

Amendment No. 384

Assembly Amendment to Assembly Bill No. 12

(BDR 28-193)

Proposed by: Assembly Committee on Government Affairs**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

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

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

MSM/BJE



Date: 4/23/2007

A.B. No. 12—Revises certain provisions relating to State Public Works Board.
(BDR 28-193)



ASSEMBLY BILL NO. 12—COMMITTEE ON GOVERNMENT AFFAIRS

PREFILED JANUARY 18, 2007

Referred to Committee on Government Affairs

SUMMARY—~~[Revises certain provisions relating to]~~ **Provides for the replacement of the** State Public Works Board. (BDR 28-193)

FISCAL NOTE: Effect on Local Government: No.
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.

AN ACT relating to public works; ~~[revising the composition of and certain internal procedures relating to the operations of]~~ **replacing** the State Public Works Board ~~[+]~~ **with a new department in the Executive Branch of the State Government to be known as the State Public Works Department; providing for the administration and operations of the Department; creating the Legislative Advisory Committee on Public Works; and providing other matters properly relating thereto.**

Legislative Counsel's Digest:

This bill ~~[changes the composition of]~~ **replaces** the State Public Works Board ~~[from a seven member body consisting of the Director of the Department of Administration and six members appointed by the Governor to a five member body consisting of the Governor, Lieutenant Governor, State Treasurer and two members appointed by the Governor. (NRS 241.020) Instead of an election of the Chairman from among the appointed members of the Board, this bill designates the Governor as the Chairman of the Board. (NRS 241.020, 241.060) This bill also transfers from the Board to the Governor the power to appoint and remove the Manager of the Board and the power to approve the appointment of certain deputies by the Manager. (NRS 241.100)]~~ **with a new department in the Executive Branch of the State Government to be known as the State Public Works Department.**

Sections 14-18 of this bill establish that the head of the State Public Works Department is the Director, who serves at the pleasure of the Governor. Section 17 of this bill requires the Director to propose a capital improvement program for inclusion in the proposed budget which would require, when practicable, design and planning of a public work in one biennium and construction in the next biennium. At least once each month, the Director is required to submit to the Fiscal Analysis Division of the Legislative Counsel Bureau a report pertaining to the activities and expenditures of the Department during the preceding month. Upon receipt of the report, the Fiscal Analysis Division transmits the report, accompanied by any recommendations, to the Interim Finance Committee. Section 18 of this bill states that the report must set forth, for each public works project and capital improvement project that is paid for, in whole or in part, with money appropriated by the Legislature: (1) any change in the scope of the project; (2) any delay in the completion of the project; (3) any increase in the estimated cost to complete the project; and (4) such other information as the Legislative Advisory Committee on Public Works or Interim Finance Committee may require.

Section 51 of this bill creates the Legislative Advisory Committee on Public Works, consisting of six legislative members of which three are appointed by the Majority Leader of the Senate from the members of the Senate Standing Committee on Finance of the preceding session and three are appointed by the Speaker of the Assembly from the members of the Assembly Standing Committee on Ways and Means of the preceding session. The Advisory Committee is granted the authority to evaluate, review and comment upon all matters relating to the planning, design, construction and satisfactory completion of public works and capital improvement projects that are financed in whole or in part with money appropriated by the Legislature, and to make recommendations on such matters to the Interim Finance Committee.

Section 75 of this bill requires the Director of the State Public Works Department, in consultation with the Legislative Advisory Committee on Public Works, to establish a pilot program to assess the costs and benefits of using privatized services for the management and inspection of construction projects.

Sections 76 and 77 of this bill provide continuity for the transition from the State Public Works Board to the State Public Works Department by: (1) clarifying that the provisions of the bill do not impair any existing contracts entered into by the State Public Works Board; and (2) declaring that the regulations of the State Public Works Board will remain in effect for 1 year (through June 30, 2008) or until the Director of the State Public Works Department adopts new regulations, whichever occurs earlier.

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

Delete existing sections 1 through 9 of this bill and replace with the following new sections 1 through 77:

Section 1. NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. "Authorized representative" means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. "Contract" means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

3. "Contractor" means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that he is not required to be licensed pursuant to chapter 624 of NRS.

(b) A design-build team.

4. "Day labor" means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a workman or workmen employed by them on public works by the day and not under a contract in writing.

5. "Design-build contract" means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. "Design-build team" means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

7. "Design professional" means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

8. "Department" means the State Public Works Department created by NRS 341.020.

9. "Director" means the Director of the State Public Works Department.

10. "Eligible bidder" means a person who is:

(a) Found to be a responsible and responsive contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.

~~10.~~ 11. "General contractor" means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:

(a) General engineering contracting, as described in subsection 2 of NRS 624.215.

(b) General building contracting, as described in subsection 3 of NRS 624.215.

~~11.~~ 12. "Governing body" means the board, council, commission or other body in which the general legislative and fiscal powers of a local government are vested.

~~12.~~ 13. "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.

~~13.~~ 14. "Offense" means failing to:

(a) Pay the prevailing wage required pursuant to this chapter;

(b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;

(c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or

(d) Comply with subsection 4 or 5 of NRS 338.070.

~~14.~~ 15. "Prime contractor" means a contractor who:

(a) Contracts to construct an entire project;

(b) Coordinates all work performed on the entire project;

(c) Uses his own workforce to perform all or a part of the public work; and
(d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

☞ The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148.

~~144~~ 16. “Public body” means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.

~~145~~ 17. “Public work” means any project for the new construction, repair or reconstruction of:

(a) A project financed in whole or in part from public money for:

(1) Public buildings;

(2) Jails and prisons;

(3) Public roads;

(4) Public highways;

(5) Public streets and alleys;

(6) Public utilities;

(7) Publicly owned water mains and sewers;

(8) Public parks and playgrounds;

(9) Public convention facilities which are financed at least in part with public money; and

(10) All other publicly owned works and property.

(b) A building for the Nevada System of Higher Education of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.

~~146~~ 18. “Specialty contractor” means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

~~147~~ 19. “Stand-alone underground utility project” means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

☞ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

~~148~~ 20. “Subcontract” means a written contract entered into between:

(a) A contractor and a subcontractor or supplier; or

(b) A subcontractor and another subcontractor or supplier,

☞ for the provision of labor, materials, equipment or supplies for a construction project.

~~149~~ 21. “Subcontractor” means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that he is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

~~150~~ 22. “Supplier” means a person who provides materials, equipment or supplies for a construction project.

~~151~~ 23. “Wages” means:

(a) The basic hourly rate of pay; and
(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the workman.

~~22-24~~ 24. "Workman" means a skilled mechanic, skilled workman, semiskilled mechanic, semiskilled workman or unskilled workman in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Sec. 2. NRS 338.1375 is hereby amended to read as follows:

338.1375 1. The ~~{State Public Works Board}~~ Department shall not accept a bid on a contract for a public work unless the contractor who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The ~~{State Public Works Board}~~ Director shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this State. The criteria adopted by the ~~{State Public Works Board}~~ Director pursuant to this section must be used by the ~~{State Public Works Board}~~ Department to determine the qualification of bidders on contracts for public works of this State.

3. The criteria adopted ~~{by the State Public Works Board}~~ pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

- (1) The financial ability of the applicant to perform a contract;
- (2) The principal personnel of the applicant;
- (3) Whether the applicant has breached any contracts with a public body or person in this State or any other state;
- (4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017 or 338.13895;
- (5) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant; and
- (6) The truthfulness and completeness of the application.

Sec. 3. NRS 338.1376 is hereby amended to read as follows:

338.1376 1. Each subcontractor whose name is required to be included in a bid pursuant to NRS 338.141 must, to be eligible to provide labor or a portion of the work or improvement to a contractor to whom the ~~{State Public Works Board}~~ Department awards a contract pursuant to this chapter, be qualified in accordance with criteria established by regulation by the ~~{State Public Works Board}~~ Director. The criteria ~~{established by the State Public Works Board pursuant to this subsection}~~ must be made applicable to a subcontractor but must otherwise be substantively identical to the criteria set forth in paragraph (b) of subsection 3 of NRS 338.1375.

2. A subcontractor shall be presumed to be qualified pursuant to subsection 1 unless the ~~{State Public Works Board}~~ Director has received information that:

(a) The ~~{State Public Works Board}~~ Director determines to be sufficient and verifiable; and

(b) Indicates the subcontractor does not meet the criteria established by regulation pursuant to subsection 1.

3. Upon receipt of sufficient and verifiable information of a type described in subsection 2, the ~~{State Public Works Board}~~ Director shall require a subcontractor regarding whom such information is received to submit to the ~~{State Public Works Board}~~ Department, on a form prescribed by the ~~{State Public Works Board}~~,

Director, an application for qualification in accordance with the criteria established by regulation pursuant to subsection 1. After receiving such an application, the ~~{State Public Works Board}~~ Director shall determine whether the subcontractor is qualified in accordance with the criteria established by regulation pursuant to subsection 1. Except as otherwise provided in subsection 4, if the ~~{State Public Works Board}~~ Director determines that the subcontractor does not meet such criteria, the ~~{State Public Works Board}~~ Director may disqualify the subcontractor, for a period set by the ~~{State Public Works Board}~~ Director, from participating in public works projects which are sponsored by the ~~{State Public Works Board}~~ Department. The ~~{State Public Works Board}~~ Department shall provide written notice to the subcontractor of any such disqualification.

4. A subcontractor may appeal a disqualification pursuant to subsection 3 in the manner set forth in NRS 338.1381.

Sec. 4. NRS 338.1379 is hereby amended to read as follows:

338.1379 1. Except as otherwise provided in NRS 338.1382, a contractor who wishes to qualify as a bidder on a contract for a public work must submit an application to the ~~{State Public Works Board}~~ Department or the local government.

2. Upon receipt of an application pursuant to subsection 1, the ~~{State Public Works Board}~~ Department or the local government shall:

(a) Investigate the applicant to determine whether he is qualified to bid on a contract; and

(b) After conducting the investigation, determine whether the applicant is qualified to bid on a contract. The determination must be made within 45 days after receipt of the application.

3. The ~~{State Public Works Board}~~ Department or the local government shall notify each applicant in writing of its determination. If an application is denied, the notice must set forth the reasons for the denial and inform the applicant of his right to a hearing pursuant to NRS 338.1381.

4. The ~~{State Public Works Board}~~ Department or the local government may determine an applicant is qualified to bid:

(a) On a specific project; or

(b) On more than one project over a period of time to be determined by the ~~{State Public Works Board}~~ Department or the local government.

5. The ~~{State Public Works Board}~~ Department shall not use any criteria other than criteria adopted by regulation pursuant to NRS 338.1375 in determining whether to approve or deny an application.

6. The local government shall not use any criteria other than the criteria described in NRS 338.1377 in determining whether to approve or deny an application.

7. Financial information and other data pertaining to the net worth of an applicant which is gathered by or provided to the ~~{State Public Works Board}~~ Department or a local government to determine the financial ability of an applicant to perform a contract is confidential and not open to public inspection.

Sec. 5. NRS 338.1381 is hereby amended to read as follows:

338.1381 1. If, within 10 days after receipt of the notice denying an application pursuant to NRS 338.1379 or disqualifying a subcontractor pursuant to NRS 338.1376, the applicant or subcontractor, as applicable, files a written request for a hearing with the ~~{State Public Works Board}~~ Department or the local government, the ~~{Board}~~ Department or governing body shall set the matter for a hearing within 20 days after receipt of the request. The hearing must be held not later than 45 days after the receipt of the request for a hearing unless the parties, by written stipulation, agree to extend the time.

2. The hearing must be held at a time and place prescribed by the ~~{Board}~~ Department or local government. At least 10 days before the date set for the hearing, the ~~{Board}~~ Department or local government shall serve the applicant or subcontractor with written notice of the hearing. The notice may be served by personal delivery to the applicant or subcontractor or by certified mail to the last known business or residential address of the applicant or subcontractor.

