession; or

32 (c) Reasonable estimates of the amount.

33 2. One or more deficiency determinations may be made with  
34 respect to the amount due for one or for more than one period.

35 3. In making its determination of the amount required to be  
36 paid, the Department shall impose interest on the amount of tax  
37 determined to be due, calculated at the rate and in the manner set  
38 forth in NRS 360.417, unless a different rate of interest is  
39 specifically provided by statute.

40 4. The Department shall impose a penalty of 10 percent in  
41 addition to the amount of a determination that is made in the case of  
42 the failure of a person to file a return with the Department.

43 5. When a business is discontinued, a determination may be  
44 made at any time thereafter within the time prescribed in NRS  
45 360.355 as to liability arising out of that business, irrespective of



1 whether the determination is issued before the due date of the  
2 liability.

3 **Sec. 7.** NRS 360.417 is hereby amended to read as follows:

4 360.417 Except as otherwise provided in NRS 360.232 and  
5 360.320, and unless a different penalty or rate of interest is  
6 specifically provided by statute, any person who fails to pay any tax  
7 provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377,  
8 377A, 444A or 585 of NRS, *or sections 2, 3 and 4 of this act*, or  
9 any fee provided for in NRS 482.313, and any person or  
10 governmental entity that fails to pay any fee provided for in NRS  
11 360.787, to the State or a county within the time required, shall pay  
12 a penalty of not more than 10 percent of the amount of the tax or fee  
13 which is owed, as determined by the Department, in addition to the  
14 tax or fee, plus interest at the rate of 0.75 percent per month, or  
15 fraction of a month, from the last day of the month following the  
16 period for which the amount or any portion of the amount should  
17 have been reported until the date of payment. The amount of any  
18 penalty imposed must be based on a graduated schedule adopted by  
19 the Nevada Tax Commission which takes into consideration the  
20 length of time the tax or fee remained unpaid.

21 **Sec. 8.** NRS 360.510 is hereby amended to read as follows:

22 360.510 1. If any person is delinquent in the payment of any  
23 tax or fee administered by the Department or if a determination has  
24 been made against the person which remains unpaid, the  
25 Department may:

26 (a) Not later than 3 years after the payment became delinquent  
27 or the determination became final; or

28 (b) Not later than 6 years after the last recording of an abstract  
29 of judgment or of a certificate constituting a lien for tax owed,

30 ↪ give a notice of the delinquency and a demand to transmit  
31 personally or by registered or certified mail to any person,  
32 including, without limitation, any officer or department of this State  
33 or any political subdivision or agency of this State, who has in his or  
34 her possession or under his or her control any credits or other  
35 personal property belonging to the delinquent, or owing any debts to  
36 the delinquent or person against whom a determination has been  
37 made which remains unpaid, or owing any debts to the delinquent or  
38 that person. In the case of any state officer, department or agency,  
39 the notice must be given to the officer, department or agency before  
40 the Department presents the claim of the delinquent taxpayer to the  
41 State Controller.

42 2. A state officer, department or agency which receives such a  
43 notice may satisfy any debt owed to it by that person before it  
44 honors the notice of the Department.



1 3. After receiving the demand to transmit, the person notified  
2 by the demand may not transfer or otherwise dispose of the credits,  
3 other personal property, or debts in his or her possession or under  
4 his or her control at the time the person received the notice until the  
5 Department consents to a transfer or other disposition.

6 4. Every person notified by a demand to transmit shall, within  
7 10 days after receipt of the demand to transmit, inform the  
8 Department of and transmit to the Department all such credits, other  
9 personal property or debts in his or her possession, under his or her  
10 control or owing by that person within the time and in the manner  
11 requested by the Department. Except as otherwise provided in  
12 subsection 5, no further notice is required to be served to that  
13 person.

14 5. If the property of the delinquent taxpayer consists of a series  
15 of payments owed to him or her, the person who owes or controls  
16 the payments shall transmit the payments to the Department until  
17 otherwise notified by the Department. If the debt of the delinquent  
18 taxpayer is not paid within 1 year after the Department issued the  
19 original demand to transmit, the Department shall issue another  
20 demand to transmit to the person responsible for making the  
21 payments informing him or her to continue to transmit payments to  
22 the Department or that his or her duty to transmit the payments to  
23 the Department has ceased.

24 6. If the notice of the delinquency seeks to prevent the transfer  
25 or other disposition of a deposit in a bank or credit union or other  
26 credits or personal property in the possession or under the control of  
27 a bank, credit union or other depository institution, the notice must  
28 be delivered or mailed to any branch or office of the bank, credit  
29 union or other depository institution at which the deposit is carried  
30 or at which the credits or personal property is held.

31 7. If any person notified by the notice of the delinquency  
32 makes any transfer or other disposition of the property or debts  
33 required to be withheld or transmitted, to the extent of the value of  
34 the property or the amount of the debts thus transferred or paid, that  
35 person is liable to the State for any indebtedness due pursuant to this  
36 chapter, ~~for~~ chapter 360B, 362, 363A, 363B, 369, 370, 372, 372A,  
37 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or  
38 680B of NRS *or sections 2, 3 and 4 of this act* from the person with  
39 respect to whose obligation the notice was given if solely by reason  
40 of the transfer or other disposition the State is unable to recover the  
41 indebtedness of the person with respect to whose obligation the  
42 notice was given.