3. The applicant or subcontractor has the burden at the hearing of proving by substantial evidence that the applicant is entitled to be qualified to bid on a contract for a public work, or that the subcontractor is qualified to be a subcontractor on a contract for a public work.

4. In conducting a hearing pursuant to this section, the ~~{Board}~~ Department or governing body may:

(a) Administer oaths;

(b) Take testimony;

(c) Issue subpoenas to compel the attendance of witnesses to testify before the ~~{Board}~~ Department or governing body;

(d) Require the production of related books, papers and documents; and

(e) Issue commissions to take testimony.

5. If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena issued pursuant to subsection 4, the ~~{Board}~~ Department or governing body may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.

6. The ~~{Board}~~ Department or governing body shall issue a decision on the matter during the hearing. The decision of the ~~{Board}~~ Department or governing body is a final decision for purposes of judicial review.

Sec. 6. NRS 338.1382 is hereby amended to read as follows:

338.1382 In lieu of adopting criteria pursuant to NRS 338.1377 and determining the qualification of bidders pursuant to NRS 338.1379, a governing body may deem a person to be qualified to bid on:

1. Contracts for public works of the local government if the person has been determined by:

(a) The ~~{State Public Works Board}~~ Department pursuant to NRS 338.1379 to be qualified to bid on contracts for public works of the State pursuant to criteria adopted pursuant to NRS 338.1375; or

(b) Another governing body pursuant to NRS 338.1379 to be qualified to bid on contracts for public works of that local government pursuant to the criteria set forth in NRS 338.1377.

2. A contract for a public work of the local government if:

(a) The person has been determined by the Department of Transportation pursuant to NRS 408.333 to be qualified to bid on the contract for the public work;

(b) The public work will be owned, operated or maintained by the Department of Transportation after the public work is constructed by the local government; and

(c) The Department of Transportation requested that bidders on the contract for the public work be qualified to bid on the contract pursuant to NRS 408.333.

Sec. 7. NRS 338.13895 is hereby amended to read as follows:

338.13895 1. The ~~{State Public Works Board}~~ Department shall not award a contract to a person who, at the time of the bid, is not properly licensed under the provisions of chapter 624 of NRS or if the contract would exceed the limit of his license. A subcontractor who is:

(a) Named in the bid for the contract as a subcontractor who will provide a portion of the work on the public work pursuant to NRS 338.141; and

(b) Not properly licensed for that portion of the work, or who, at the time of the bid, is on disqualified status with the ~~[State Public Works Board]~~ Department pursuant to NRS 338.1376,

➤ shall be deemed unacceptable. If the subcontractor is deemed unacceptable pursuant to this subsection, the contractor shall provide an acceptable subcontractor.

2. A local government awarding a contract for a public work shall not award the contract to a person who, at the time of the bid, is not properly licensed under the provisions of chapter 624 of NRS or if the contract would exceed the limit of his license. A subcontractor who is:

(a) Named in the bid for the contract as a subcontractor who will provide a portion of the work on the public work pursuant to NRS 338.141; and

(b) Not properly licensed for that portion of work,
➤ shall be deemed unacceptable. If the subcontractor is deemed unacceptable pursuant to this subsection, the contractor shall provide an acceptable subcontractor with no increase in the amount of the contract.

3. If, after awarding the contract, but before commencement of the work, the public body or its authorized representative discovers that the person to whom the contract was awarded is not licensed, or that the contract would exceed his license, the public body or its authorized representative shall rescind the award of the contract and may accept the next lowest bid for that public work from a responsive bidder who was determined by the public body or its authorized representative to be a qualified bidder pursuant to NRS 338.1379 or 338.1382 without requiring that new bids be submitted.

Sec. 8. NRS 338.139 is hereby amended to read as follows:

338.139 1. A public body or its authorized representative may award a contract for a public work pursuant to NRS 338.1375 to 338.13895, inclusive, to a specialty contractor if:

(a) The majority of the work to be performed on the public work to which the contract pertains consists of specialty contracting for which the specialty contractor is licensed; and

(b) The public work to which the contract pertains is not part of a larger public work.

2. If a public body or its authorized representative awards a contract to a specialty contractor pursuant to NRS 338.1375 to 338.13895, inclusive, all work to be performed on the public work to which the contract pertains that is outside the scope of the license of the specialty contractor must be performed by a subcontractor who:

(a) Is licensed to perform such work; and

(b) At the time of the performance of the work, is not on disqualified status with the ~~[State Public Works Board]~~ Department pursuant to NRS 338.1376.

Sec. 9. NRS 338.141 is hereby amended to read as follows:

338.141 1. Except as otherwise provided in NRS 338.1727, each bid submitted to a public body for any public work to which paragraph (a) of subsection 1 of NRS 338.1385 or paragraph (a) of subsection 1 of NRS 338.143 applies, must include:

(a) If the public body provides a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide such labor or portion of the work on the public work which is estimated to exceed 3 percent of the estimated cost of the public work; or

(b) If the public body does not provide a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the

1 estimated cost of the public work, the name of each first tier subcontractor who will
2 provide labor or a portion of the work on the public work to the prime contractor
3 for which the first tier subcontractor will be paid an amount exceeding 5 percent of
4 the prime contractor's total bid. If the bid is submitted pursuant to this paragraph,
5 within 2 hours after the completion of the opening of the bids, the contractors who
6 submitted the three lowest bids must submit a list containing the name of each first
7 tier subcontractor who will provide labor or a portion of the work on the public
8 work to the prime contractor for which the first tier subcontractor will be paid an
9 amount exceeding 1 percent of the prime contractor's total bid or \$50,000,
10 whichever is greater, and the number of the license issued to the first tier
11 subcontractor pursuant to chapter 624 of NRS.

12 2. The lists required by subsection 1 must include a description of the labor or
13 portion of the work which each first tier subcontractor named in the list will provide
14 to the prime contractor.

15 3. A prime contractor shall include his name on a list required by paragraph
16 (a) of subsection 1 if he will perform any of the work required to be listed pursuant
17 to paragraph (a) of subsection 1.

18 4. Except as otherwise provided in this subsection, if a contractor:

19 (a) Fails to submit the list within the required time; or

20 (b) Submits a list that includes the name of a subcontractor who, at the time of
21 the submission of the list, is on disqualified status with the ~~{State Public Works~~
22 ~~Board}~~ Department pursuant to NRS 338.1376,

23 the contractor's bid shall be deemed not responsive. A contractor's bid shall not
24 be deemed not responsive on the grounds that the contractor submitted a list that
25 includes the name of a subcontractor who, at the time of the submission of the list,
26 is on disqualified status with the ~~{State Public Works Board}~~ Department pursuant
27 to NRS 338.1376 if the contractor, before the award of the contract, provides an
28 acceptable replacement subcontractor in the manner set forth in subsection 1 or 2 of
29 NRS 338.13895.

30 5. A contractor whose bid is accepted shall not substitute a subcontractor for
31 any subcontractor who is named in the bid, unless:

32 (a) The public body or its authorized representative objects to the
33 subcontractor, requests in writing a change in the subcontractor and pays any
34 increase in costs resulting from the change.

35 (b) The substitution is approved by the public body or its authorized
36 representative. The substitution must be approved if the public body or its
37 authorized representative determines that:

38 (1) The named subcontractor, after having a reasonable opportunity, fails
39 or refuses to execute a written contract with the contractor which was offered to the
40 named subcontractor with the same general terms that all other subcontractors on
41 the project were offered;

42 (2) The named subcontractor files for bankruptcy or becomes insolvent;

43 (3) The named subcontractor fails or refuses to perform his subcontract
44 within a reasonable time or is unable to furnish a performance bond and payment
45 bond pursuant to NRS 339.025; or

46 (4) The named subcontractor is not properly licensed to provide that labor
47 or portion of the work.

48 (c) If the public body awarding the contract is a governing body, the public
49 body or its authorized representative, in awarding the contract pursuant to NRS
50 338.1375 to 338.139, inclusive:

51 (1) Applies such criteria set forth in NRS 338.1377 as are appropriate for
52 subcontractors and determines that the subcontractor does not meet that criteria;
53 and

(2) Requests in writing a substitution of the subcontractor.

6. If a contractor indicates pursuant to subsection 1 that he will perform a portion of work on the public work and thereafter requests to substitute a subcontractor to perform such work, the contractor shall provide to the public body a written explanation in the form required by the public body which contains the reasons that:

(a) A subcontractor was not originally contemplated to be used on that portion of the public work; and

(b) The substitution is in the best interest of the public body.

7. As used in this section:

(a) "First tier subcontractor" means a subcontractor who contracts directly with a prime contractor to provide labor, materials or services for a construction project.

(b) "General terms" means the terms and conditions of a contract that set the basic requirements for a public work and apply without regard to the particular trade or specialty of a subcontractor, but does not include any provision that controls or relates to the specific portion of the public work that will be completed by a subcontractor, including, without limitation, the materials to be used by the subcontractor or other details of the work to be performed by the subcontractor.

Sec. 10. NRS 338.180 is hereby amended to read as follows:

338.180 1. The Legislature of the State of Nevada declares that:

(a) The primary purpose of this section is to provide, subject to the limitations set forth in this section, for the removal and elimination of architectural barriers to the physically handicapped in public buildings and facilities designed after July 1, 1973, in order to encourage and facilitate the employment of the physically handicapped and to make public buildings accessible to and usable by the physically handicapped; and

(b) It is the intent of the Legislature that insofar as possible all buildings and facilities used by the public be accessible to, and functional for, the physically handicapped, without loss of function, space or facility where the general public is concerned.

2. All plans and specifications for the construction of public buildings and facilities owned by a public body must, after July 1, 1973, provide facilities and features for the physically handicapped so that buildings which are normally used by the public are constructed with entrance ramps, toilet facilities, drinking fountains, doors and public telephones accessible to and usable by the physically handicapped. In addition, all plans and specifications for the construction or alteration of public buildings and facilities owned by a public body must comply with the applicable requirements of the:

(a) Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations;

(b) Minimum Guidelines and Requirements for Accessible Design, 36 C.F.R. §§ 1190.1 et seq.; and

(c) Fair Housing Act, 42 U.S.C. § 3604, and the regulations adopted pursuant thereto.

➤ The requirements of paragraph (a) of this subsection are not satisfied if the plans and specifications comply solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

3. All public bodies shall, in the design, construction and alteration of public buildings and facilities comply with the applicable requirements of the:

(a) Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations;

(b) Minimum Guidelines and Requirements for Accessible Design, 36 C.F.R. §§ 1190.1 et seq.; and

(c) Fair Housing Act, 42 U.S.C. § 3604, and the regulations adopted pursuant thereto.

➤ The requirements of paragraph (a) of this subsection are not satisfied if the public body complies solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

4. In each public building and facility owned by a public body, each entrance to a corridor which leads to a toilet facility must be marked with a sign which:

(a) Conforms to the requirements related to signage contained in §§ 4.30 et seq. of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations; and

(b) Uses symbols, raised letters and Braille to:

(1) Identify the toilet facility and the gender of persons who may use the toilet facility; and

(2) If the toilet facility is for the exclusive use of persons of one gender:

(I) Indicate that the toilet facility is for the exclusive use of persons of that gender; and

(II) Provide direction to a toilet facility that may be used by persons of the other gender.

5. The ~~{State Public Works Board}~~ Department shall verify that all public buildings and facilities owned by the State of Nevada conform with the requirements of this section. Each political subdivision shall verify that all public buildings and facilities owned by the political subdivision conform with the requirements of this section.

6. A person may report a violation of this section to the Attorney General.

7. Upon receiving a report pursuant to subsection 6, the Attorney General shall notify the public body responsible for the alleged violation. Not later than 30 days after receiving such a notification, the public body shall:

(a) Present evidence to the Attorney General that it is in compliance with this section; or

(b) Begin any action necessary to comply with the requirements of this section and notify the Attorney General of the date on which it will be in compliance with those requirements.