43 **Sec. 9.** NRS 361.453 is hereby amended to read as follows:

44 361.453 1. Except as otherwise provided in this section and  
45 NRS 354.705, 354.723 and 450.760, *and section 10 of this act*, the



1 total ad valorem tax levy for all public purposes must not exceed  
2 \$3.64 on each \$100 of assessed valuation, or a lesser or greater  
3 amount fixed by the State Board of Examiners if the State Board of  
4 Examiners is directed by law to fix a lesser or greater amount for  
5 that fiscal year.

6 2. Any levy imposed by the Legislature for the repayment of  
7 bonded indebtedness or the operating expenses of the State of  
8 Nevada and any levy imposed by the board of county  
9 commissioners pursuant to NRS 387.195 that is in excess of 50  
10 cents on each \$100 of assessed valuation of taxable property within  
11 the county must not be included in calculating the limitation set  
12 forth in subsection 1 on the total ad valorem tax levied within the  
13 boundaries of the county, city or unincorporated town, if, in a  
14 county whose population is less than 45,000, or in a city or  
15 unincorporated town located within that county:

16 (a) The combined tax rate certified by the Nevada Tax  
17 Commission was at least \$3.50 on each \$100 of assessed valuation  
18 on June 25, 1998;

19 (b) The governing body of that county, city or unincorporated  
20 town proposes to its registered voters an additional levy ad valorem  
21 above the total ad valorem tax levy for all public purposes set forth  
22 in subsection 1;

23 (c) The proposal specifies the amount of money to be derived,  
24 the purpose for which it is to be expended and the duration of the  
25 levy; and

26 (d) The proposal is approved by a majority of the voters voting  
27 on the question at a general election or a special election called for  
28 that purpose.

29 3. The duration of the additional levy ad valorem levied  
30 pursuant to subsection 2 must not exceed 5 years. The governing  
31 body of the county, city or unincorporated town may discontinue the  
32 levy before it expires and may not thereafter reimpose it in whole or  
33 in part without following the procedure required for its original  
34 imposition set forth in subsection 2.

35 4. A special election may be held pursuant to subsection 2 only  
36 if the governing body of the county, city or unincorporated town  
37 determines, by a unanimous vote, that an emergency exists. The  
38 determination made by the governing body is conclusive unless it is  
39 shown that the governing body acted with fraud or a gross abuse of  
40 discretion. An action to challenge the determination made by the  
41 governing body must be commenced within 15 days after the  
42 governing body's determination is final. As used in this subsection,  
43 "emergency" means any unexpected occurrence or combination of  
44 occurrences which requires immediate action by the governing body  
45 of the county, city or unincorporated town to prevent or mitigate a



1 substantial financial loss to the county, city or unincorporated town  
2 or to enable the governing body to provide an essential service to  
3 the residents of the county, city or unincorporated town.

4 **Sec. 10.** Chapter 387 of NRS is hereby amended by adding  
5 thereto a new section to read as follows:

6 *1. The board of county commissioners of each county whose*  
7 *population is 100,000 or more but less than 700,000 shall, in*  
8 *addition to any other taxes levied in accordance with this chapter,*  
9 *levy an ad valorem tax of 5 cents on each \$100 of assessed*  
10 *valuation of taxable property within the county for the capital*  
11 *projects of the school district.*

12 *2. Any money collected pursuant to this section must be*  
13 *deposited in the county treasury to the credit of the fund for*  
14 *capital projects established pursuant to NRS 387.328, to be held*  
15 *and expended in the same manner as other money deposited in*  
16 *that fund.*

17 *3. The rate levied pursuant to subsection 1 must not be*  
18 *included in the total ad valorem tax levy for the purposes of the*  
19 *application of the limitation in NRS 361.453.*

20 **Sec. 11.** NRS 387.328 is hereby amended to read as follows:

21 387.328 1. The board of trustees of each school district shall  
22 establish a fund for capital projects for the purposes set forth in  
23 subsection 1 of NRS 387.335. The money in the fund for capital  
24 projects may be transferred to the debt service fund to pay the cost  
25 of the school district's debt service.

26 2. The board of trustees may accumulate money in the fund for  
27 capital projects for a period not to exceed 20 years.

28 3. That portion of the governmental services tax whose  
29 allocation to the school district pursuant to NRS 482.181 is based on  
30 the amount of the property tax levy attributable to its debt service  
31 must be deposited in the county treasury to the credit of the fund  
32 established under subsection 1 or the school district's debt service  
33 fund.

34 4. No money in the fund for capital projects at the end of the  
35 fiscal year may revert to the county school district fund, nor may the  
36 money be a surplus for any other purpose than those specified in  
37 subsection 1.

38 5. The proceeds of the taxes deposited in the fund for capital  
39 projects pursuant to NRS 244.3354, 268.0962 and 375.070 *and*  
40 *sections 3 and 10 of this act and, in a county whose population is*  
41 *100,000 or more but less than 700,000, the portion of the*  
42 *governmental services tax whose allocation to the school district*  
43 *pursuant to NRS 482.181 is based on the amount of the property*  
44 *tax levy attributable to its debt service* may be pledged to the  
45 payment of the principal and interest on bonds or other obligations





1 issued for one or more of the purposes set forth in NRS 387.335.  
2 The proceeds of such taxes so pledged may be treated as pledged  
3 revenues for the purposes of subsection 3 of NRS 350.020, and the  
4 board of trustees of a school district may issue bonds for those  
5 purposes in accordance with the provisions of chapter 350 of NRS.  
6 **Sec. 12.** This act becomes effective upon passage and  
7 approval.

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