8. If the public body responsible for the alleged violation fails to comply with this section, the Attorney General shall take such action as is necessary to ensure compliance with this section, including, without limitation, commencing proceedings in a court of competent jurisdiction, if appropriate.

Sec. 11. NRS 338.187 is hereby amended to read as follows:

338.187 1. Except as otherwise provided in subsection 2, each occupied public building whose construction will be sponsored or financed by this State must, when completed, meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to NRS 701.217.

2. During each biennium, at least two occupied public buildings whose construction will be sponsored or financed by this State must be designated as demonstration projects and must, when completed, meet the requirements to be certified at or meet the equivalent of the silver level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to NRS 701.217 if:

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

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

3. Each occupied public building whose construction is sponsored or financed by a local government may meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to NRS 701.217.

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

Sec. 12. NRS 339.025 is hereby amended to read as follows:

339.025 1. Before any contract, except one subject to the provisions of chapter 408 of NRS, exceeding \$100,000 for any project for the new construction, repair or reconstruction of any public building or other public work or public improvement of any contracting body is awarded to any contractor, he shall furnish to the contracting body the following bonds which become binding upon the award of the contract to the contractor:

(a) A performance bond in an amount to be fixed by the contracting body, but not less than 50 percent of the contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The bond must be solely for the protection of the contracting body which awarded the contract.

(b) A payment bond in an amount to be fixed by the contracting body, but not less than 50 percent of the contract amount. The bond must be solely for the protection of claimants supplying labor or materials to the contractor to whom the contract was awarded, or to any of his subcontractors, in the prosecution of the work provided for in such contract.

2. If a general contractor has been awarded a contract, except one subject to the provisions of chapter 408 of NRS, by the ~~[State Public Works Board]~~ Department for any project for new construction, repair or reconstruction of any public building or other public work or public improvement, each of his subcontractors who will perform work on the contract that exceeds \$50,000 or 1 percent of the proposed project, whichever amount is greater, shall furnish a bond to the ~~[Board]~~ Department in an amount to be fixed by the ~~[Board]~~ Department.

3. Each of the bonds required pursuant to this section must be executed by one or more surety companies authorized to do business in the State of Nevada. If the contracting body is the State of Nevada or any officer, employee, board, bureau, commission, department, agency or institution thereof, the bonds must be payable to the State of Nevada. If the contracting body is other than one of those

enumerated in this subsection, the bonds must be payable to the other contracting body.

4. Each of the bonds must be filed in the office of the contracting body which awarded the contract for which the bonds were given.

5. This section does not prohibit a contracting body from requiring bonds.

Sec. 13. Chapter 341 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 to 18, inclusive, of this act.

Sec. 14. "Department" means the State Public Works Department created by NRS 341.020.

Sec. 15. "Director" means the Director of the Department.

Sec. 16. The Director:

1. Is appointed by, is responsible to, and serves at the pleasure of the Governor.

2. Is in the unclassified service of the State.

3. Shall not engage in any other gainful employment or occupation.

4. Is entitled to an annual salary in an amount specified by the Legislature. The salary of the Director is exempt from the limitations set forth in NRS 281.123.

Sec. 17. 1. The Director shall prepare and submit to the Chief of the Budget Division of the Department of Administration, for inclusion in the proposed state budget pursuant to NRS 353.205, a proposed capital improvement program for each biennium.

2. The proposed capital improvement program must be divided into two parts so that, insofar as practicable, each capital improvement project that exceeds \$1,000,000 will be scheduled to receive funding for design and planning during one biennium and will be scheduled to receive funding for the construction in the subsequent biennium.

Sec. 18. 1. The Director may adopt such regulations as he determines to be necessary or advisable to carry out the provisions of this chapter.

2. The Director shall, not less frequently than once every month, submit to the Fiscal Analysis Division of the Legislative Counsel Bureau a report detailing the activities and expenditures of the Department during the previous month. The report required pursuant to this subsection must include, without limitation, for each construction project and capital improvement project over which the Department has authority, jurisdiction or supervisory control:

(a) Any change in the scope of the project;

(b) Any delay in the completion of the project;

(c) Any increase in the estimated cost to complete the project; and

(d) Such other information as the Legislative Advisory Committee on Public Works or Interim Finance Committee may require.

3. Upon receipt of the report required pursuant to subsection 2, the Fiscal Analysis Division shall transmit the report and any related recommendations to the Legislative Advisory Committee on Public Works and the Interim Finance Committee.

Sec. 19. NRS 341.010 is hereby amended to read as follows:

341.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in ~~[NRS 341.013 and 341.015]~~ **sections 14 and 15 of this act** have the meanings ascribed to them in those sections.

Sec. 20. NRS 341.020 is hereby amended to read as follows:

341.020 1. The State Public Works ~~[Board, consisting of the Director of the Department of Administration and six members appointed by the Governor,]~~ **Department** is hereby created within the ~~[Department of Administration]~~.

~~2. At least one of the appointed members must have a comprehensive knowledge of the principles of administration and at least one of the appointed members must have a working knowledge of the principles of engineering or architecture.~~ Executive Branch of State Government.

2. The head of the Department is the Director.

Sec. 21. NRS 341.050 is hereby amended to read as follows:

~~341.050 1. Each member of the Board is entitled to receive a salary of not more than \$80 per day, as fixed by the Board, while engaged in the business of the Board.~~

~~2. While engaged in the business of the Board, each member and~~ Each employee of the ~~Board~~ Department is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. The per diem allowances and travel expenses must be paid from money appropriated for the use of the ~~Board~~ Department.

Sec. 22. NRS 341.070 is hereby amended to read as follows:

~~341.070 The Board shall~~

~~1. Adopt~~ Director shall adopt such rules for the regulation of ~~its~~ the proceedings ~~of the Board~~ of the Department and the transaction of ~~its~~ the business ~~as it~~ of the Department as the Director deems proper.

~~2. Meet at least once every 3 months.~~

Sec. 23. NRS 341.080 is hereby amended to read as follows:

~~341.080 The Board~~ Director shall ~~keep~~ ensure that a record is kept of ~~its~~ the official actions ~~of the Board~~ of the Department.

Sec. 24. NRS 341.090 is hereby amended to read as follows:

~~341.090 1. Except as provided in subsections 2 and 3, the Board~~ Department may make expenditures necessary to carry into effect the purposes of its acts.

2. All expenditures made by the ~~Board~~ Department must be within the limits of the appropriation provided for the use of the ~~Board~~ Department, or provided from money appropriated or authorized for expenditure by the Legislature for construction work or major repairs.

3. The ~~Board~~ Department may, with the approval of the Interim Finance Committee, ~~[when the Legislature is not in regular or special session, or with the approval of the Legislature by concurrent resolution when the Legislature is in regular or special session,]~~ expend money obtained from any source for advance planning of projects of capital improvement. For the purposes of this subsection, "advance planning" means the preparation of floor plans, cross sections, elevations, outlines of specifications, estimates of cost by category of work and perspective renderings of the project.

Sec. 25. NRS 341.095 is hereby amended to read as follows:

~~341.095 Whenever properly approved claims payable out of a particular state building construction project account exceed the amount that is available in such project account, if the project is one which is financed in part by funds that are made available to the Board~~ Department by the United States or any of its agencies or instrumentalities, the State Controller may transfer temporarily from the General Fund to such project account such amount as may be required to pay such claims, but not more than 50 percent of the funds collectible from the United States for the particular project.

Sec. 26. NRS 341.100 is hereby amended to read as follows:

~~341.100 1. The Board~~ Director may appoint ~~a Manager who serves at the pleasure of the Board and the Governor. The Board or the Governor may remove the Manager for inefficiency, neglect of duty, malfeasance or for other just cause.~~

~~2. The Manager, with the approval of the Board, may appoint a deputy for professional services and a deputy for administrative, fiscal and constructional services. In addition, the Manager may appoint~~ such deputies and other technical and clerical assistants as may be necessary to carry into effect the provisions of this chapter.

~~{3. The Manager and his}~~

2. Any deputies so appointed are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, ~~{the Manager and}~~ each deputy shall devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.

~~{4. The Manager and his deputy for professional services must each be a licensed professional engineer pursuant to the provisions of chapter 625 of NRS or an architect registered pursuant to the provisions of chapter 623 of NRS. The deputy manager for administrative, fiscal and constructional services must have a comprehensive knowledge of principles of administration and a working knowledge of principles of engineering or architecture as determined by the Board.~~

~~5. The Manager shall:~~

~~(a) Serve as the Secretary of the Board;~~

~~(b);~~

3. The Director shall:

(a) Manage or provide for the management of the daily affairs of the ~~{Board}~~

~~{(c)} Department.~~

(b) Represent the ~~{Board}~~ Department before the Legislature.

~~{(d)}~~ (c) Prepare and submit to the ~~{Board, for its approval}~~ Governor, for approval by the Governor, the recommended priority for proposed capital improvement projects and provide the ~~{Board}~~ Governor with an estimate of the cost of each project.

~~{(e) Make}~~

(d) Select or make recommendations ~~{to the Board}~~ for the selection of architects, engineers and contractors.

~~{(f)}~~ (e) Make recommendations to the ~~{Board}~~ Governor concerning the acceptance of completed projects.

~~{(g)}~~ (f) Advise the ~~{Board and the}~~ Legislature, or the Interim Finance Committee if the Legislature is not in session, on a monthly basis of the progress of all public works projects which are a part of the approved capital improvement program.

~~{(h)}~~ The provisions of this paragraph are in addition to any reporting requirements set forth in section 18 of this act.

(g) Serve as the building official for all buildings and structures on property of the State or held in trust for any division of the State Government.

Sec. 27. NRS 341.105 is hereby amended to read as follows:

341.105 1. When acting in the capacity of building official pursuant to paragraph ~~{(h) of subsection 5}~~ (g) of subsection 3 of NRS 341.100, the ~~{Manager}~~ Director or his designated representative may issue an order to compel the cessation of work on all or any portion of a building or structure based on health or safety reasons or for violations of applicable building codes or other laws or regulations.

2. If a person receives an order issued pursuant to subsection 1, the person shall immediately cease work on the building or structure or portion thereof.

3. Any person who willfully refuses to comply with an order issued pursuant to subsection 1 or who willfully encourages another person to refuse to comply or assists another person in refusing to comply with such an order is guilty of a misdemeanor and shall be punished as provided in NRS 193.150. Any penalties

collected pursuant to this subsection must be deposited with the State Treasurer for credit to the State General Fund.

4. In addition to the criminal penalty set forth in subsection 3, the ~~{Manager}~~ Director may impose an administrative penalty of not more than \$1,000 per day for each day that a person violates subsection 3.

5. If a person wishes to contest an order issued to him pursuant to subsection 1, the person may bring an action in district court. The court shall give such a proceeding priority over other civil matters that are not expressly given priority by law. An action brought pursuant to this subsection does not stay enforcement of the order unless the district court orders otherwise.

6. If a person refuses to comply with an order issued pursuant to subsection 1, the ~~{Manager}~~ Director may bring an action in the name of the State of Nevada in district court to compel compliance and to collect any administrative penalties imposed pursuant to subsection 4. The court shall give such a proceeding priority over other civil matters that are not expressly given priority by law. Any attorney's fees and costs awarded by the court in favor of the State and any penalties collected in the action must be deposited with the State Treasurer for credit to the State General Fund.

7. No right of action exists in favor of any person by reason of any action or failure to act on the part of the ~~{Board, the Manager}~~ Director or any officers, employees or agents of the ~~{Board}~~ Department in carrying out the provisions of this section.

8. As used in this section, "person" includes a government and a governmental subdivision, agency or instrumentality.

Sec. 28. NRS 341.110 is hereby amended to read as follows:

341.110 In general, the ~~{Board}~~ Director and the Department shall have such powers as may be necessary to enable ~~{it}~~ them to fulfill ~~{its}~~ their functions and to carry out the purposes of this chapter.

Sec. 29. NRS 341.119 is hereby amended to read as follows:

341.119 1. Upon the request of the head of a state agency, the ~~{Board}~~ Director may delegate to that agency any of the authority granted to the ~~{Board}~~ Director or the Department pursuant to NRS 341.141 to 341.148, inclusive.

2. This section does not limit any of the authority of the Legislature when the Legislature is in regular or special session or the Interim Finance Committee when the Legislature is not in regular or special session to consult with the ~~{Board}~~ Director concerning a construction project or to approve the advance planning of a project.

Sec. 30. NRS 341.121 is hereby amended to read as follows:

341.121 The ~~{Board}~~ Director may, with the approval of the Interim Finance Committee, ~~{when the Legislature is not in regular or special session, or with the approval of the Legislature, by concurrent resolution, when the Legislature is in regular or special session,}~~ use grants of money received under authority of this chapter, unless otherwise limited by the conditions of any such grant, for:

1. The design and construction of public buildings or projects for which no appropriation has been made by the Legislature, or the acquisition of real property for such buildings or projects, or both.

2. Additional acquisition, design and construction costs on public buildings or projects, through appropriate contract procedures, for which the original legislative appropriation made no provision.

Sec. 31. NRS 341.125 is hereby amended to read as follows:

341.125 The ~~{Board}~~ Director, on behalf of the Department, is authorized to contract in the name of the State of Nevada with the United States or any of its agencies or instrumentalities, and to receive and expend by grant, loan or otherwise

1 funds which may be made available by the United States or any of its agencies or
2 instrumentalities.

3 **Sec. 32. NRS 341.130 is hereby amended to read as follows:**

4 341.130 The ~~{Board}~~ Director is authorized:

5 1. To participate in interstate, regional and national planning projects for the
6 purpose of conserving and promoting public health and the safety, convenience and
7 general welfare of the people.

8 2. Through ~~{its members or its staff,}~~ the staff of the Department, to confer
9 and cooperate with federal officials and with the executive, legislative or planning
10 authorities of neighboring states and of the counties and municipalities of such
11 states.

12 **Sec. 33. NRS 341.140 is hereby amended to read as follows:**

13 341.140 The ~~{Board}~~ Director is authorized to use all reasonable means to
14 promote public interest in the problems of state planning, and to that end may
15 publish and distribute copies of ~~{its}~~ his reports and the reports of the Department
16 and may employ other lawful means of publicity and education.

17 **Sec. 34. NRS 341.141 is hereby amended to read as follows:**

18 341.141 1. The ~~{Board}~~ Department shall furnish engineering and
19 architectural services to the Nevada System of Higher Education and all other state
20 departments, boards or commissions charged with the construction of any building
21 constructed on state property or for which the money is appropriated by the
22 Legislature, except:

23 (a) Buildings used in maintaining highways;

24 (b) Improvements, other than nonresidential buildings with more than 1,000
25 square feet in floor area, made:

26 (1) In state parks by the State Department of Conservation and Natural
27 Resources; or

28 (2) By the Department of Wildlife; and

29 (c) Buildings on property controlled by other state agencies if the ~~{Board}~~
30 Director has delegated ~~{its}~~ his authority or the authority of the Department, as
31 applicable, in accordance with NRS 341.119.

32 ↪ The Board of Regents of the University of Nevada and all other state
33 departments, boards or commissions shall use those services.

34 2. The services must consist of:

35 (a) Preliminary planning;

36 (b) Designing;

37 (c) Estimating of costs; and

38 (d) Preparation of detailed plans and specifications.

39 **Sec. 35. NRS 341.142 is hereby amended to read as follows:**

40 341.142 The ~~{Board}~~ Department may, with the approval of the Interim
41 Finance Committee, ~~{when the Legislature is not in regular or special session, or~~
42 ~~with the approval of the Legislature by concurrent resolution when the Legislature~~
43 ~~is in regular or special session,}~~ plan a project in advance by preparing floor plans,
44 cross sections, elevations, outlines of specifications, estimates of cost by category
45 of work and perspective renderings of the project. The ~~{Board}~~ Department may
46 submit preliminary or advance plans or designs to qualified architects or engineers
47 for preparation of detailed plans and specifications if the ~~{Board}~~ Director
48 considers it desirable. The cost of preparation of preliminary or advance plans or
49 designs, the cost of detailed plans and specifications, and the cost of all
50 architectural and engineering services are charges against the appropriations made
51 by the Legislature for any state buildings or projects, or buildings or projects
52 planned or contemplated by any state agency for which the Legislature has

appropriated or may appropriate money. The costs must not exceed the limitations that are or may be provided by the Legislature.

Sec. 36. NRS 341.143 is hereby amended to read as follows:

341.143 For the purposes of the design and construction of buildings or other projects of this State, the ~~Board~~ Director shall adopt by regulation:

1. The seismic provisions of the International Building Code published by the International Code Council; and

2. Standards for the investigation of hazards relating to seismic activity, including, without limitation, potential surface ruptures and liquefaction.

Sec. 37. NRS 341.145 is hereby amended to read as follows:

341.145 The ~~Board~~ Director:

1. Has final authority to approve the architecture of all buildings, plans, designs, types of construction, major repairs and designs of landscaping.

2. Shall determine whether any rebates are available from a public utility for installing devices in any state building which are designed to decrease the use of energy in the building. If such a rebate is available, the ~~Board~~ Director shall apply for the rebate.

3. Shall solicit bids for and let all contracts for new construction or major repairs.

4. May negotiate with the lowest responsible and responsive bidder on any contract to obtain a revised bid if:

(a) The bid is less than the appropriation made by the Legislature for that building project; and

(b) The bid does not exceed the relevant budget item for that building project, as established by the ~~Board~~ Director, by more than 10 percent.

5. May reject any or all bids.

6. After the contract is let, shall supervise and inspect or cause the supervision and inspection of construction and major repairs. The cost of supervision and inspection must be financed from the capital construction program approved by the Legislature.

7. Shall obtain approval from the Interim Finance Committee ~~[when the Legislature is not in regular or special session, or from the Legislature by concurrent resolution when the Legislature is in regular or special session,]~~ for any change in the scope of the design or construction of a project as that project was authorized by the Legislature. The ~~Board~~ Director shall adopt by regulation criteria for determining whether a change in the scope of the design or construction of a project requires such approval.

8. May authorize change orders, before or during construction:

(a) In any amount, where the change represents a reduction in the total awarded contract price.

(b) Except as otherwise provided in paragraph (c), not to exceed in the aggregate 10 percent of the total awarded contract price, where the change represents an increase in that price.

(c) In any amount, where the total awarded contract price is less than \$10,000 and the change represents an increase not exceeding the amount of the total awarded contract price.

9. Shall specify in any contract with a design professional the period within which the design professional must prepare and submit to the ~~Board~~ Department a change order that has been authorized by the design professional. As used in this subsection, "design professional" means a person with a professional license or certificate issued pursuant to chapter 623, 623A or 625 of NRS.

10. Has final authority to accept each building or structure, or any portion thereof, on property of the State or held in trust for any division of the State

Government as completed or to require necessary alterations to conform to the contract or to codes adopted by the ~~{Board}~~ Director, and to file the notice of completion and certificate of occupancy for the building or structure.

Sec. 38. NRS 341.146 is hereby amended to read as follows:

341.146 1. The ~~{Board}~~ Director shall establish funds for projects of capital construction necessary to account for the program of capital construction approved by the Legislature. These funds must be used to account for all revenues, appropriations and expenditures restricted to constructing buildings and other projects which come under the supervision of the ~~{Board}~~ Department.

2. If a state department, board, commission or agency provides to the ~~{Board}~~ Department money that has not been appropriated by the Legislature for a capital improvement project, any interest earned on that money accrues to the benefit of the project. Upon a determination by the ~~{Board}~~ Director that the project is completed, the ~~{Board}~~ Department shall return any principal and interest remaining on that money to the department, board, commission or agency that had provided the money to the ~~{Board}~~ Department.

3. Except as otherwise provided in subsection 4, if the money actually received by the ~~{Board}~~ Department for a capital improvement project includes money from more than one source, the money must be expended in the following order:

- (a) Money received for the project from the Federal Government;
- (b) Money generated by the state department, board, commission or agency for whom the project is being performed;
- (c) Money that was approved for the same or a different project during a previous biennium that has been reallocated during the current biennium for the project;
- (d) Proceeds from the issuance of general obligation bonds;
- (e) Money from the State General Fund; and
- (f) Any other source of money for the project.

4. The provisions of subsection 3 do not apply if the receipt of any money from the Federal Government for the project is conditioned upon a different order of expenditure.

Sec. 39. NRS 341.148 is hereby amended to read as follows:

341.148 The ~~{Board}~~ Director shall advertise in a newspaper of general circulation in the State of Nevada for separate sealed bids for each construction project whose estimated cost is more than \$100,000. Approved plans and specifications for the construction must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. The ~~{Board}~~ Director may accept bids on either the whole or a part of the construction, equipment and furnishings of a construction project and may let separate contracts for different and separate portions of any project, or a combination contract for structural, mechanical and electrical construction if savings will result to this State.

Sec. 40. NRS 341.149 is hereby amended to read as follows:

341.149 The construction of a capital improvement that is subject to the supervision of the ~~{Board}~~ Department pursuant to this chapter may not be begun unless the funding for the operation and maintenance of the improvement during the current fiscal year, including personnel, is included in the approved budget for the fiscal year in which construction is begun.

Sec. 41. NRS 341.151 is hereby amended to read as follows:

341.151 1. The ~~{Board}~~ Department shall provide for a system of accounting for the total costs of state buildings throughout their expected useful life, taking into account all expenses of maintenance and operation.

2. Each proposal for the construction of a state building must include:
- (a) Figures showing the final total cost of the building, which is the sum of:
 - (1) Initial construction costs; and
 - (2) Operating costs for the expected useful life of the building, including maintenance, heating, lighting, air-conditioning, personnel and other expenses of operation; and
 - (b) A statement of the proposed source of funding for the final total cost of the building.

Sec. 42. NRS 341.153 is hereby amended to read as follows:

341.153 1. The Legislature hereby finds as facts:

- (a) That the construction of public buildings is a specialized field requiring for its successful accomplishment a high degree of skill and experience not ordinarily acquired by public officers and employees whose primary duty lies in some other field.

- (b) That this construction involves the expenditure of large amounts of public money which, whatever their particular constitutional, statutory or governmental source, involve a public trust.

- (c) That the application by state agencies of conflicting standards of performance results in wasteful delays and increased costs in the performance of public works.

2. The Legislature therefore declares it to be the policy of this State that all construction of buildings upon property of the State or held in trust for any division of the State Government be supervised by, and final authority for its completion and acceptance vested in, the ~~{Board}~~ Director as provided in NRS 341.141 to 341.148, inclusive.

Sec. 43. NRS 341.155 is hereby amended to read as follows:

341.155 With the concurrence of the ~~{Board}~~ Director, the Board of Regents of the University of Nevada and any other state department, board or commission may enter into agreements with persons, associations or corporations to provide consulting services to determine and plan the construction work that may be necessary to meet the needs of the programs of those agencies. These contracts must be for a term not exceeding 5 years and must provide for payment of a fee for those services not to exceed one-half of 1 percent of the total value of:

1. In the case of the Nevada System of Higher Education, building construction contracts relating to the construction of a branch or facility within the Nevada System of Higher Education; and

2. In the case of another state department, board or commission, all construction contracts relating to construction for that agency,

➤ during the term and in the area covered by the contract.

Sec. 44. NRS 341.158 is hereby amended to read as follows:

341.158 The provisions of NRS 341.141 to 341.155, inclusive, do not require the Legislative Branch of ~~{government}~~ State Government to use the services of the ~~{Board}~~ Department. The Legislature may require the ~~{Board}~~ Department to provide the services described in those sections for particular projects for the Legislative Branch of ~~{government}~~ State Government.

Sec. 45. NRS 341.161 is hereby amended to read as follows:

341.161 1. The ~~{Board}~~ Director may, with the approval of the Interim Finance Committee when the Legislature is not in regular or special session, or with the approval of the Legislature by concurrent resolution when the Legislature is in regular or special session, let to a contractor licensed under chapter 624 of NRS a contract for services which assist the ~~{Board}~~ Department in the design and construction of a project of capital improvement.

2. The ~~{Board}~~ Director shall adopt regulations establishing procedures for:

(a) The determination of the qualifications of contractors to bid for contracts for services described in subsection 1.

(b) The bidding and awarding of such contracts, subject to the provisions of subsection 3.

(c) The awarding of construction contracts based on a final cost of the project which the contractor guarantees will not be exceeded.

(d) The scheduling and controlling of projects.

3. Bids on contracts for services which assist the ~~{Board}~~ Department in the design and construction of a project of capital improvement must state separately the contractor's cost for:

(a) Assisting the ~~{Board}~~ Department in the design and construction of the project.

(b) Obtaining all bids for subcontracts.

(c) Administering the construction contract.

4. A person who furnishes services under a contract awarded pursuant to subsection 1 is a contractor subject to all provisions pertaining to a contractor in title 28 of NRS.

Sec. 46. NRS 341.166 is hereby amended to read as follows:

341.166 1. The ~~{Board}~~ Director may, with the approval of the Interim Finance Committee when the Legislature is not in regular or special session, or with the approval of the Legislature by concurrent resolution when the Legislature is in regular or special session, enter into a contract for services with a contractor licensed pursuant to chapter 624 of NRS to assist the ~~{Board}~~ Department:

(a) In the development of designs, plans, specifications and estimates of costs for a proposed construction project.

(b) In the review of designs, plans, specifications and estimates of costs for a proposed construction project to ensure that the designs, plans, specifications and estimates of costs are complete and that the project is feasible to construct.

2. The ~~{Board}~~ Director is not required to advertise for bids for a contract for services pursuant to subsection 1, but may solicit bids from not fewer than three licensed contractors and may award the contract to the lowest responsible and responsive bidder.

3. The ~~{Board}~~ Director shall adopt regulations establishing procedures for:

(a) The determination of the qualifications of contractors to bid for the contracts for services described in subsection 1.

(b) The bidding and awarding of such contracts.

4. If a proposed construction project for which a contractor is awarded a contract for services by the ~~{Board}~~ Director pursuant to subsection 1 is advertised pursuant to NRS 338.1385, that contractor may submit a bid for the contract for the proposed construction project if he is qualified pursuant to NRS 338.1375.

Sec. 47. NRS 341.185 is hereby amended to read as follows:

341.185 1. The ~~{Board}~~ Director shall, for each fiscal year, compile or cause to be compiled a report concerning projects of construction of state buildings that are financed by general obligation bonds, revenue bonds or medium-term obligations.

2. The report required to be compiled pursuant to subsection 1 must include:

(a) The source and amount of money received from the bonds and obligations during the fiscal year;

(b) A list of the projects completed during the fiscal year, including, without limitation, any change in the estimated cost of such a project and any change in the date for completion for such a project; and

(c) A list of projects under construction, the estimated cost of each of those projects, the date for completion of each of those projects and any changes in the estimated cost or date for completion of those projects.

3. The ~~{Board}~~ Director shall submit, in any format including an electronic format, a copy of the report compiled pursuant to subsection 1 on or before February 1 of the year next succeeding the period to which the report pertains to the Director of the Legislative Counsel Bureau for distribution to each regular session of the Legislature.

Sec. 48. NRS 341.191 is hereby amended to read as follows:

341.191 1. The ~~{Board}~~ Director shall submit reports and make recommendations relative to ~~{his}~~ his findings to the Governor and to the Legislature. The ~~{Board}~~ Director shall particularly recommend to the Governor and to the Legislature the priority of construction of any and all buildings or other construction work now authorized or that may hereafter be authorized or proposed.

2. The ~~{Board}~~ Director shall submit before October 1 of each even-numbered year ~~{his}~~ his recommendations for projects for capital improvements in the next biennium.

Sec. 49. NRS 341.201 is hereby amended to read as follows:

341.201 The ~~{Board}~~ Director shall , periodically, inspect or cause to be inspected all state buildings, ~~{periodically,}~~ including all buildings at the University of Nevada, Reno, and at the University of Nevada, Las Vegas, and all physical plant facilities at all state institutions. Reports of all inspections, including findings and recommendations, must be submitted to the appropriate state agencies and, if the ~~{Board}~~ Director finds any matter of serious concern in a report, ~~{he}~~ he shall submit that report to the Legislative Commission.

Sec. 50. NRS 341.211 is hereby amended to read as follows:

341.211 The ~~{Board}~~ Department shall:

1. Cooperate with other departments and agencies of the State in their planning efforts.

2. Advise and cooperate with municipal, county and other local planning commissions within the State to promote coordination between the State and the local plans and developments.

3. Cooperate with the Nevada Arts Council and the Buildings and Grounds Division of the Department of Administration to plan the potential purchase and placement of works of art inside or on the grounds surrounding a state building.

Sec. 51. Chapter 218 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Legislative Advisory Committee on Public Works, consisting of six legislative members, is hereby created. The membership of the Advisory Committee consists of:

(a) Three members appointed by the Majority Leader of the Senate from among the membership of the Senate Committee on Finance during the immediately preceding session of the Legislature, at least one of whom must be a member of the minority political party.

(b) Three members appointed by the Speaker of the Assembly from among the membership of the Assembly Committee on Ways and Means during the immediately preceding session of the Legislature, at least one of whom must be a member of the minority political party.

2. The Legislative Commission shall select the Chairman and Vice Chairman of the Advisory Committee from among the members of the Committee. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. The chairmanship of the Advisory Committee must alternate

each biennium between the Houses of the Legislature. If a vacancy occurs in the chairmanship or vice chairmanship, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

3. A member of the Advisory Committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the convening of the next regular session of the Legislature.

4. A vacancy on the Advisory Committee must be filled in the same manner as the original appointment.

5. The members of the Advisory Committee shall meet throughout the year at the times and places specified by a call of the Chairman or a majority of the Advisory Committee. The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording Secretary of the Advisory Committee.

6. Except during a regular or special session of the Legislature, for each day or portion of a day during which a member of the Advisory Committee attends a meeting of the Advisory Committee or is otherwise engaged in the work of the Advisory Committee, he is entitled to receive the:

(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session;

(b) Per diem allowance provided for state officers and employees generally; and

(c) Travel expenses provided pursuant to NRS 218.2207.

↪ The compensation, per diem allowances and travel expenses of the members of the Advisory Committee must be paid from the Legislative Fund.

7. The Advisory Committee:

(a) May evaluate, review and comment upon all matters relating to the planning, design, construction and satisfactory completion of public works and capital improvement projects that are financed in whole or in part with money appropriated by the Legislature, including, without limitation, the review and approval of changes in the scope or funding of such public works and capital improvement projects.

(b) Shall make recommendations concerning the matters described in paragraph (a) to the Interim Finance Committee.

Sec. 52. NRS 232.219 is hereby amended to read as follows:

232.219 1. The Department of Administration's Operating Fund for Administrative Services is hereby created as an internal service fund.

2. The operating budget of each of the following entities must include an amount representing that entity's share of the operating costs of the central accounting function of the Department:

(a) ~~State Public Works Board;~~

~~(b)~~ Budget Division;

~~(c)~~ (b) Buildings and Grounds Division;

~~(d)~~ (c) Purchasing Division;

~~(e)~~ (d) Hearings Division;

~~(f)~~ (e) Risk Management Division;

~~(g)~~ (f) Division of Internal Audits; and

~~(h)~~ (g) If separately established, the Motor Pool Division.

3. All money received for the central accounting services of the Department must be deposited in the State Treasury for credit to the Operating Fund.

4. All expenses of the central accounting function of the Department must be paid from the Fund as other claims against the State are paid.

Sec. 53. NRS 233C.025 is hereby amended to read as follows:

233C.025 1. The Nevada Arts Council is hereby created as a Division of the Department.

2. The Division is the sole and official agency of this State to receive and disburse any money made available to this State by the National Endowment for the Arts pursuant to 20 U.S.C. § 954.

3. The Division:

(a) Shall cooperate with the State Public Works ~~Board~~ Department and the Buildings and Grounds Division of the Department of Administration to plan the potential purchase and placement of works of art inside or on the grounds surrounding a state building.

(b) May request and must receive from any department, division, board, bureau, commission or agency of this State such assistance and data, as feasible and available, as will enable the Division to properly carry out the purposes of this chapter.

Sec. 54. NRS 239C.165 is hereby amended to read as follows:

239C.165 1. To the extent money is made available, the Commission shall, after consultation with the State Public Works ~~Board~~ Department, establish a statewide mapping system for the public buildings in this State for use by response agencies that are called to respond to an act of terrorism or related emergency.

2. The statewide mapping system must include, without limitation:

(a) The type of information that must be included within the software program that comprises the system, including, without limitation, floor plans, fire protection information, building evacuation plans, utility information, known hazards and information on how to contact emergency personnel;

(b) The manner by which the information prescribed pursuant to paragraph (a) must be transferred to the system from the state agencies and the political subdivisions that participate in the system;

(c) Standards for the software that must be used by the state agencies and political subdivisions that participate in the system;

(d) Conditions for use of the system by response agencies;

(e) Guidelines for:

(1) The accessibility and confidentiality of information contained within the system; and

(2) The incorporation, in connection with the use of the system, of the items described in paragraph (b) of subsection 3;

(f) In accordance with information obtained by the Commission, determine the priority for distribution of any money that may be available for the state agencies and political subdivisions to participate in the system; and

(g) Guidelines recommended by the Commission for the training of persons employed by response agencies concerning the use of the system.

3. To the extent money is made available, the state agencies and political subdivisions shall:

(a) Participate in the statewide mapping system; and

(b) Incorporate into their use of the system, without limitation:

(1) Evacuation routes and strategies for evacuation;

(2) Alarms and other signals or means of notification;

(3) Plans for sheltering in place; and

(4) Training and strategies for prevention in connection with attacks involving violence.

➤ If a state agency or a political subdivision uses its own building mapping system before the Commission establishes a statewide mapping system, the state agency or political subdivision may continue to use its system unless money is made available

1 for the state agency or political subdivision to update or modify its system as
2 necessary for inclusion in the statewide system.

3 4. The Commission:

4 (a) Shall pursue any money that may be available from the Federal
5 Government for the development and operation of a statewide mapping system for
6 public buildings and for the distribution of grants to the state agencies and political
7 subdivisions that participate in the system.

8 (b) May accept gifts, grants and contributions for the development and
9 operation of a statewide mapping system and for the distribution of grants to the
10 state agencies and political subdivisions that participate in the system.

11 5. Each state agency and political subdivision that participates in the system
12 shall, on or before July 1, 2006, and on or before July 1 of each year thereafter,
13 submit to the Commission a progress report setting forth, in accordance with
14 regulations adopted by the Commission, the experience of the agency or political
15 subdivision, as applicable, with respect to its participation in the system. The
16 Commission shall receive and process such progress reports and provide to the
17 Legislative Commission a summarized overview of the system on or before
18 October 1, 2006, and on or before October 1 of each year thereafter.

19 6. After the statewide mapping system is established pursuant to this section,
20 each state agency and political subdivision that participates in the system shall
21 submit to the Commission any initial or final plan for a public work.

22 7. As used in this section, "sheltering in place" means to remain inside a
23 building, room, structure or other location during an emergency when egress may
24 be impossible or when egress may present a more substantial risk than remaining
25 inside the building, room, structure or other location, as applicable.

26 **Sec. 55. NRS 284.173 is hereby amended to read as follows:**

27 284.173 1. Elective officers and heads of departments, boards, commissions
28 or institutions may contract for the services of persons as independent contractors.
29 Except as otherwise provided by specific statute, each contract for services must be
30 awarded pursuant to the provisions of chapter 333 of NRS.

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

36 3. For the purposes of this section:

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

41 (b) There must be no:

- 42 (1) Withholding of income taxes by the State;
43 (2) Coverage for industrial insurance provided by the State;
44 (3) Participation in group insurance plans which may be available to
45 employees of the State;
46 (4) Participation or contributions by either the independent contractor or
47 the State to the Public Employees' Retirement System;
48 (5) Accumulation of vacation leave or sick leave; or
49 (6) Coverage for unemployment compensation provided by the State if the
50 requirements of NRS 612.085 for independent contractors are met.

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

5. 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 7, 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.

6. Except as otherwise provided in subsection 7, and except 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 his designee to approve contracts which are:

(a) For amounts less than \$10,000 or, in contracts necessary to preserve life and property, for amounts less than \$25,000.

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

➤ The State Board of Examiners shall adopt regulations to carry out the provisions of this section.

7. Copies of the following types of contracts need not be filed or approved as provided in subsections 5 and 6:

(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 ~~{Board}~~ Department 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.

8. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 6 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 Board shall ask each agency to ensure that the State is receiving the services that the contract purports to provide.

9. 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 the independent contractor to identify in all pleadings the specific state agency which he is representing.

Sec. 56. NRS 321.001 is hereby amended to read as follows:

321.001 1. The Division shall acquire and hold in the name of the State of Nevada all lands and interests in land owned or required by the State except:

(a) Lands or interests used or acquired for highway purposes;

(b) Lands or interests the title to which is vested in the Board of Regents of the University of Nevada;

(c) Offices outside state buildings leased by the Chief of the Buildings and Grounds Division of the Department of Administration for the use of state officers and employees; or

(d) Lands or interests used or acquired for the Legislature or its staff, and shall administer all lands it holds which are not assigned for administration to another state agency.

2. If additional land or an interest in land is required for the use of any state agency except the Department of Transportation or the Nevada System of Higher Education, the agency and the Division shall select land for use by the agency. The Division shall obtain the approval of the State Public Works ~~Board~~ Department if the land will be used for a building pursuant to NRS 341.141. The Division shall determine the value of that land and obtain the land or interest by negotiation or, if necessary, by exercising the State's power of eminent domain. Title must be taken in the name of the State of Nevada.

3. The Division may acquire and hold land and interests in land required for any public purpose, including the production of public revenue. Title must be taken in the name of the State of Nevada.

Sec. 57. NRS 331.100 is hereby amended to read as follows:

331.100 The Chief has the following specific powers and duties:

1. To keep all buildings, rooms, basements, floors, windows, furniture and appurtenances clean, orderly and presentable as befitting public property.

2. To keep all yards and grounds clean and presentable, with proper attention to landscaping and horticulture.

3. Under the supervision of the State Fire Marshal, to make arrangements for the installation and maintenance of water sprinkler systems, fire extinguishers, fire hoses and fire hydrants, and to take other fire prevention and suppression measures, necessary and feasible, that may reduce the fire hazards in all buildings under his control.

4. To make arrangements and provision for the maintenance of the state's water system supplying the state-owned buildings at Carson City, with particular emphasis upon the care and maintenance of water reservoirs, in order that a proper and adequate supply of water be available to meet any emergency.

5. To make arrangements for the installation and maintenance of water meters designed to measure accurately the quantity of water obtained from sources not owned by the State.

6. To make arrangements for the installation and maintenance of a lawn sprinkling system on the grounds adjoining the Capitol Building at Carson City, or on any other state-owned grounds where such installation is practical or necessary.

7. To investigate the feasibility, and economies resultant therefrom, if any, of the installation of a central power meter, to measure electrical energy used by the State buildings in the vicinity of and including the Capitol Building at Carson City, assuming the buildings were served with power as one unit.

8. To purchase, use and maintain such supplies and equipment as are necessary for the care, maintenance and preservation of the buildings and grounds under his supervision and control.

9. Subject to the provisions of chapter 426 of NRS regarding the operation of vending stands in or on public buildings and properties by blind persons, to install or remove vending machines and vending stands in the buildings under his supervision and control, and to have control of and be responsible for their operation.

10. To cooperate with the Nevada Arts Council and the State Public Works ~~Board~~ Department to plan the potential purchase and placement of works of art inside or on the grounds surrounding a state building.

Sec. 58. NRS 333A.080 is hereby amended to read as follows:

333A.080 1. The State Public Works ~~Board~~ Department shall determine those companies that satisfy the requirements of qualified service companies for the

purposes of this chapter. In making such a determination, the State Public Works ~~Board~~ Department shall enlist the assistance of the staffs of the Office of Energy within the Office of the Governor, the Buildings and Grounds Division of the Department of Administration and the Purchasing Division of the Department of Administration. The State Public Works ~~Board~~ Department shall prepare and issue a request for qualifications to not less than three potential qualified service companies.

2. In sending out a request for qualifications, the State Public Works ~~Board~~ Department:

(a) Shall attempt to identify at least one potential qualified service company located within this State; and

(b) May consider whether and to what extent the companies to which the request for qualifications will be sent will use local contractors.

3. The State Public Works ~~Board~~ Department shall adopt, by regulation, criteria to determine those companies that satisfy the requirements of qualified service companies. The criteria for evaluation must include, without limitation, the following areas as substantive factors to assess the capability of such companies:

(a) Design;

(b) Engineering;

(c) Installation;

(d) Maintenance and repairs associated with performance contracts;

(e) Experience in conversions to different sources of energy or fuel and other services related to operating cost-savings measures provided that is done in association with a comprehensive energy, water or waste disposal cost-savings retrofit;

(f) Monitoring projects after the projects are installed;

(g) Data collection and reporting of savings;

(h) Overall project experience and qualifications;

(i) Management capability;

(j) Ability to access long-term financing;

(k) Experience with projects of similar size and scope; and

(l) Such other factors determined by the State Public Works ~~Board~~ Department to be relevant and appropriate to the ability of a company to perform the projects.

➤ In determining whether a company satisfies the requirements of a qualified service company, the State Public Works ~~Board~~ Department shall also consider whether the company holds the appropriate licenses required for the design, engineering and construction which would be completed pursuant to a performance contract.

4. The State Public Works ~~Board~~ Department shall compile a list of those companies that it determines satisfy the requirements of qualified service companies.

Sec. 59. NRS 333A.082 is hereby amended to read as follows:

333A.082 1. The Purchasing Division of the Department of Administration shall work directly with any using agency interested in entering into a performance contract, using the list of qualified service companies compiled by the State Public Works ~~Board~~ Department pursuant to NRS 333A.080. The Purchasing Division, in conjunction with the using agency, shall ensure that each appropriate qualified service company is notified of the using agency's interest in entering into a performance contract and coordinate an opportunity for each such qualified service company to:

(a) Visit the site pertaining to which the using agency wishes to enter into a performance contract;

(b) Perform a comprehensive audit in the manner prescribed in NRS 333A.084; and

(c) Submit a proposal, including, without limitation, the comprehensive audit, and make a related presentation to the using agency for all operating cost-savings measures that the qualified service company determines would be practicable to implement.

2. The using agency shall:

(a) Evaluate the proposals and presentations made pursuant to subsection 1;

(b) Evaluate the financial stability of the qualified service companies that made proposals and presentations pursuant to subsection 1 based on the financial statements and ratings of the qualified service companies; and

(c) Select a qualified service company,

➤ pursuant to the provisions of this chapter and any regulations adopted pursuant thereto, for evaluating and awarding contracts.

3. A qualified service company selected by a using agency pursuant to subsection 2 shall prepare a financial-grade operational audit, which must include, without limitation:

(a) A detailed explanation of the operating cost savings that will result from the performance contract; and

(b) A comparison of the costs of implementing the operating cost-savings measures to the operating cost savings that are anticipated as a result of the performance contract.

4. Except as otherwise provided in this subsection, the financial-grade operational audit prepared by the qualified service company pursuant to subsection 3 becomes, upon acceptance, a part of the final performance contract and the costs incurred by the qualified service company in preparing the financial-grade operational audit shall be deemed to be part of the performance contract. If, after the financial-grade operational audit is prepared, the using agency decides not to execute the performance contract, the using agency shall pay the qualified service company that prepared the financial-grade operational audit the costs incurred by the qualified service company in preparing the financial-grade operational audit, if the Legislature has specifically appropriated money for that purpose. An appropriation by the Legislature for the purchase and installation of an operating cost-savings measure creates no presumption that the using agency for which the money was appropriated is required to enter into such a performance contract.

Sec. 60. NRS 353.185 is hereby amended to read as follows:

353.185 The powers and duties of the Chief are:

1. To appraise the quantity and quality of services rendered by each agency in the Executive Department of the State Government, and the needs for such services and for any new services.

2. To develop plans for improvements and economies in organization and operation of the Executive Department, and to install such plans as are approved by the respective heads of the various agencies of the Executive Department, or as are directed to be installed by the Governor or the Legislature.

3. To cooperate with the State Public Works ~~Board~~ Department in developing comprehensive, long-range plans for capital improvements and the means for financing them.

4. To devise and prescribe the forms for reports on the operations of the agencies in the Executive Department to be required periodically from the several agencies in the Executive Department, and to require the several agencies to make such reports.

5. To prepare the executive budget report for the Governor's approval and submission to the Legislature.

6. To prepare a proposed budget for the Executive Department of the State Government for the next 2 fiscal years, which must:

(a) Present a complete financial plan for the next 2 fiscal years;
(b) Set forth all proposed expenditures for the administration, operation and maintenance of the departments, institutions and agencies of the Executive Department of the State Government, including those operating on funds designated for specific purposes by the Constitution or otherwise, which must include a separate statement of:

(1) The anticipated expense, including personnel, for the operation and maintenance of each capital improvement to be constructed during the next 2 fiscal years and of each capital improvement constructed on or after July 1, 1999, which is to be used during those fiscal years or a future fiscal year; and

(2) The proposed source of funding for the operation and maintenance of each capital improvement, including personnel, to be constructed during the next 2 fiscal years;

(c) Set forth all charges for interest and debt redemption during the next 2 fiscal years;

(d) Set forth all expenditures for capital projects to be undertaken and executed during the next 2 fiscal years; and

(e) Set forth the anticipated revenues of the State Government, and any other additional means of financing the expenditures proposed for the next 2 fiscal years.

7. To examine and approve work programs and allotments to the several agencies in the Executive Department, and changes therein.

8. To examine and approve statements and reports on the estimated future financial condition and the operations of the agencies in the Executive Department of the State Government and the several budgetary units that have been prepared by those agencies and budgetary units, before the reports are released to the Governor, to the Legislature, or for publication.

9. To receive and deal with requests for information as to the budgetary status and operations of the executive agencies of the State Government.

10. To prepare such statements of unit costs and other statistics relating to cost as may be required from time to time, or requested by the Governor or the Legislature.

11. To do and perform such other and further duties relative to the development and submission of an adequate proposed budget for the Executive Department of the State Government of the State of Nevada as the Governor may require.

Sec. 61. NRS 353.550 is hereby amended to read as follows:

353.550 1. A state agency may propose a project to acquire real property, an interest in real property or an improvement to real property through an agreement which has a term, including the terms of any options for renewal, that extends beyond the biennium in which the agreement is executed if the agreement:

(a) Provides that all obligations of the State of Nevada and the state agency are extinguished by the failure of the Legislature to appropriate money for the ensuing fiscal year for payments due pursuant to the agreement;

(b) Does not encumber any property of the State of Nevada or the state agency except for the property that is the subject of the agreement;

(c) Provides that property of the State of Nevada and the state agency, except for the property that is the subject of the agreement, must not be forfeited if:

(1) The Legislature fails to appropriate money for payments due pursuant to the agreement; or

(2) The State of Nevada or the state agency breaches the agreement;

(d) Prohibits certificates of participation in the agreement; and

(e) For the biennium in which it is executed, does not require payments that are greater than the amount authorized for such payments pursuant to the applicable budget of the state agency.

2. The provisions of paragraph (d) of subsection 1 may be waived by the Board, upon the recommendation of the State Treasurer, if the Board determines that waiving those provisions:

(a) Is in the best interests of this State; and

(b) Complies with federal securities laws.

3. Before an agreement proposed pursuant to subsection 1 may become effective:

(a) The proposed project must be approved by the Legislature by concurrent resolution or statute or as part of the budget of the state agency, or by the Interim Finance Committee when the Legislature is not in regular session;

(b) The agency must submit the proposed agreement to the Chief, the State Treasurer, ~~and~~ the State Land Registrar and, if applicable, the Director of the State Public Works Department, for their review and transmittal to the Board;

(c) The Board must approve the proposed agreement; and

(d) The Governor must execute the agreement.

Sec. 62. NRS 385.125 is hereby amended to read as follows:

385.125 1. The State Board may adopt standard plans, designs and specifications for the construction of school buildings by the boards of trustees of the various school districts. If such plans, designs and specifications are adopted, provision must be made for the production and distribution of such plans, designs and specifications by appropriate rules and regulations. The board of trustees of a school district may use any such plans, designs and specifications if it determines that the plans, designs and specifications are in the best interests of the district.

2. Before the adoption of any such standard plans, designs and specifications, the State Board shall submit the plans, designs and specifications to the State Public Works ~~Board~~ Department, whose written approval thereof must be obtained before any further consideration by the State Board. The State Public Works ~~Board~~ Department shall verify that the plans, designs and specifications comply with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. The requirements of this subsection are not satisfied if the plans, designs and specifications comply solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

3. The State Public Works ~~Board~~ Department may charge and collect and the State Board may pay a reasonable fee for the costs incurred by the State Public Works ~~Board~~ Department in approving the standard plans, designs and specifications submitted.

Sec. 63. NRS 387.3335 is hereby amended to read as follows:

387.3335 1. The board of trustees of a school district may apply to the Director of the Department of Administration for a grant of money from the Fund created pursuant to NRS 387.333 on a form provided by the Director of the Department of Administration. The application must be accompanied by proof that the following emergency conditions exist within the school district:

(a) The assessed valuation of the taxable property in the county in which the school district is located is declining and all other resources available to the school district for financing capital improvements are diminishing;

(b) The combined ad valorem tax rate of the county is at the limit imposed by NRS 361.453; and

(c) At least:

(1) One building that is located on the grounds of a school within the school district has been condemned;

(2) One of the facilities that is located on the grounds of a school within the school district is unsuitable for use as a result of:

(I) Structural defects;

(II) Barriers to accessibility; or

(III) Hazards to life, health or safety, including, without limitation, environmental hazards and the operation of the facility in an unsafe manner; or

(3) One of the facilities that is located on the grounds of a school within the school district is in such a condition that the cost of renovating the facility would exceed 40 percent of the cost of constructing a new facility.

2. Upon receipt of an application submitted pursuant to subsection 1, the Director of the Department of Administration shall forward the application to the:

(a) Department of Taxation to determine whether or not:

(1) The application satisfies the showing of proof required pursuant to paragraphs (a) and (b) of subsection 1; and

(2) The board of county commissioners in the county in which the school district is located has imposed a tax of more than one-eighth of 1 percent pursuant to NRS 377B.100;

(b) State Public Works ~~Board~~ Department to determine whether the application satisfies the showing of proof required pursuant to paragraph (c) of subsection 1; and

(c) Department of Education for informational purposes.

3. The Department of Taxation and the State Public Works ~~Board~~ Department shall submit written statements of their determinations pursuant to subsection 2 regarding an application to the Director of the Department of Administration. Upon receipt of such statements, the Director shall submit the application accompanied by the written statements from the Department of Taxation and State Public Works ~~Board~~ Department to the State Board of Examiners for approval.

4. The Director of the Department of Administration shall make grants from the Fund created pursuant to NRS 387.333 based upon the need of each school district whose application is approved by the State Board of Examiners.

5. The Director of the Department of Administration shall adopt regulations that prescribe the annual deadline for submission of an application to the Director of the Department of Administration by a school district that desires to receive a grant of money from the Fund.

Sec. 64. NRS 393.110 is hereby amended to read as follows:

393.110 1. Each school district shall, in the design, construction and alteration of school buildings and facilities comply with the applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. The requirements of this subsection are not satisfied if a school district complies solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

2. Except as otherwise provided in subsection 3:

(a) Unless standard plans, designs and specifications are to be used as provided in NRS 385.125, before letting any contract or contracts for the erection of any new

1 school building, the board of trustees of a school district shall submit plans, designs
2 and specifications therefor to, and obtain the written approval of the plans, designs
3 and specifications by, the State Public Works ~~{Board}~~ Department. The State
4 Public Works ~~{Board}~~ Department shall review the plans, designs and
5 specifications and make any recommendations as expeditiously as practicable. The
6 State Public Works ~~{Board}~~ Department is authorized to charge and collect, and the
7 board of trustees is authorized to pay, a reasonable fee for the payment of any costs
8 incurred by the State Public Works ~~{Board}~~ Department in securing the approval of
9 qualified architects or engineers of the plans, designs and specifications submitted
10 by the board of trustees in compliance with the provisions of this paragraph.

11 (b) Before letting any contract or contracts for any addition to or alteration of
12 an existing school building which involves structural systems, or exiting, sanitary
13 or fire protection facilities, the board of trustees of a school district shall submit
14 plans, designs and specifications therefor to, and obtain the written approval of the
15 plans, designs and specifications by, the State Public Works ~~{Board}~~ Department.
16 The State Public Works ~~{Board}~~ Department shall review the plans, designs and
17 specifications and make any recommendations as expeditiously as practicable. The
18 State Public Works ~~{Board}~~ Department is authorized to charge and collect, and the
19 board of trustees is authorized to pay, a reasonable fee for the payment of any costs
20 incurred by the State Public Works ~~{Board}~~ Department in securing the approval of
21 qualified architects or engineers of the plans, designs and specifications submitted
22 by the board of trustees in compliance with the provisions of this paragraph.

23 ↪ The State Public Works ~~{Board}~~ Department shall verify that all plans, designs
24 and specifications that it reviews pursuant to this section comply with all applicable
25 requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et
26 seq., and the regulations adopted pursuant thereto, including, without limitation, the
27 Americans with Disabilities Act Accessibility Guidelines for Buildings and
28 Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal
29 Regulations. The requirements of this subsection are not satisfied if the plans,
30 designs and specifications comply solely with the Uniform Federal Accessibility
31 Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of
32 Federal Regulations.

33 3. The State Public Works ~~{Board}~~ Department may enter into an agreement
34 with the appropriate building department of a county or city to review plans,
35 designs and specifications of a school district pursuant to subsection 2. If the State
36 Public Works ~~{Board}~~ Department enters into such an agreement, the board of
37 trustees of the school district shall submit a copy of its plans, designs and
38 specifications for any project to which subsection 2 applies to the building
39 department before commencement of the project for the approval of the building
40 department. The building department shall review the plans, designs and
41 specifications and provide responsive comment as expeditiously as practicable to
42 verify that the plans, designs and specifications comply with all applicable
43 requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et
44 seq., inclusive, and the regulations adopted pursuant thereto, including, without
45 limitation, the Americans with Disabilities Act Accessibility Guidelines for
46 Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code
47 of Federal Regulations. The building department may charge and collect a
48 reasonable fee from the board of trustees of the school district for the payment of
49 any costs incurred by the building department in reviewing the plans, designs and
50 specifications. A permit for construction must not be issued without the approval of
51 the building department pursuant to this subsection. The requirements of this
52 subsection are not satisfied if the plans, designs and specifications comply solely

1 with the Uniform Federal Accessibility Standards set forth in Appendix A of Part
2 101-19.6 of Title 41 of the Code of Federal Regulations.

3 4. No contract for any of the purposes specified in subsection 1 made by a
4 board of trustees of a school district contrary to the provisions of this section is
5 valid, nor shall any public money be paid for erecting, adding to or altering any
6 school building in contravention of this section.

7 **Sec. 65. NRS 412.098 is hereby amended to read as follows:**

8 412.098 The construction, expansion, rehabilitation or conversion of armories
9 and arsenals in this State shall be accomplished by the State Public Works ~~Board,~~
10 Department, subject to the inspection and approval of the Secretary of Defense, as
11 prescribed by 10 U.S.C. § 2237 when federal funds have been allocated to the State
12 for such work.

13 **Sec. 66. NRS 444.340 is hereby amended to read as follows:**

14 444.340 The policy of the State of Nevada with respect to the uniformity of
15 plumbing codes throughout the State is:

16 1. That uniformity is a matter of statewide interest and concern, affecting
17 health and environmental conditions, housing costs and efficiency in private
18 housing construction.

19 2. That, by allowing local governments to waive and modify provisions of the
20 Uniform Plumbing Code, adopted by the International Association of Plumbing and
21 Mechanical Officials, based on differences in geographic and climatic conditions
22 only upon submission of such proposed waivers and modifications to the State
23 Public Works ~~Board,~~ Department, excessive waivers and modifications would be
24 deterred.

25 **Sec. 67. NRS 444.350 is hereby amended to read as follows:**

26 444.350 1. Any construction, alteration or change in the use of a building or
27 other structure in this State must be in compliance with the Uniform Plumbing
28 Code of the International Association of Plumbing and Mechanical Officials in the
29 form most recently adopted by that Association, unless the State Public Works
30 ~~Board~~ Department posts a notice of disapproval of any amendment to the Code
31 pursuant to subsection 5.

32 2. Any city or county may adopt such modifications as are deemed reasonably
33 necessary because of its geographic, topographic or climatic conditions. Any city or
34 county desiring to make changes to the Uniform Plumbing Code must, before its
35 adoption, submit the Code with the proposed amendments to the State Public
36 Works ~~Board,~~ Department.

37 3. No city or county may allow the use of any solder or flux that contains
38 more than 0.2 percent lead or allow the use of any pipe or pipe fitting that contains
39 more than 8 percent lead in the installation or repair of a public water system or any
40 residence or facility connected to a public water system. As used in this subsection,
41 "public water system" has the meaning ascribed to it in NRS 445A.840.

42 4. A facility used by members of the public whose construction or renovation
43 begins on or after January 1, 1994, must provide on its premises a sufficient number
44 of water closets and urinals to comply with the minimum standards set forth in the
45 Uniform Plumbing Code. As used in this subsection, "facility used by members of
46 the public" means any motion picture house, theater, concert hall, community hall,
47 sports arena, stadium, ski resort or other permanent place of exhibition or
48 entertaining to which members of the public are invited or which is intended for
49 public use. The term does not include:

- 50 (a) A hotel as defined in NRS 447.010.
51 (b) A food establishment as defined in NRS 446.020.
52 (c) A children's camp as defined in NRS 444.220.
53 (d) A historic structure as defined in NRS 244A.6825.

(e) A public or private school.

(f) A convention hall.

5. The ~~{Chairman}~~ Director of the State Public Works ~~{Board}~~ Department or his designee shall review each amendment to the Uniform Plumbing Code and approve or disapprove of the amendment for use in Nevada. If the ~~{Chairman}~~ Director does not post a notice of disapproval within 30 days after an amendment is published, the amendment shall be deemed approved for this State.

6. As used in this section, unless the context otherwise requires, "convention hall" means a facility which incorporates both space for exhibitions and a substantial number of smaller spaces for meetings, and which is primarily for use by trade shows, public shows, conventions or related activities.

Sec. 68. NRS 444.420 is hereby amended to read as follows:

444.420 The State Public Works ~~{Board}~~ Department shall:

1. Review all proposed adoptions of the Uniform Plumbing Code by any city or county and any proposed changes to the Uniform Plumbing Code, and advise such city or county on whether or not such change is deemed warranted by geographic, topographic or climatic conditions.

2. Submit a copy of the Uniform Plumbing Code adopted by any city or county to the Health Division.

Sec. 69. NRS 444.430 is hereby amended to read as follows:

444.430 1. The governing body of any city or county shall, 60 days prior to the adoption of any regulation for the enforcement of the Uniform Plumbing Code or any other regulations pursuant thereto, deliver by certified or registered mail, a copy of the proposed regulation to the State Public Works ~~{Board}~~ Department for the ~~{Board's}~~ Department's recommendation on the proposed regulation.

2. The governing body of the city or county may, 60 days after the State Public Works ~~{Board}~~ Department receives the copy of the proposed regulation, adopt the regulation with or without the approval of the State Public Works ~~{Board}~~ Department.

Sec. 70. NRS 445B.200 is hereby amended to read as follows:

445B.200 1. The State Environmental Commission is hereby created within the Department. The Commission consists of:

(a) The Director of the Department of Wildlife;

(b) The State Forester Firewarden;

(c) The State Engineer;

(d) The Director of the State Department of Agriculture;

(e) The Administrator of the Division of Minerals of the Commission on Mineral Resources;

(f) A member of the State Board of Health to be designated by that Board; and

(g) Five members appointed by the Governor, one of whom is a general engineering contractor or a general building contractor licensed pursuant to chapter 624 of NRS and one of whom possesses expertise in performing mining reclamation.

2. The Governor shall appoint the Chairman of the Commission from among the members of the Commission.

3. A majority of the members constitutes a quorum, and a majority of those present must concur in any decision.

4. Each member who is appointed by the Governor is entitled to receive a salary of not more than \$80, as fixed by the Commission, for each day's attendance at a meeting of the Commission.

5. While engaged in the business of the Commission, each member and employee of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. Any person who receives or has received during the previous 2 years a significant portion of his income, as defined by any applicable state or federal law, directly or indirectly from one or more holders of or applicants for a permit required by NRS 445A.300 to 445A.730, inclusive, is disqualified from serving as a member of the Commission. The provisions of this subsection do not apply to any person who receives, or has received during the previous 2 years, a significant portion of his income from any department or agency of State Government which is a holder of or an applicant for a permit required by NRS 445A.300 to 445A.730, inclusive.

7. The Department shall provide technical advice, support and assistance to the Commission. All state officers, departments, commissions and agencies, including the Department of Transportation, the Department of Health and Human Services, the Nevada System of Higher Education, the State Public Works ~~Board~~ Department, the Department of Motor Vehicles, the Department of Public Safety, the Public Utilities Commission of Nevada, the Transportation Services Authority and the State Department of Agriculture may also provide technical advice, support and assistance to the Commission.

Sec. 71. NRS 463.385 is hereby amended to read as follows:

463.385 1. In addition to any other license fees and taxes imposed by this chapter, there is hereby imposed upon each slot machine operated in this State an annual excise tax of \$250. If a slot machine is replaced by another, the replacement is not considered a different slot machine for the purpose of imposing this tax.

2. The Commission shall:

(a) Collect the tax annually on or before June 30, as a condition precedent to the issuance of a state gaming license to operate any slot machine for the ensuing fiscal year beginning July 1, from a licensee whose operation is continuing.

(b) Collect the tax in advance from a licensee who begins operation or puts additional slot machines into play during the fiscal year, prorated monthly after July 31.

(c) Include the proceeds of the tax in its reports of state gaming taxes collected.

3. Any other person, including, without limitation, an operator of an inter-casino linked system, who is authorized to receive a share of the revenue from any slot machine that is operated on the premises of a licensee is liable to the licensee for that person's proportionate share of the license fees paid by the licensee pursuant to this section and shall remit or credit the full proportionate share to the licensee on or before the dates set forth in subsection 2. A licensee is not liable to any other person authorized to receive a share of the licensee's revenue from any slot machine that is operated on the premises of a licensee for that person's proportionate share of the license fees to be remitted or credited to the licensee by that person pursuant to this section.

4. The Commission shall pay over the tax as collected to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund, and the Capital Construction Fund for Higher Education and the Special Capital Construction Fund for Higher Education, which are hereby created in the State Treasury as special revenue funds, in the amounts and to be expended only for the purposes specified in this section.

5. During each fiscal year, the State Treasurer shall deposit the tax paid over to him by the Commission as follows:

(a) The first \$5,000,000 of the tax in the Capital Construction Fund for Higher Education;

(b) Twenty percent of the tax in the Special Capital Construction Fund for Higher Education; and

(c) The remainder of the tax in the State Distributive School Account in the State General Fund.

6. There is hereby appropriated from the balance in the Special Capital Construction Fund for Higher Education on July 31 of each year the amount necessary to pay the principal and interest due in that fiscal year on the bonds issued pursuant to section 5 of chapter 679, Statutes of Nevada 1979, as amended by chapter 585, Statutes of Nevada 1981, at page 1251, the bonds authorized to be issued by section 2 of chapter 643, Statutes of Nevada 1987, at page 1503, the bonds authorized to be issued by section 2 of chapter 614, Statutes of Nevada 1989, at page 1377, the bonds authorized to be issued by section 2 of chapter 718, Statutes of Nevada 1991, at page 2382, and the bonds authorized to be issued by section 2 of chapter 629, Statutes of Nevada 1997, at page 3106. If in any year the balance in that fund is not sufficient for this purpose, the remainder necessary is hereby appropriated on July 31 from the Capital Construction Fund for Higher Education. The balance remaining unappropriated in the Capital Construction Fund for Higher Education on August 1 of each year and all amounts received thereafter during the fiscal year must be transferred to the State General Fund for the support of higher education. If bonds described in this subsection are refunded and if the amount required to pay the principal of and interest on the refunding bonds in any fiscal year during the term of the bonds is less than the amount that would have been required in the same fiscal year to pay the principal of and the interest on the original bonds if they had not been refunded, there is appropriated to the Nevada System of Higher Education an amount sufficient to pay the principal of and interest on the original bonds, as if they had not been refunded. The amount required to pay the principal of and interest on the refunding bonds must be used for that purpose from the amount appropriated. The amount equal to the saving realized in that fiscal year from the refunding must be used by the Nevada System of Higher Education to defray, in whole or in part, the expenses of operation and maintenance of the facilities acquired in part with the proceeds of the original bonds.

7. After the requirements of subsection 6 have been met for each fiscal year, when specific projects are authorized by the Legislature, money in the Capital Construction Fund for Higher Education and the Special Capital Construction Fund for Higher Education must be transferred by the State Controller and the State Treasurer to the State Public Works ~~Board~~ Department for the construction of capital improvement projects for the Nevada System of Higher Education, including, but not limited to, capital improvement projects for the community colleges of the Nevada System of Higher Education. As used in this subsection, "construction" includes, but is not limited to, planning, designing, acquiring and developing a site, construction, reconstruction, furnishing, equipping, replacing, repairing, rehabilitating, expanding and remodeling. Any money remaining in either Fund at the end of a fiscal year does not revert to the State General Fund but remains in those Funds for authorized expenditure.

8. The money deposited in the State Distributive School Account in the State General Fund under this section must be apportioned as provided in NRS 387.030 among the several school districts and charter schools of the State at the times and in the manner provided by law.

9. The Board of Regents of the University of Nevada may use any money in the Capital Construction Fund for Higher Education and the Special Capital Construction Fund for Higher Education for the payment of interest and amortization of principal on bonds and other securities, whether issued before, on or after July 1, 1979, to defray in whole or in part the costs of any capital project authorized by the Legislature.

Sec. 72. NRS 477.035 is hereby amended to read as follows:

477.035 1. The State Fire Marshal shall:

(a) Inspect or cause to be inspected annually, all state buildings and order such fire-extinguishing and safety appliances as he deems necessary for the protection of the property against fire.

(b) Order the removal of combustibles and rubbish from the property, or order such changes in the entrances or exits of the buildings as will promote the safety of the occupants, or order the provision of such fire escapes as he may deem necessary.

(c) Provide inspection forms and maintain records of inspections of state-owned or state-occupied buildings.

2. If the agency in charge of any state property fails to comply with the order of the State Fire Marshal for any structural change within 30 days after the receipt of such order, the Fire Marshal shall report such failure to the State Public Works ~~Board~~ Department. The State Public Works ~~Board~~ Department shall thereupon take necessary steps to correct the situation as ordered.

3. The State Fire Marshal may contract with local authorities for the inspection of state-owned or state-occupied buildings.

Sec. 73. NRS 701.217 is hereby amended to read as follows:

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

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

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

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

(a) Requirements for the use of resource-efficient materials for the construction and maintenance of the building;

(b) Standards for indoor environmental quality;

(c) Standards for the efficient use of water, including the efficient use of water for landscaping purposes;

(d) Standards for the efficient use of energy; and

(e) Requirements for the design and preparation of building lots.

3. If standards equivalent to the Leadership in Energy and Environmental Design Green Building Rating System are adopted, the standards adopted must provide reasonable exceptions based on the size, location and use of the building.

4. Subject to the provisions of subsection 5, the Director shall establish a process for adopting a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent. The process must include, without limitation:

(a) The gathering and development of scientific data;

(b) Comments from representatives of the building industry;

(c) Consensus from representatives of the building industry;

(d) A method by which the Director, the State Public Works ~~Board~~ Department and other interested agencies may cast ballots on the proposed standards;

(e) A pilot program for the purpose of refining the standards; and

(f) A process by which an aggrieved person may file an appeal of the standards adopted.

5. In adopting a Green Building Rating System pursuant to subsection 4, the Director is not required to adopt and is not limited to using the Leadership in Energy and Environmental Design Green Building Rating System but may adopt an equivalent rating system based on any other nationally recognized standards for green buildings, or any combination of those standards.

Sec. 74. NRS 341.013, 341.015, 341.030, 341.041 and 341.060 are hereby repealed.

Sec. 75. 1. The Director of the State Public Works Department, in consultation with the Legislative Advisory Committee on Public Works created pursuant to section 51 of this act, shall establish a pilot program to determine the efficacy and feasibility of using privatized construction project management services and privatized construction project inspection services in connection with public works projects which are sponsored by the State Public Works Department.

2. The pilot program described in subsection 1 must include, without limitation:

(a) At least one demonstration project in which a public work sponsored by the State Public Works Department is constructed using privatized construction project management services and privatized construction project inspection services.

(b) An analysis of the costs and benefits associated with the use of privatized construction project management services and privatized construction project inspection services.

(c) Such other components as the Legislative Advisory Committee on Public Works may direct.

Sec. 76. This act must not be construed to impair any existing rights under contracts executed by or on behalf of the State Public Works Board, which contracts are in effect on July 1, 2007.

Sec. 77. Any lawful regulations adopted by the State Public Works Board before July 1, 2007, are valid and effective:

1. Through June 30, 2008; or

**2. Until replaced by new regulations adopted by the Director of the State Public Works Department,
↳ whichever is earlier.**

Sec. 78. 1. The Legislative Counsel shall:

(a) In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to an officer or agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency.

(b) In preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer or agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency.

2. Any reference in a bill or resolution passed by the 74th Session of the Nevada Legislature to an officer or agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to

1 another officer or agency shall be deemed to refer to the officer or agency to
2 which the responsibility is transferred.

3 *Sec. 79. This act becomes effective on July 1, 2007.*

LEADLINES OF REPEALED SECTIONS

341.013 “Board” defined.

341.015 “Manager” defined.

341.030 Terms of members.

341.041 Replacement of members.

341.060 Organization; election of officers.